

NPDES PERMIT NO. NM0030627

FACT SHEET

FOR THE DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
(NPDES) PERMIT TO DISCHARGE TO WATERS OF THE UNITED STATES

APPLICANT

Town of Springer Water Treatment Plant
P.O. Box 488
Springer, NM 87747

ISSUING OFFICE

U.S. Environmental Protection Agency
Region 6
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PREPARED BY

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DATE PREPARED

January 24, 2024

PERMIT ACTION

Proposed reissuance of the current NPDES permit issued November 19, 2018, with an effective date of November 20, 2018, and an expiration date of November 19, 2023.

RECEIVING WATER – BASIN

None classified arroyo thence to Cimarron River – Canadian River Basin

DOCUMENT ABBREVIATIONS

In the document that follows, various abbreviations are used. They are as follows:

4Q3	Lowest four-day average flow rate expected to occur once every three years
BAT	Best available technology economically achievable
BCT	Best conventional pollutant control technology
BPT	Best practicable control technology currently available
BMP	Best management plan
BOD	Biochemical oxygen demand (five-day unless noted otherwise)
BPJ	Best professional judgment
CBOD	Carbonaceous biochemical oxygen demand (five-day unless noted otherwise)
CD	Critical dilution
CFR	Code of Federal Regulations
Cfs	Cubic feet per second
COD	Chemical oxygen demand
COE	United States Corp of Engineers
CWA	Clean Water Act
DMR	Discharge monitoring report
ELG	Effluent limitations guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FCB	Fecal coliform bacteria
F&WS	United States Fish and Wildlife Service
mg/L	Milligrams per liter
µg/L	Micrograms per liter
MGD	million gallons per day
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMIP	New Mexico NPDES Permit Implementation Procedures
NMWQS	New Mexico State Standards for Interstate and Intrastate Surface Waters
NPDES	National Pollutant Discharge Elimination System
ML	Minimum quantification level
O&G	Oil and grease
PCB	Polychlorinated Biphenyl
POTW	Publically owned treatment works
RP	Reasonable potential
SIC	Standard industrial classification
s.u.	Standard units (for parameter pH)
SWQB	Surface Water Quality Bureau
TDS	Total dissolved solids
TMDL	Total maximum daily load
TRC	Total residual chlorine
TSS	Total suspended solids
UAA	Use attainability analysis
USGS	United States Geological Service
WLA	Wasteload allocation
WET	Whole effluent toxicity
WQCC	New Mexico Water Quality Control Commission
WQMP	Water Quality Management Plan
WWTP	Wastewater treatment plant

In this document, references to State WQS and/or rules shall collectively mean the State of New Mexico.

