NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
FINAL PERMIT FACT SHEET
March 2022

Permittee Name:	Bureau of Indians Affairs (BIA)
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Application Contact:	George Padilla, Environmental Scientist 505-869-8476, george.padilla@bia.gov
Facility Location:	BIA Wingate High School Wastewater Facility Treatment P.O. Box 581 Fort Wingate, New Mexico - 87316
Facility Contact Person:	David Allison, Facility Manager 505-488-6422, David.allison@bie.edu
NPDES Permit No.:	NN0020958

I. STATUS OF PERMIT

The U.S. Department of the Interior – Bureau of Indian Affairs, Navajo Regional Office ("BIA") was issued a National Pollutant Discharge Elimination System ("NPDES") Permit (NN0020958) on, January 21, 2016 for discharge from its Wingate High School wastewater treatment facility ("WWTF"), pursuant to the U.S. Environmental Protection Agency Region 9 ("U.S. EPA") regulations set forth in Title 40, Code of Federal Regulation ("CFR") Part 122.21. The WWTF is located in McKinley County, New Mexico. The permit became effective on February 1, 2016 and expired at midnight, January 31, 2021. A permit application was due to U.S. EPA on August 5, 2020, which is 180 days prior to the permit expiration date of February 1, 2021. BIA applied to U.S. EPA for reissuance on July 13, 2020 and provided additional information on January 30, 2021. The permit was administratively continued on January 31, 2021. Pursuant to 40 CFR § 122.6, the terms of the existing permit are administratively extended until the issuance of a new permit. This fact sheet is based on information provided by the applicant through its application and discharge data submittal, along with the appropriate law and regulations.

Pursuant to Section 402 of the Clean Water Act ("CWA"), the U.S. EPA is proposing issuance of the NPDES permit renewal to BIA Wingate High School ("permittee") for the discharge of treated domestic wastewater to an unnamed wash of the Puerco River, a tributary to the Little Colorado River which is a water of the United States.

This permittee has been classified as a minor discharger.

II. SIGNIFICANT CHANGES TO PREVIOUS PERMIT

Biosolids report on what to do with current stored sludge.	Report of sewage sludge currently accumulated in the wastewater lagoon.	Report on tonnages of sewage sludge in lagoons and stored at old Wingate Elementary School. R9npdes@epa.gov	Biosolids were transferred in March 2012 as temporary storage. There are requirements for permanent storage or disposal.
Biosolids report – annual	None	Annual biosolids report to be submitted via NeT.	Properly follow up on currently stored biosolids on site.
Chronic WET testing requirements and triggers	None	The proposed permit requires annual WET testing.	The NNSWQS narrative objective for toxicity that requires that "All waters of the Navajo Nation shall be free of toxic pollutants from other than natural sources in amounts, concentrations, or combinations which affect the propagation of fish or which of toxic to humans, livestock or other animals, fish or other aquatic organisms, wildlife using aquatic environments for habitation or aquatic organisms for food..."
Asset Management Program (AMP)	None	The final permit incorporates standard asset management requirement for small utilities.	Provision of 40 CFR § 122.41(e)
Best Management Practices (BMPs)	None	The final permit incorporates standard BMPs language for small utilities.	Provision of 40 CFR § 122.41(k)(4)
Sanitary Sewer Overflow (SSO)	None	The final permit incorporates standard SSO language for small utilities.	Consistent with internal EPA Region 9 policy and other recently issued permits.

III. GENERAL DESCRIPTION OF FACILITY

The BIA Wingate WWTF is located west of the intersection of New Mexico Highway 400 and Shush Drive in the community of Fort Wingate, McKinley County, New Mexico, within the southern portion of the Navajo Nation. The WWTF serves a population of approximately 800 and receives only domestic sewage with design flow of 0.1 million gallons per day ("MGD"). The facility discharges continuously when the school is in full session, and experiences intermittent or no discharge when school is out. According to the permit application, the annual daily flow rate is approximately 0.0294 MGD in 2018, 0.050 MGD in 2019, and 0.0021 in 2020.

Treatment consists of a three-cell, gravity fed evaporation system with aeration and no pretreatment. The three cells are clay lined. Wastewater enters a splitter box where flow may be directed to either Cell #1 or Cell #2. Cell #1 has six aerators. Two manual transfer pipes must be opened to move the wastewater from Cell #1 to Cell #2. Subsequently a single transfer pipe must be manually opened to transfer wastewater from Cell #2 to Cell #3 for final treatment and polishing. Disinfection is achieved through chlorine and de-chlorination tablet-fed boxes prior to discharge from Outfall No. 001. Since 2015, Cell #1 along with the aerators have been offline. Therefore, from the splitter box the waste stream is directed to Cell #2, where the solids settle and micro-organisms begin digestion of the solids while the liquid portion evaporates and is transported via gravity to Cell #3. The wastewater passes through the tablet-fed boxes before the effluent is discharged into an unnamed wash, a tributary to the Puerco River, a tributary to the Little Colorado River.

IV. DESCRIPTION OF RECEIVING WATER

The discharge of treated domestic wastewater is to non-perennial unnamed wash of the Puerco River, a tributary to the Little Colorado River.

V. DESCRIPTION OF DISCHARGE

The facility discharges continuously when the school is in full session and experiences intermittent or zero discharge when school is out. The DMRs showed three discharges over the permit term. Additionally, due to COVID-19, school was not in session for an extended portion of the permit cycle. The coordinates for the outfall are: Latitude: 35º 28’ 44” North and Longitude: 108º 32’ 28” West.

Table 1 shows data related to discharge from Outfall 001 based on permittee’s NPDES renewal application and supplemental information as well as data submitted on discharge monitoring reports. More information is available on Enforcement and Compliance History Online (ECHO) at https://echo.epa.gov/detailed-facility-report?fid=110040066424.

Pollutants believed to be absent or never detected in the effluent are not included. The data show elevated concentrations of ammonia impact ratio and total suspended solids (percent removal), and permit exceedances in pH. All exceedances are discussed further in Part VI.B.4.

Table 1. Effluent Data for Outfall 001 from 2015 to 2020.