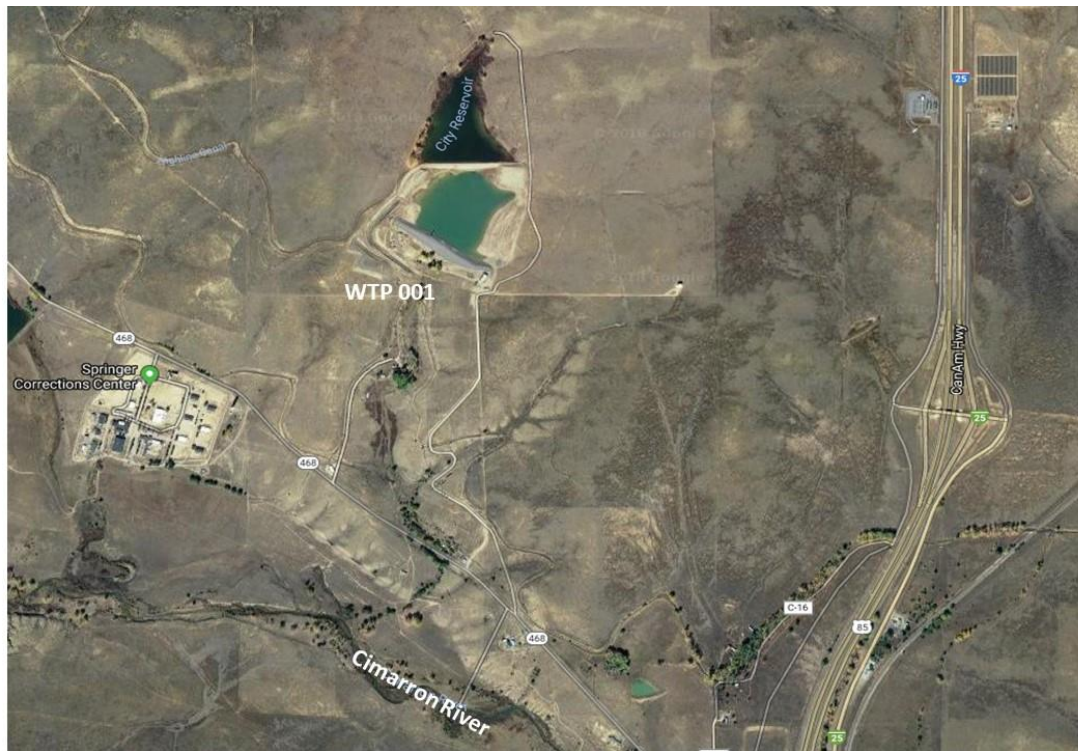
I. CHANGES FROM THE PREVIOUS PERMIT

Changes from the permit previously issued November 19, 2018, with an effective date of November 20, 2018, and an expiration date of November 19, 2023.

1. Monitor and reporting requirements for some pollutants have been modified.
2. Total Nickel limit has been removed from draft permit.

II. APPLICATION LOCATION and ACTIVITY

As described in the application, the plant is located at 128 Highway 468, Springer, Colfax County, New Mexico. The effluent from the treatment plant is discharged into a non-classified arroyo, thence to Cimarron River in Waterbody Segment No. 20.6.4.306 of the Canadian River Basin. The discharge is located at latitude 36° 22' 42" N and longitude 104° 37' 06" W, in Colfax County, New Mexico.



Under the SIC Code 4941, the applicant's activities are surface water treatment operations. The Town of Springer WTP has a design flow capacity of 0.28 MGD and is classified as a minor industrial discharger under the federal Clean Water Act, Section 402, of the NPDES permit program. Filter backwashing begins automatically at pre-set intervals based on continuously monitored effluent turbidity levels; however, operators may manually backwash filter media. Backwash water is flushed to a backwash detention pond approximately 60 ft by 40 ft. Emergency overflows from the plant, prior to disinfection, also flow to the backwash pond, as well as floor drains inside the treatment plant. An outlet pipe installed near the top of the detention pond decants and conveys wastewater to Outfall 001. Solids are removed from the

pond annually, allowed to dry on the banks of the backwash pond, then placed in a drum for storage on site.

The general and specific stream standards are provided in NMWQS 20.6.4 NMAC, as approved by EPA effective for CWA purposes February 8, 2023. The facility discharges to a non-classified arroyo, thence to Cimarron River in Waterbody Segment No. 20.6.4.306 of the Canadian River Basin. Current 20.6.4.306 Designated uses: irrigation, warmwater aquatic life, livestock watering, wildlife habitat and primary contact; and public water supply on Cimarroncito creek.

III. EFFLUENT CHARACTERISTICS

A quantitative description of the discharge(s) described in the EPA Permit Application Form 2C received November 2, 2023 are presented below in Table 1:

POLLUTANT TABLE – 1

Parameter	Max Daily Value (mg/L)	Max 30 Day Value	Long Term Avg Value
	(mg/l unless noted)		
Flow, million gallons/day (MGD)	0.0582	0.032	0.0187
pH, minimum, standard units (s.u.)	7.7 min	8.6 max	N/A
Biochemical Oxygen Demand (BOD)	3.0 / 0.345 lb	N/A	N/A
Chemical Oxygen Demand (COD)	19.9 / 2.29 lb	N/A	N/A
Total Organic Carbon	4 / 0.460 lb	N/A	N/A
Total Suspended Solids (TSS)	24.8 / 6.02 lb	N/A	N/A
Ammonia (as N)	0	N/A	N/A
Temperature, winter	9.1°C	8.2°C	8.2°C
Temperature, summer	22.1°C	21.7°C	21.6°C

POLLUTANT TABLE – 2

Parameter	Maximum Daily Value		Long Term Avg. Value	
	Concentration (mg/L unless noted)	Mass (lb)	Concentration (mg/L unless noted)	Mass (lb)
Chlorine, Total Residual	0 ppb	0	0 ppb	0
Phosphorus (as P)	0.25*	0.002	N/A	N/A
Aluminum, Total	1.8*	0.21	N/A	N/A
Copper, Total	0.002	0.0006	0.002208	0.055
Nickel, Total	0.01*	N/A	N/A	N/A

*From DMR

A summary of the last 36 months of available pollutant data from, taken from DMRs, shows only one exceedance for each of these pollutants: pH and aluminum.