Parameter	Units[1]	2015 – 2020 Permit Effluent Limitations			Effluent Data				
		Average Monthly	Average Weekly	Maximum Daily	Highest Average Monthly	Highest Average Weekly	Highest Maximum Daily	Average Daily Discharge	Number of Samples
Flow Rate	MGD	[2]	--	[2]	--	--	0.050	0.0288	4
Ammonia (as N)	mg/L	--	--	--	--	--	11.4	4.765	3
Ammonia Impact Ratio	Ratio	1.0[3]	--	--	--	--	2.92		3
	mg/L	45	65	--	--	--	62.2	22.9	4

Parameter	Units[1]	2015 – 2020 Permit Effluent Limitations			Effluent Data				Number of Samples
		Average Monthly	Average Weekly	Maximum Daily	Highest Average Monthly	Highest Average Weekly	Highest Maximum Daily	Average Daily Discharge	
Biochemical Oxygen Demand; 5-day (BOD_5)[4]	kg/day	17	24	--	--	--	23.0	8.5	
	Percent Removal	65 % (minimum)[4]			--	--	96%	89%	
E. Coli	CFU/ 100mL	126[5]	--	235[6]	--	--	24.6[5]	14.4[6]	3
Total Suspended Solids (TSS)[4]	mg/L	90	135	--	--	--	131	47	3
	kg/day	34	51	--	--	--	52	18	
	Percent Removal	65 % (minimum)[4]			--	--	98%	84%	
Total Dissolved Solids (TDS)	mg/L	[7]	[7]	[7]	--	--	1798	1731	2
Total Residual Chlorine	µg/L	--	--	11.0	--	--	< 1.2	< 1.2	3
pH	Standard Units	Between 6.5 to 9.0			6 to 8 (min-max)			--	3
Temperature	^{0}C	[8]	[8]	[8]	4.4 to 12			--	3
Priority Pollutant Scan	µg/L	[9]	[9]	[9]	Sample not collected[10]				--

(1) Mass based limits calculated using 0.1 MGD flow.
(2) No effluent limits were established, but monitoring and reporting were required.
(3) The Ammonia Impact Ratio (AIR) is calculated as the ratio of the measured ammonia and the ammonia limit as determined by the concurrent measurement of pH and temperature. See attached Appendix B for sample log to help calculate and record the AIR values. The AIR is the ammonia effluent limit and must be reported in the DMRs in addition to the ammonia-N and pH effluent values.
(4) For BOD5 and TSS, the effluent samples shall not exceed 35 percent of the arithmetic mean of the values, by weight, for influent samples collected at approximately the same times during the same period.
(5) Geometric mean of samples collected during the calendar month.
(6) Single sample maximum.
(7) Both the plant effluent (Outfall Number 001) and the intake water supply shall be sampled and reported. The incremental increase is the difference between the two sample analyses. The effluent value, intake water supply value, and incremental increase value shall be reported. Salinity (TDS) is determined by the "calculated method" (sum of constituents) as described in the latest edition of "Techniques of Water Resources Investigation of the United States Geological Survey – Methods for Collection and Analysis of Water Samples for Dissolved Minerals and Gases."
(8) Temperature and pH measurements shall be taken concurrently with measurements for ammonia at the same location as the water samples destined for the laboratory analysis of ammonia.
(9) Both he influent and effluent shall be monitored and reported.
(10) Requirement was to monitor during 1st Quarter, Year 5 of permit. Due to COVID-19 emergency, there was no discharge, and no opportunity to collect a discharge sample.

VI. DETERMINATION OF NUMERICAL EFFLUENT LIMITATIONS

EPA has developed effluent limitations and monitoring requirements in the permit based on an evaluation of the technology used to treat the pollutant (i.e., "technology-based effluent limits") and the water quality standards applicable to the receiving water (i.e., "water quality-based effluent limits"). EPA has established the most stringent of applicable technology-based or water quality-based standards in the draft permit, as described below.

A. Applicable Technology-Based Effluent Limitations

EPA developed technology-based treatment standards for municipal wastewater treatment plants in accordance with Section 301(b)(1)(B) of the CWA. The minimum levels of effluent quality attainable by secondary treatment for Biochemical Oxygen Demand (BOD_5), Total Suspended Solids (TSS), and pH, as defined in 40 CFR § 133.101(f), 133.103(c), 133.105 (b) and (d), are listed below. TBELs in this section are equivalent to the secondary treatment standards as defined by 40 CFR § 122.45(f), are included for BOD_5 and TSS.

BOD_5

Concentration-based Limits

Monthly average – 45 mg/L
Weekly average – 65 mg/L
Removal Efficiency – minimum of 65%

Mass-based Limits

Monthly average – (45 mg/L)(0.1 MGD)(8.345 conversion factor) = 37.6 lbs/day
Weekly average – (65 mg/L)(0.1 MGD)(8.345 conversion factor) = 54.2 lbs/day

TSS

Concentration-based Limits

30-day average – 90 mg/L
7-day average – 135 mg/L
Removal efficiency – Minimum of 65%

Mass-based Limits

30-day average – (90 mg/L)(0.1 MGD)(8.345 conversion factor) = 75 lbs/day
7-day average – (135 mg/L)(0.1 MGD)(8.345 conversion factor) = 113 lbs/day

pH

Instantaneous Measurement: 6.0 – 9.0 standard units (S.U.)

Priority Pollutant Scan

The final permit includes a monitoring requirement for the full list priority pollutants as listed in 40 CFR Part 423, Appendix A during year 2 of the permit cycle. No limit is set at this time. Should the results reveal levels below the Navajo Nation Surface Water Quality Standards and EPA's National Water Quality Criteria for priority pollutants, monitoring will no longer be required for the remainder of the permit cycle.

B. Water Quality-Based Effluent Limitations

Water quality-based effluent limitations are required in NPDES permits when the permitting authority determines that a discharge causes, has the reasonable potential to cause, or contributes to an excursion above any water quality standard (40 CFR § 122.44(d)(1)).

When determining whether an effluent discharge causes, has the reasonable potential to cause, or contributes to an excursion above narrative or numeric criteria, the permitting authority shall use procedures which account for existing controls on point and non-point sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity) and where appropriate, the dilution of the effluent in the receiving water (40 CFR § 122.44(d)(1)(ii)).

EPA evaluated the reasonable potential to discharge toxic pollutants according to guidance provided in the *Technical Support Document for Water Quality-Based Toxics Control* (TSD) (Office of Water, U.S. EPA, March 1991) and the *U.S. EPA NPDES Permit Writers' Manual* (Office of Water, U.S. EPA, September 2010). These factors include:

1. Applicable standards, designated uses and impairments of receiving water
2. Dilution in the receiving water
3. Type of industry
4. History of compliance problems and toxic impacts
5. Existing data on toxic pollutants - Reasonable Potential Analysis

1. Applicable Standards, Designated Uses and Impairments of Receiving Water

In order to protect the designated uses of surface waters, the Tribe has developed Navajo Nation Surface Water Quality Standards ("NNSWQS") for different stream segments, depending on the level of protection required. USEPA approved the 1999 NNSWQS on March 23, 2006. The NNSWQS were revised in 2007 and approved by the USEPA on March 26, 2009. A 2018 NNSWQS revision was approved by USEPA in October 2020. The approved 2018 NNSWQS revision will be used for purposes of developing water quality based effluent limitations.

The NNSWQS identified the following designated uses in Puerco River within Navajo Nation boundary, a tributary to the Little Colorado River (Table 206.1, page 34):

- **PrHC:** primary human contact
- **ScHC:** secondary human contact
- **AgWS:** agricultural water supply
- **FC:** fish consumption
- **A&WHbt:** aquatic and wildlife habitat
- **LW:** livestock watering

The NNSWQS 2018 revision removed domestic water supply and added agricultural water supply as a new use (page 34).

Puerco River is not listed as impaired according to CWA Section 303(d) List of Water Quality Limited Segments. No TMDLs are applicable to permittee's discharge.

2. Dilution in the Receiving Water

Discharge from Outfall 001 flows to Pueblo Colorado Wash, which may have no natural flow during certain times of the year. Therefore, no dilution of the effluent has been considered in the development of WQBELs applicable to the discharge.

3. Type of Industry

For POTWs typical pollutants of concern in untreated and treated domestic wastewater include ammonia, nitrate, oxygen demand, pathogens, temperature, pH, oil and grease, and solids. Chlorine is of concern due to treatment plant disinfection operations and therefore, dechlorination is necessary to minimize impacts on water quality, and a water quality based effluent limit for total residual chlorine (TRC) is also included.

4. History of Compliance Problems and Toxic Impacts

On September 11, 2017, U.S. EPA conducted a CEI at the facility and made the following observations: (1) There is significant weed growth in Cell #1; (2) The concrete apron around the edge of the cell has cracks and in some places has sunk (before operating the cell again, vegetation should be removed and the concrete apron needs to be repaired); (3) At the time of the inspection, there was weed removal occurring along the perimeter of Cell #2 and #3; (4) The clean out pipe between Cell #2 and #3 had a missing lid; (5) The DMR for May 2016 contained a code error for having a discharge and not having a sample taken. The code on the DMR was "NODI C" but the code "NODI E" would have been more representative with what occurred.

The permit required that influent flow be monitored and reported under *Section A: Effluent Limitations and Self-Monitoring Requirements*. The facility did not measure influent flow until it was noted as part of an EPA inspection in September 2017. Influent flow data was provided for the discharges starting March 2019.

The Ammonia Impact Ratio (1.0) was exceeded in the February 2020 (1.71) and March 2020 (2.92) discharges.

pH limit was not met in the February 2020 discharge. pH was 6.0, below the minimum limit of 6.5.

Total Suspended Solids percent removal was 59% in the March 2019 discharge, below the limit of 65% minimum removal. For this discharge, flow was 0.000072 MGD and Total Suspended Solids was 0.354 kg/day, which is well below 34 kg/day monthly average and 51 kg/day weekly average.

A priority pollutant scan was required in the 1st Quarter of Year 5 of the permit cycle. Due to the COVID-19 emergency, the school was shut down and did not have a discharge in Year 5 of the permit cycle, and thus did not perform a priority pollutant scan.

5. Existing Data on Toxic Pollutants

For pollutants with effluent data available, EPA has conducted a reasonable potential analysis based on statistical procedures outlined in EPA's *Technical Support Document for Water Quality-based Toxics Control* herein after referred to as EPA's TSD (EPA 1991). These statistical procedures result in the calculation of the projected maximum effluent concentration

based on monitoring data to account for effluent variability and a limited data set. The projected maximum effluent concentrations were estimated using a coefficient of variation and the 99 percent confidence interval of the 99th percentile based on an assumed lognormal distribution of daily effluent values (sections 3.3.2 and 5.5.2 of EPA's TSD). EPA calculated the projected maximum effluent concentration for each pollutant using the following equation:

Projected maximum concentration = C_e × *reasonable potential multiplier factor.*

Where, "C_e" is the reported maximum effluent value and the multiplier factor is obtained from Table 3-1 of the TSD.

Table 2. Summary of Reasonable Potential Statistical Analysis:

Parameter[1][2]	**Maximum Observed Concentration**	***n***	**RP Multiplier**	**Projected Maximum Effluent Concentration**	**Most Stringent Water Quality Criterion**	**Statistical Reasonable Potential?**
Ammonia	11.4 mg/L	3	5.6	63.8 mg/L	5.6 to 33 mg/L for acute,[3] 1.3 to 3.6 mg/L for chronic[3]	Yes
Total Dissolved Solids (TDS)	1798 mg/L	2	7.4	13,305 mg/L	N/A	No
Total Residual Chlorine (TRC)	<1.2 µg/L	3	5.6	6.7 µg/L	11.0 µg/L	No
E. Coli CFU/100mL	24.6	3	5.6	138	235[4]	No
	14.4	3	5.6	81	126[5]	No

[1] For purposes of RP analysis, parameters measured as Non-Detect are considered to be zeroes. Only pollutants detected are included in this analysis.
[2] Priority Pollutant Scan was not performed during permit cycle.
[3] EPA's Guidance for *Aquatic Life Ambient Water Quality Criteria for Ammonia – Freshwater 2013* recommends using acute and chronic criteria dependent on pH and temperature.
[4] Maximum daily value for *E. Coli*.
[5] Geometric mean of samples collected for *E. Coli*.

C. Rationale for Numeric Effluent Limits and Monitoring

EPA evaluated the typical pollutants expected to be present in the effluent and selected the most stringent of applicable technology-based standards or water quality-based effluent limitations. Where effluent concentrations of toxic parameters are unknown or are not reasonably expected to be discharged in concentration that have the reasonable potential to cause or contribute to water quality violations, EPA may establish monitoring requirements in the permit. Where monitoring is required, data will be re-evaluated and the permit may be re-opened to incorporate effluent limitations as necessary.

Flow

No limits established for flow, but flow rates must be monitored and reported. Continuous monitoring is required during discharge.

BOD_5 and TSS

The technology-based limits for BOD_5 and TSS are described above and are incorporated into the permit. Under 40 CFR § 122.45(f), mass limits are also required for BOD_5 and TSS. The mass-based limits included in the permit are calculated based on the 0.1 MGD design flow.

Ammonia and Ammonia Impact Ratio

Treated and untreated domestic wastewater may contain levels of ammonia that are toxic to aquatic organisms. Ammonia is converted to nitrate during biological nitrification process, and then nitrate is converted to nitrogen gas through biological denitrification process. Due to the potential for ammonia to be present in sanitary wastewater at toxic levels and due to the conversion of ammonia to nitrate, effluent limitations are established using the Ammonia Impact Ratio ("AIR") for all facilities.

The AIR is calculated as the ratio of the ammonia value in the effluent to the applicable ammonia water quality standard. The NNWQS for Ammonia in freshwater for protection of **A&WHbt** are found in Table 205.1 (Page 22) of the 2018 NNWQS. Chronic and acute criteria are pH and temperature dependent. Therefore, pH, temperature, and ammonia sampling must be concurrent. See Attachment E of the permit for a sample log to help calculate and record the AIR values and https://www.epa.gov/wqs-tech/water-quality-standards-regulations-navajo-nation for applicable Water Quality Standards.