IV. REGULATORY AUTHORITY/PERMIT ACTION

In November 1972, Congress passed the Federal Water Pollution Control Act establishing the NPDES permit program to control water pollution. These amendments established technology-based or end-of-pipe control mechanisms and an interim goal to achieve “water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water” more commonly known as the “swimmable, fishable” goal. Further amendments in 1977 of the CWA gave EPA the authority to implement pollution control programs such as setting wastewater standards for industry and established the basic structure for regulating pollutants discharges into the waters of the United States. In addition, it made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions. Regulations governing the EPA administered NPDES permit program are generally found at 40 CFR §122 (program requirements & permit conditions), §124 (procedures for decision making), §125 (technology-based standards) and §136 (analytical procedures). Other parts of 40 CFR provide guidance for specific activities and may be used in this document as required.

The applicant submitted a complete permit application on November 6, 2023. It is proposed that the permit be reissued for a 5-year term following regulations promulgated at 40 CFR §122.46(a). The existing NPDES permit initially issued November 19, 2018, with an effective date of November 20, 2018, and an expiration date of November 19, 2023.

V. DRAFT PERMIT RATIONALE AND PROPOSED PERMIT CONDITIONS

A. OVERVIEW OF TECHNOLOGY-BASED VERSUS WATER QUALITY STANDARDS-BASED EFFLUENT LIMITATIONS AND CONDITIONS

Regulations contained in 40 CFR §122.44 require that NPDES permit limits are developed that meet the more stringent of either technology-based effluent limitation guidelines (ELGs), numerical and/or narrative water quality standard-based effluent limits, or the previous permit.

Technology-based effluent limitations are established in the draft permit for TSS. Water quality-based effluent limitations are established in the proposed draft permit for TRC, DO, pH, temperature, total aluminum, total nickel, total zinc, and total copper.

B. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

Regulations promulgated at 40 CFR §122.44 (a) require technology-based effluent limitations to be placed in NPDES permits based on ELGs where applicable, on BPJ in the absence of guidelines, or on a combination of the two. In the absence of promulgated guidelines for the discharge, permit conditions may be established using BPJ procedures. EPA establishes limitations based on the following technology-based controls: BPT, BCT, and BAT.

The Town of Springer Water Treatment plant is a publicly owned facility which treats surface water. Discharges from similar facilities (e.g City of Las Vegas, Village of Ruidoso, City of Aztec, etc) are required to meet 30-day average and daily maximum TSS limitations of 20 mg/l

and 30 mg/l, respectively. Therefore, BPJ-based effluent limitations for TSS are established. ELGs for pH are between 6-9 s.u. Additionally, regulations at 40 CFR §122.45 (f)(1) require all pollutants limited in permits to have limitations expressed in terms of mass, such as pounds per day. However, discharge of filter backwash water and filter-to-waste water is not continuous. Because discharge occurs only when the operation of backwash takes place, mass limitations are not established in this proposed permit.

A summary of the technology-based limits for the Town of Springer Water Treatment facility:

Technology-Based Effluent Limits – 0.28 MGD Design flow.

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			
	lbs/Day		mg/l (unless noted)	
Parameter	30-Day Avg.	7-Day Avg.	30-Day Avg.	7-Day Avg.
Flow	N/A	N/A	Measure MGD	Measure MGD
TSS	N/A	N/A	20	30
pH	N/A	N/A	6.0 - 9.0 s.u.	

C. WATER QUALITY BASED LIMITATIONS

1. General Comments

Water quality based requirements are necessary where effluent limits more stringent than technology-based limits are necessary to maintain or achieve federal or state water quality limits. Under Section 301 (b)(1)(C) of the CWA, discharges are subject to effluent limitations based on federal or state WQS. Effluent limitations and/or conditions established in the draft permit are in compliance with the State WQS and applicable State water quality management plans to assure that surface WQS of the receiving waters are protected and maintained, or attained. Permit limits will ensure downstream WQS will be met in accordance with 40 CFR §122.4(d).

2. Implementation

The NPDES permits contain technology-based effluent limitations reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional water quality-based effluent limitations and/or conditions are included in the NPDES permits. State narrative and numerical water quality standards are used in conjunction with EPA criteria and other available toxicity information to determine the adequacy of technology-based permit limits and the need for additional water quality-based controls.