The permittee also must monitor and report ammonia effluent values in addition to the AIR value. AIR provides more flexibility than a specific, fixed effluent concentration and is protective of water quality standards since the value is set relative to the water quality standard, with consideration of dilution. If the reported value exceeds the AIR limitation, then the effluent ammonia-N concentration exceeded the ammonia water quality criterion. With an AIR value exceeding 1.0, the permittee would be in violation of the permit.

pH

Untreated and treated domestic wastewater could be contaminated with substance that affects the pH. The pH of 6.0 for the February 2020 discharge is a violation of the previous permit limit, and therefore shows a reasonable potential for pH levels in the effluent to cause or contribute to an excursion above or below the WQS. In order to ensure adequate protection of beneficial uses of the receiving water, a maximum pH limit of 9.0 and a minimum limit of 6.5 S.U. are established in Section 207.C (Page 20) of 2018 NNSWQS revision. The monitoring frequency is once per month, consistent with the previous permit. Measurements for pH are required to be taken concurrently with ammonia and temperature measurements.

Temperature

To support the Navajo Nation's established Ammonia standards and their dependence on temperature, monthly temperature monitoring is to be performed concurrently with ammonia and pH measurements.

E. Coli

Presence of pathogens in untreated and treated domestic wastewater indicates that *E. coli* bacteria exists in the effluent. Although the statistical analysis did not show a numerical reasonable potential, *E. Coli* is a common pathogen in wastewater effluent, and there is reasonable potential to exceed NNSWQS based on the type of facility. The limits will continue to maintain protection of water quality, and are based on the NNSWQS for protection of **PrHC** (p. 20). As required by the final permit, the monthly geometric mean of *E. coli* bacteria must not exceed 126/100 ml as a monthly average and 235/100 ml as a single sample maximum. The monitoring frequency is once per month, consistent with the previous permit.

Total Residual Chlorine

Chlorination is used for disinfection purposes at the permitted facility. Although the statistical analysis did not show a numerical reasonable potential, *E. Coli* is a common pathogen in wastewater effluent, and there is reasonable potential to exceed NNSWQS based on the type of facility. Therefore, a TRC limit of 11µg/l has been established in the final permit to protect the beneficial uses of the receiving waters (Puerco River within Navajo Nation boundary, a tributary to the Little Colorado River). The monitoring frequency is once per month, consistent with the previous permit.

Total Dissolved Solids

Total dissolved solids ("TDS") is an indicator parameter for salinity. Monitoring data showed the presence of solids in untreated and treated domestic wastewater in the effluent. While NNSWQS do not include criteria for TDS, the regulations at 40 CFR § 122.44(i) allow requirements for monitoring as determined to be necessary. No limits are set at this time. The monitoring frequency is once per discharge. This is consistent with the NNWQS narrative criteria for Salinity.

Whole Effluent Toxicity (WET)

The NNSWQS includes a narrative objective for toxicity that requires that "All waters of the Navajo Nation shall be free of toxic pollutants from other than natural sources in amounts, concentrations, or combinations which affect the propagation of fish or which of toxic to humans, livestock or other animals, fish or other aquatic organisms, wildlife using aquatic environments for habitation or aquatic organisms for food..."

In order to evaluate the secondary effects of discharged nutrients, and to comply with the NNSWQS for a designated use of **A&WHbt**, a minimum standard for chronic toxicity has been incorporated into the permit. Testing for chronic WET must be completed in accordance with Part II, Section C of the permit. This is a new requirement.

Priority Pollutant Scan

A priority pollutant scan was required in the 1st Quarter of Year 5 of the permit cycle. Due to the COVID-19 emergency, the school was shut down and did not have a discharge in Year 5 of the permit cycle, and thus did not perform a priority pollutant scan. Since the school remained closed during much of 2020 and 2021, discharge is not anticipated until Year 2 of the permit cycle. Requiring a priority pollutant scan is consistent with the previous permit.

D. Anti-Backsliding

Section 402(o) and 303(d)(4) of the CWA and 40 CFR § 122.44(l)(1) prohibits the renewal or reissuance of an NPDES permit that contains effluent limits and permit conditions less stringent than those established in the previous permit, except as provided in the statute and regulation. The permit does not establish any effluent limits less stringent than those in the previous permit and does not allow backsliding.

Effluent limits for BOD_5 and TSS have been clarified to be monitored and reported as 30-day average and 7-day average from average monthly and average weekly. This update does not constitute less stringent limits.

E. Antidegradation Policy

EPA's antidegradation policy under CWA § 303(d)(4) and 40 CFR § 131.12 and NNSWQS require that existing water uses and the level of water quality necessary to protect the existing uses be maintained.

As described in this document, the permit establishes effluent limits and monitoring requirements to ensure that all applicable water quality standards are met. The permit does not include a mixing zone, therefore these limits will apply at the end of pipe without consideration of dilution in the receiving water.

Since the permittee is expected to comply with all limits in the permit, the effluent should not have a negative, degrading effect, on the receiving waterbody. A priority pollutant scan is required of the effluent to demonstrate that most pollutants will be discharged below detection levels. While no limits are set at this time, the permittee is required to monitor for the full list of priority pollutants as listed at 40 CFR Part 423 Appendix A. Furthermore, the waterbody is not listed as an impaired waterbody for total suspended solids, BOD_5, coliform, temperature, or total ammonia under section 303(d) of the CWA.

Therefore, due to the low levels of toxic pollutants present in the effluent, and inclusion of water quality-based effluent limitations, the discharge is not expected to adversely affect receiving water bodies or result in any degradation of water quality.

VII. NARRATIVE WATER QUALITY-BASED EFFLUENT LIMITS

The NNSWQS contains narrative water quality standards applicable to the receiving water. Therefore, the permit incorporates applicable narrative water quality standards.

VIII. MONITORING AND REPORTING REQUIREMENTS

The permit requires the permittee to conduct monitoring for all pollutants or parameters where effluent limits have been established, at the minimum frequency specified. Additionally, where effluent concentrations of toxic parameters are unknown or where data are insufficient to determine reasonable potential, monitoring may be required for pollutants or parameters where effluent limits have not been established.

A. Effluent Monitoring and Reporting

The permittee shall conduct effluent monitoring to evaluate compliance with the draft permit conditions. The permittee shall perform all monitoring, sampling and analyses in accordance with the methods described in the most recent edition of 40 CFR Part 136, unless otherwise specified in the draft permit. All monitoring data shall be reported on monthly DMRs and submitted quarterly as specified in the draft permit. All DMRs are to be submitted electronically to EPA using NetDMR.

B. Priority Toxic Pollutants Scan

A Priority Toxic Pollutants scan shall be conducted during the second year of the five-year permit term to ensure that the discharge does not contain toxic pollutants in concentrations that may cause a violation of water quality standards. The permittee shall perform all effluent sampling and analyses for the priority pollutants scan in accordance with the methods described in the most recent edition of 40 CFR Part 136, unless otherwise specified in the draft permit or by EPA. 40 CFR § 131.36 provides a complete list of Priority Toxic Pollutants.

C. Whole Effluent Toxicity (WET) Requirements

Aquatic life is a public resource protected in surface waters covered by the CWA. As evidence that CWA requirements protecting aquatic life from chronic and acute toxicity are met in surface waters receiving the NPDES discharge, samples are collected from the effluent and tested for toxicity in a laboratory using EPA's WET methods. These aquatic toxicity test results are used to determine if the NPDES effluent causes toxicity to aquatic organisms. Toxicity testing is important because for scores of individual chemicals and compounds, chemical-specific environmentally protective levels for toxicity to aquatic life have not been developed, or set as water quality standards. In due course, some such chemicals and compounds can eventually make their way into effluents and their receiving surface waters. When this happens, toxicity tests of effluents can demonstrate toxicity due to present, but unknown, toxicants (including possible synergistic and additive effects), signaling a water quality problem for aquatic life.

EPA's WET methods are systematically-designed instructions for laboratory experiments that expose sensitive life stages of a test species (e.g., fish, invertebrate, algae) to both an NPDES effluent sample and a negative control sample. During the toxicity test, each exposed test organism can show a difference in biological response; some will be undesirable differences. Examples of undesirable biological responses include, but are not limited to, eggs not fertilized, early life stages that grow too slowly or abnormally, or death. At the end of a toxicity test, the different biological responses of the organisms in the effluent group and the organisms in the control group are summarized using common descriptive statistics (e.g., means, standard deviations, coefficients of variation). The effluent and control groups are then compared using an applicable inferential statistical approach (i.e., hypothesis testing or point estimate model) chosen by the permitting authority and specified in the NPDES permit. The chosen statistical approach is compatible with both the experimental design of the WET method and the applicable toxicity water quality standard. Based on this statistical comparison, a toxicity test will demonstrate that the effluent is either toxic or not toxic, in relation to the permit's toxicity level for the effluent, which is set to protect the quality of surface waters receiving the NPDES discharge. EPA's WET methods are specified under 40 CFR § 136 and/or in applicable water quality standards.

EPA recommends inferential statistical approaches that a permitting authority chooses from to set a protective level for toxicity in an NPDES discharge. The statistical approach chosen for this permit is based on bioequivalence hypothesis testing and is called the Test of Significant Toxicity (TST) statistical approach. It is described in *National Pollutant Discharge Elimination System Test of Significant Toxicity Technical Document* (EPA 833-R-10-004, 2010; TST Technical Document) and Denton DL, Diamond J, and Zheng L. 2011.

Test of significant toxicity: A statistical application for assessing whether an effluent or site water is truly toxic. *Environ Toxicol Chem* 30:1117-1126. This statistical approach supports important choices made within a toxicity laboratory which favor quality data and EPA's intended levels for statistical power when true toxicity is statistically determined to be unacceptably high (≥ 25 PE, Percent (%) Effect), or acceptably low (< 10 PE). Example choices are practices supporting healthy test organisms, increasing the minimum recommended replication component of the WET method's experimental design (if needed), technician training, etc.

TST results do not often differ from other EPA-recommended statistical approaches using hypothesis testing (Diamond D, Denton D, Roberts J, Zheng L. 2013. Evaluation of the Test of Significant Toxicity for determining the toxicity of effluents and ambient water samples. *Environ Toxicol Chem* 32:1101-1108.). The TST maintains EPA's desired low false positive rate for WET methods—the probability of declaring toxicity when true toxicity is acceptably low ≤ 5%—when quality toxicity laboratories conduct toxicity tests (TST Technical Document; Fox JF, Denton DL, Diamond J, and Stuber R. 2019.

Comparison of false-positive rates of 2 hypothesis-test approaches in relation to laboratory toxicity test performance. *Environ Toxicol Chem* 38:511-523.). Note: The false positive rate is a long-run property for the toxicity laboratory conducting a WET method. A low false positive rate is indicted by a low long-run toxicity laboratory control coefficent of variation for the test species/WET method, using a minimum of 30 to 50 toxicity tests.

In accordance with 40 CFR § 122.44(d)(1), reasonable potential for chronic toxicity has not been established. This is because no chronic toxicity test result is Fail (1) indicating unacceptable toxicity is not present in the effluent and no associated PE (Percent (%) Effect) value is ≥ 10 indicating toxicity at a level higher than acceptable is not present in the effluent (see Table 2 and section 1.4 in TST Technical Document). Thus, no chronic toxicity WQBELs are required for the permitted discharge (40 CFR § 122.44(d)(1)). However, monitoring and reporting for both the median monthly and maximum daily effluent results for the parameter of chronic toxicity are required, so that effluent toxicity can be assessed in relation to CWA requirements for the permitted discharge (see Part I, Table 2 in NPDES permit).

In accordance with 40 CFR § 122.44(d)(1)(ii), in setting the permit's levels for chronic toxicity and conditions for discharge, EPA is using a test species/chronic short-term WET method and a discharge Instream Waste Concentration (IWC) representing conservative assumptions for effluent dilution necessary to protect receiving water quality. The IWC is a discharge-specific term based on the permit's authorized mixing zone or initial dilution. Generally, the dilution model result "S" from Visual Plumes/Cormix is used. S is the volumetric dilution factor, i.e. 1 volume effluent is diluted with S − 1 volumes surface water) = [(Ve + Va) /

Ve]. Following the mass balance equation, if the dilution ratio D = Qs / Qe, then [(Qe + Qs) / Qe] = 1 + D = S.

For this discharge, S = 1 (i.e., no authorized dilution). The discharge-specific IWC = 1 to 1 dilution (1:1, 1/1) = 100% effluent. The IWC made by the toxicity laboratory is mixed as 1 part solute (i.e., effluent) to 0 parts dilutant (1: (1 – 1)) for a total of 1 part.

The TST's null hypothesis for chronic toxicity (H_o) is: In-stream Waste Concentration (IWC) mean response (% effluent) ≤ 0.75 Control mean response. The TST's alternative hypothesis is (H_a): IWC mean response (% effluent) > 0.75 Control mean response. For this permit, results obtained from a single chronic toxicity test are analyzed using the TST statistical approach, where the required chronic toxicity IWC for Outfall 001 is 100% effluent.

For NPDES samples for toxicity testing, the sample hold time begins when the 24-hour composite sampling period is completed (or the last grab sample in a series of grab samples is taken) and ends at the first time of sample use (initiation of toxicity test). 40 CFR § 136.3(e) states that the WET method's 36-hour hold time cannot be exceeded unless a variance of up to 72-hours is authorized by EPA.

Species sensitivity screening for chronic toxicity is not an automatic requirement in this permit. However, the permit retains a species sensitivity screening condition as an option for the permitting authority to exercise, particularly when the quality of the permitted discharge has changed, or is expected to change, during the permit term.

IX. SPECIAL CONDITIONS

A. Biosolids

Standard requirements for the monitoring, reporting, recordkeeping, and handling of biosolids in accordance with 40 CFR Part 503 are incorporated into the permit. Permittees shall submit biosolids reports using EPA's NPDES Electronic Reporting Tool ("NeT").

Biosolids were removed from Lagoon Cell 1 and moved to the old Wingate Elementary School Sewage Lagoon in March 2012. This site was intended to be a temporary storage location. The intent was to permanently transfer the biosolids to a certified landfill. The permittee shall submit a plan for removal or future storage of these on-site biosolids that meet the requirements in 40 CFR 258 and 40 CFR 503 within the first 120 after issuance of the permit.

The proposed permit includes a requirement for submitting a report 120 days prior to disposal of sewage sludge. The permittee is required to submit a plan describing the quantity of sewage sludge to be removed, mechanisms for removing, and a proposed sampling plan for pollutants regulated under the use or disposal option being selected. Upon approval of this plan by U.S. EPA and NNEPA, the permittee will have the sewage sludge removed as described. The permit also requires compliance with all applicable requirements of Section 405(d) of the CWA, and 40 CFR 258 (for sewage sludge sent to a municipal landfill) and 503 (for sewage sludge placed in a sludge-only surface disposal site, land applied as fertilizer, used in land reclamation, or incinerated.

B. Best Management Practices and Pollution Prevention Plan

The permittee shall develop and implement Best Management Practices ("BMPs") for pollution prevention. Pursuant to 40 CFR §122.44(k)(4), EPA may impose BMPs "reasonably necessary…to carry out the purposes of the Act." The pollution prevention requirements or BMPs in the permit operate as technology-based limitations on effluent discharges that reflect the application of Best Available Technology and Best Control Technology. BMPs shall be implemented to control high BOD5 and TSS concentrations, as well as reduce the ammonia impact ratio. Additionally, BMPs shall be designed to prevent pollutants from entering the unnamed wash of the Puerco River during normal operations at the facility. See Permit for BMP requirements in the Pollution Prevention Plan.

C. Asset Management

40 CFR § 122.41(e) requires permittees to properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of this permit. Asset management planning provides a framework for setting and operating quality assurance procedures and ensuring the permittee has sufficient financial and technical resources to continually maintain a targeted level of service. Asset management requirements have been established in the permit to ensure compliance with the provisions of 40 CFR § 122.41(e).

X. OTHER CONSIDERATIONS UNDER FEDERAL LAW

A. Consideration of Environmental Justice

U.S. EPA has conducted a screening level evaluation of vulnerabilities on local residents through use of U.S. EPA's EJSCREEN tool. Specifically, U.S. EPA used EJSCREEN to identify areas near the BIA Wingate High School facility that are disproportionately burdened by pollutant loadings. U.S. EPA has also evaluated whether demographic characteristics of the population living in the vicinity of the BIA facility indicate that the local population might be particularly susceptible to such environmental risks.

In June 2021, EPA conducted an EJSCREEN analysis of the community near the vicinity of the outfall. Of the 11 environmental indicators screened through EJSCREEN, the evaluation determined elevated indicator scores for the following factors:

Table 3. EJSCREEN Analysis – Wingate High School

Selected Variables			
EJ Indexes			
EJ Index for Particulate Matter (PM 2.5)	78	70	81
EJ Index for NATA Diesel PM	68	63	72
EJ Index for NATA Air Toxics Cancer Risk	70	66	78
EJ Index for NATA Respiratory Hazard Index	69	66	76

EJ Index for Traffic Proximity and Volume	48	56	66
EJ Index for Lead Paint Indicator	53	67	72
EJ Index for RMP Proximity	80	63	75
EJ Index for Hazardous Waste Proximity	56	56	65

*Percentile given is EPA Region 6, New Mexico, even though the facility is technically in EPA Region 9.

The results show that, the area in which the BIA facility is at a high risk for EJ factors. The BIA facility is in particularly high percentiles for Ozone, Superfund Proximity, and Risk Management Plan (RMP) Proximity. There was no data available for the Wastewater Discharge Indicator. The EJSCREEN analysis of demographic characteristics of the community living near the facility indicates the local population may be at relatively higher risk if exposed to environmental contaminants than the national population. Demographic characteristics that showed potentially sensitive scores were a high proportion of minority and low income population and population with less than high school education.

U.S. EPA also considers the characteristics of the wastewater treatment facility operation and discharges, and whether those discharges, in combination with discharges from local ozone sources, pose exposure risks that the NPDES permit needs to further address. The BIA facility is unlikely to discharge any noticeable ozone. Additionally, the BIA facility is not a superfund site or RMP site. U.S. EPA finds no evidence to indicate the wastewater facility discharge poses a significant risk to local residents. U.S. EPA concludes that the facility is unlikely to contribute to any EJ issues.

U.S. EPA will conduct outreach by public noticing the permit, as well as reaching out to the Navajo Nation by offering consultation in the issuance of the permit. EPA will issue the permit in consideration of the Navajo Nation Water Quality Standards and the CWA which is protective of all beneficial uses of the receiving water. Furthermore, U.S. EPA believes that by implementing and requiring compliance with the provisions of the Clean Water Act, which are designed to ensure full protection of human health, the permit is sufficient to ensure the facility discharges to not cause or contribute to human health risk in the vicinity of the wastewater facility.

B. Impact to Threatened and Endangered Species

Section 7 of the Endangered Species Act of 1973 (16 U.S.C. § 1536) requires federal agencies to ensure that any action authorized, funded, or carried out by the federal agency does not jeopardize the continued existence of any listed or candidate species, or result in the destruction or adverse modification of its habitat.

EPA obtained a list of threatened and endangered species that may occur in the proposed project location or that may be affected by the proposed project on January 15, 2021. This Information for Planning and Conservation ("IPaC") report provides an up-to-date listing of all proposed (P), candidate (C), threatened (T) and endangered (E) species that occur in the vicinity of the project. The Navajo Endangered Species List (NESL) available from the Navajo Nation's Department of Fish & Wildlife Natural Heritage Program ("NHP") database, http://www.nndfw.org was also referenced. The listed species are provided in Table 4 below.

Table 4. Listed species, designated under US Endangered Species Act (ESA) and NESL

Type	Common Name	Scientific Name	US ESA		NESL
			Status	Critical Habitat	
Fish	Zuni Bluehead Sucker	*Catostomus discobolus yarrow*	Endangered	No*	Group 2 (Endangered)
Bird	Mexican Spotted Owl	*Strix oxxidentalis lucida*	Threatened	No*	Group 3 (Endangered)
	Southwestern Willow Flycatcher	*Empidonax traillii extimus*	Endangered	No*	Group 2 (Endangered)
	Yellow-billed Cuckoo	*Coccyzus americanus*	Threatened	No*	Group 2 (Endangered)
Plants	Zuni Fleabane (Rhizome Fleabane)	*Erigeron rhizomatous*	Threatened	No	Group 2 (Endangered)

* These species have designated or proposed critical habitat outside of the action area.

The action area is defined as the wastewater treatment facility and discharge outfall, the stretch of the unnamed wash of the South Fork Puerco River, and the South Fork Puerco River. The facility discharges sporadically when the last cell is full. As the discharge from the facility is limited, the unnamed tributary may have no natural flow during times of the year and is very unlikely to reach the Puerco River or the Little Colorado River. If in the rare instance that the effluent were to be discharged during a precipitation event large enough to result in continuous flow from the outfall, the discharge would be heavily diluted as to have no effect on the waters of the Puerco River or the Little Colorado River. Therefore the Puerco River and Little Colorado River are outside of the action area.

Fish

Zuni Bluehead Sucker (*Catostomus discobolus yarrow*) is found most commonly in shaded pools and pool-runs (0.3 to 0.5 m deep) with water velocity < 10 cm/sec where the substrate varies from gravel, cobble, and boulders to bedrock (https://ecos.fws.gov/ecp/species/3536). The action area does not provide suitable habitat for the Zuni Bluehead Sucker because it is dry for part of the year. Therefore, EPA has determined that the action will not affect the Zuni Bluehead Sucker.

Critical habitat for the Zuni Bluehead Sucker was finalized on June 7, 2016 (81 FR 36761). There is no designated critical habitat for the Zuni Bluehead Sucker in the action area.

Birds

Mexican Spotted Owl

The Mexican Spotted Owl (*Strix occidentalis lucida*) (https://ecos.fws.gov/ecp/species/8196) is a resident of old-growth or mature forests that possess complex structural components (uneven aged stands, high canopy closure, multi-storied levels, high tree density). Canyons with riparian or conifer communities are also important components. In southern Arizona and New Mexico, the mixed conifer, Madrean pine-oak, Arizona cypress, encinal oak woodlands, and associated riparian forests provide habitat in the small mountain ranges (Sky Islands) distributed across the

landscape. Owls are also found in canyon habitat dominated by vertical-walled rocky cliffs within complex watersheds, including tributary side canyons. Rock walls with caves, ledges, and other areas provide protected nest and roost sites. Canyon habitat may include small isolated patches or stringers of forested vegetation including stands of mixed-conifer, ponderosa pine, pine-oak, pinyon-juniper, and/or riparian vegetation in which owls regularly roost and forage. Roosting and nesting habitats exhibit certain identifiable features, including large trees (those with a trunk diameter of 12 inches (in) (30.5 centimeters (cm)) or more (i.e., high tree basal area)), uneven aged tree stands, multi-storied canopy, a tree canopy creating shade over 40 percent or more of the ground (i.e., moderate to high canopy closure), and decadence in the form of downed logs and snags (standing dead trees). Canopy closure is typically greater than 40 percent. Owl foraging habitat includes a wide variety of forest conditions, canyon bottoms, cliff faces, tops of canyon rims, and riparian areas. The listed typical habitats of old-growth or mature forests, canyons with rock ledges, or large trees with a multi-storied canopy creating 40 percent shade are not present in the action area. Because the action area does not contain suitable habitat for the Mexican Spotted Owl and discharges would not affect owls merely flying over, EPA has determined that the action will not affect the Mexican Spotted Owl.

Critical habitat for the Mexican Spotted Owl was finalized on August 31, 2004 (69 FR 53182) in Arizona in Apache, Cochise, Coconino, Gila, Graham, Greenlee, Maricopa, Navajo, Pima, Pinal, Santa Cruz, and Yavapai counties. No critical habitat has been designated in Cibola and McKinley counties in New Mexico where the action area is located.

Southwestern Willow Flycatcher

The Southwestern Willow Flycatcher (*Empidonax traillii extimus*) is a small insectivorous bird species (https://ecos.fws.gov/ecp/species/6749) found in the Southwestern United States, including New Mexico, that requires dense riparian habitats often consisting of willow, buttonbush, cottonwood, box elder, Russian olive etc. as well as saturated soils, standing water, streams, pools, for nesting. Such habitat is not found in the action area. EPA has determined that occasional short-term discharges from the treatment lagoon would thus not impact the species, nor would it create conditions for establishment of conditions for typical flycatcher habitat.

While the Southwestern Willow Flycatcher is present in Cibola and McKinley counties in New Mexico, in which the action area for this permit is located, there is no critical habitat located in Cibola or McKinley Counties.

Yellow-billed Cuckoo

The Yellow-billed Cuckoo (*Coccyzus americanus*) is a migratory bird species, traveling between its wintering grounds in Central and South America and its breeding grounds in North America (Continental U.S. and Mexico) each spring and fall often using river corridors as travel routes (https://ecos.fws.gov/ecp/species/3911). Habitat conditions through most of the Yellow-billed Cuckoo's range are dynamic and may change within or between years depending on vegetation growth, tree regeneration, plant maturity, stream dynamics, and sediment movement and deposition. The Yellow-billed Cuckoo is known or believed to occur throughout most of Arizona and Utah, and in parts of New Mexico, Colorado, Idaho, Montana, Nevada, Texas, Wyoming, Oregon, and Washington. They are found in dense cover with water nearby, such as woodlands with low vegetation, overgrown orchards, and dense thickets along streams or marshes and riparian vegetation. Caterpillars are their primary food source, along with cicadas, katydids and crickets. They also forage on wild fruits in the summer, with seeds becoming a

larger portion of their winter diet (https://ecos.fws.gov/ecp/species/3911). There is no dense cover or overgrown orchards in the action area. Because the action area contains no suitable habitat for the Yellow-billed Cuckoo, EPA has determined that the action will not affect this species.

In February 2020 USFWS proposed 72 units of critical habitat for the Western Yellow-billed Cuckoo in the arid southwest. See page 11477 of the following Federal Register notice: (https://www.govinfo.gov/content/pkg/FR-2020-02-27/pdf/2020-02642.pdf). The action area does not fall into any of the 72 identified units proposed to be designated as critical habitat by the USFWS.

Plants

The Zuni fleabane (*Erigeron rhizomatous*) (http://ecos.fws.gov/species/5700) is listed as threatened. Zuni fleabane grows in selenium-rich red or gray detrital clay soils derived from the Chinle and Baca formations. Plants are found at elevations from 7,300-8,000 ft (2,230-2,440 m) in pinyon-juniper woodland. Zuni fleabane prefers slopes of up to 40 degrees, usually with a north-facing aspect. Although the overall vegetative cover is usually high, there are few other competing plants on the steep easily erodible slopes that are Zuni fleabane's primary habitat. Zuni fleabane is found only in areas of suitable soils. These soils occur most extensively in the Sawtooth Mountains and in the northwestern part of the Datil Mountains in Catron County, New Mexico. The action area is not located at an elevation where the Zuni fleabane is found. The action area is comprised of gently sloping topography with soil that is not suitable for the Zuni fleabane. Therefore EPA has determined that the action will not affect the Zuni fleabane.

The USFWS has not listed any critical habitat for the Zuni fleabane.

Conclusion

Considering the best available information, EPA concludes that the reissuance of this permit will have no effect on any of the above listed species. There is no designated critical habitat for any of the listed species within the action area. A copy of the draft fact sheet and permit will be forwarded to the New Mexico Field Office of the USFWS for review and comment prior to and during the 30-day public review period. If, in the future, EPA obtains information or is provided information that indicates that there could be adverse impacts to federally listed species, EPA will contact the appropriate agency or agencies and initiate consultation, to ensure that such impacts are minimized or mitigated. In addition, re-opener clauses have been included should new information become available to indicate that the requirements of the permit need to be changed.

C. Impact to Coastal Zones

The Coastal Zone Management Act (CZMA) requires that Federal activities and licenses, including Federally permitted activities, must be consistent with an approved state Coastal Management Plan (CZMA §§ 307(c)(1) through (3)). Section 307(c) of the CZMA and implementing regulations at 40 CFR § 930 prohibit EPA from issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the activity complies with the State (or Territory) Coastal Zone Management program, and the State (or Territory) or its designated agency concurs with the certification.

The draft permit does not affect land or water use in the coastal zone; therefore, CZMA does not apply to this permit.

D. Impact to Essential Fish Habitat

The 1996 amendments to the Magnuson-Stevens Fishery Management and Conservation Act (MSA) set forth a number of new mandates for the National Marine Fisheries Service, regional fishery management councils and other federal agencies to identify and protect important marine and anadromous fish species and habitat. The MSA requires Federal agencies to make a determination on Federal actions that may adversely impact Essential Fish Habitat (EFH).

The draft permit contains technology-based effluent limits and numerical and narrative water quality-based effluent limits as necessary for the protection of applicable aquatic life uses. The draft permit does not directly discharge to areas of essential fish habitat. Therefore, EPA has determined that the draft permit will not adversely affect essential fish habitat.

E. Impact to National Historic Properties

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to consider the effect of their undertakings on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places. Pursuant to the NHPA and 36 CFR § 800.3(a)(1), EPA is making a determination that issuing this draft NPDES permit does not have the potential to affect any historic properties or cultural properties. As a result, Section 106 does not require EPA to undertake additional consulting on this permit issuance.

F. Water Quality Certification Requirements (40 CFR §§ 124.53 and 124.54)

For this permit, the permittee is required to seek water quality certification that this permit will meet applicable water quality standards (including paying applicable fees) from the Navajo Nation EPA. Certification under section 401 of the CWA shall be in writing and shall include the conditions necessary to assure compliance with referenced applicable provisions of sections 208(e), 301, 302, 303, 306, and 307 of the CWA and appropriate requirements of Tribal law. EPA cannot issue the permit until the certifying Tribe has granted certification under 40 CFR § 124.53 or waived its right to certify.

If the Tribe does not respond within 60 days of the request for 401 certification, it will be deemed to have waived certification.

XI. STANDARD CONDITIONS

A. Reopener Provision

In accordance with 40 CFR Parts 122 and 124, this permit may be modified by EPA to include effluent limits, monitoring, or other conditions to implement new regulations, including EPA-approved water quality standards; or to address new information indicating the presence of effluent toxicity or the reasonable potential for the discharge to cause or contribute to exceedances of water quality standards.

B. Standard Provisions

The permit requires the permittee to comply with EPA Region IX Standard Federal NPDES Permit Conditions.

XII. ADMINISTRATIVE INFORMATION

A. Public Notice (40 CFR § 124.10)

The public notice is the vehicle for informing all interested parties and members of the general public of the contents of a draft NPDES permit or other significant action with respect to an NPDES permit or application.

B. Public Comment Period (40 CFR § 124.10)

Notice of the draft permit was placed https://www.epa.gov/npdes-permits/npdes-permits-epas-pacific-southwest-region-region-9 with a minimum of 30 days provided for interested parties to respond in writing to EPA. The draft permit and fact sheet was posted on the EPA website for the duration of the public comment period. After the closing of the public comment period, EPA responded to public comments at the time of final permit issuance.

C. Public Hearing (40 CFR § 124.12)

A public hearing may be requested in writing by any interested party. The request should state the nature of the issues proposed to be raised during the hearing. A public hearing will be held if EPA determines there is a significant amount of interest expressed during the 30-day public comment period or when it is necessary to clarify the issues involved in the permit decision.

XIII. CONTACT INFORMATION

Comments, submittals, and additional information relating to this proposal may be directed to:

Prasad Gullapalli
NPDES Permits Section
U.S. EPA Region IX
Gullapalli.Prasad@epa.gov
415-972-3406

XIV. REFERENCES

EPA. 1991. *Technical Support Document for Water Quality-based Toxics Control*. Office of Water, EPA. EPA/505/2-90-001.

EPA. 2010. *U.S. EPA NPDES Permit Writers' Manual*. Office of Water, EPA. EPA-833-K-10-001.

EPA. 2013. *National Recommended Water Quality Criteria*. Office of Water, EPA. Aquatic Life Criteria Table. https://www.epa.gov/wqc/national-recommended-water-quality-criteria-aquatic-life-criteria-table#table

EPA. 2015. *National Recommended Water Quality Criteria*. Office of Water, EPA. Human Health Criteria Table. https://www.epa.gov/wqc/national-recommended-water-quality-criteria-human-health-criteria-table

EPA. 2017. September 11 compliance evaluation inspection; Report prepared by EPA Wastewater Section.

EPA. 2020. Navajo Nation 2015 Surface Water Quality Standards revisions.

Navajo Nation. 2015. Navajo Nation Surface Water Quality Standards ("NNSWQS") 2007. Revised 2015.

Navajo Nation. 2020. Navajo Nation Surface Water Quality Standards ("NNSWQS") 2017. Revised 2020.

Navajo Nation. 2020. *Navajo Endangered Species List*. Division of Natural Resources, Dept. of Fish and Wildlife. Resources Committee Resolution No. RDCJA-01-20. https://www.nndfw.org/nnhp/nnhp_nesl.pdf

USFWS 2020. IPaC report for Endangered and Threatened species list within Wingate High School discharge area. McKinley County, New Mexico (obtained from US Fish and Wildlife Service website, dated January 15, 2021)