3. State Water Quality Standards

The general and specific stream standards are provided in NMWQS (20.6.4 NMAC, as approved by EPA and effective for CWA purposes February 8, 2023). The facility discharges into a non-

classified arroyo, thence to Cimarron River in Waterbody Segment No. 20.6.4.306 of the Canadian River Basin. The Canadian River Basin designated uses are irrigation, livestock watering, wildlife habitat, warmwater aquatic life and primary contact; and public water supply.

4. Permit Action – Water Quality-Based Limits

Regulations promulgated at 40 CFR 122.44(d) require limits in addition to, or more stringent than ELGs (technology based). State WQS that are more stringent than ELGs are as follows:

a. Total Dissolved Solids (TDS)

The State of New Mexico WQS criteria applicable to Waterbody Segment No. 20.6.4.306 require TDS to be no more than 3,500 mg/l or less at flows above 10 cfs of the receiving water body, Cimarron River. TDS results from the last permit term had TDS average results of 415 mg/L and a daily max value of 546 mg/L, the permit writer will not include TDS as a reporting requirement in this draft permit because the nature of the discharge is highly unlikely the results will ever exceed the criteria.

b. Dissolved oxygen (DO)

The State of New Mexico WQS criteria applicable to the warmwater aquatic life designated use require dissolved oxygen to be no less than 5 mg/l. A minimum limit of 5.0 mg/l was established in the last permit term. Revising the DO results, the average of the last three years was 7.3 mg/L. Since the facility is a water treatment plant, it has been complying with the DO limit and their values are well above the 5.0 mg/L minimum limit, a DO limit will not be included in this draft permit, but a monitoring requirement will be used in lieu of the limit.

c. pH

The WQS criteria applicable to the warmwater aquatic life designated use require pH to be between 6.6 and 9.0 s.u. This is more limiting than the technology-based limit presented above. Therefore, the draft permit will maintain a limit of 6.6 to 9.0 s.u.

d. Total Residual Chlorine

The WQS for TRC is 11 µg/l for both chronic aquatic life and wildlife habitat, and 19 µg/l for acute aquatic life. The NM Implementation Plan strategy for TRC requires the most limiting of the critical dilution/chronic criteria concentration of 11 µg/l or end-of-use/acute criteria concentration of 19 µg/l be used in determining the limit. The non-classified arroyo has a 4Q3 of 0 MGD; therefore, the critical dilution is 100%. The 11 µg/l would be the most limiting and will be the TRC limit proposed in the draft permit.

e. Temperature

The WQS criteria applicable to the warmwater aquatic life designated use is supported and nutrients and temperature are the causes of the impairment. The warmwater aquatic life require

temperature to be no more than 32.2 °C (90°F). A maximum limit of 32.2 °C (90°F) for any single sample will be maintained in this draft permit.

f. Nutrients - Total Phosphorus & Total Nitrogen

There's a TMDL for Nutrients in the Cimarron River and the current NPDES does not have limitations but does have monitoring requirements for nutrients. However, because there is a TMDL for nutrients, EPA will maintain the monitor and report results for Total Phosphorus and Total Nitrogen, just to establish a baseline if needed for future permitting.

g. Toxics

i. General Comments

The CWA in Section 301 (b) requires that effluent limitations for point sources include any limitations necessary to meet water quality standards. Federal regulations found at 40 CFR §122.44 (d) state that if a discharge poses the reasonable potential to cause an in-stream excursion above a water quality criteria, the permit must contain an effluent limit for that pollutant.

All applicable facilities are required to fill out appropriate sections of the Form 2C for Industrial Activity. The forms were designed and promulgated to “make it easier for permit applicants to provide the necessary information with their applications and minimize the need for additional follow-up requests from permitting authorities,” per the summary statement in the preamble to the Rule. These forms became effective December 1, 1999, after publication of the final rule on August 4, 1999, Volume 64, Number 149, pages 42433 through 42527 of the FRL.

The facility is designated as a minor, and does not need to fill out the expanded pollutant testing section Part D of Form 2C. However, certain toxics, aluminum and copper, have been identified as being present at concentrations that exceed RP and will be discussed below.

ii. Critical Conditions

Critical conditions are used to establish certain permit limitations and conditions. The State of New Mexico WQS allows a mixing zone for establishing pollutant limits in discharges. Both the NMWQS and NMIP establish a critical low flow designated as 4Q3, as the minimum average four consecutive day flow which occurs with a frequency of once in three years. The draft permit establishes a critical dilution based on the 4Q3 utilized in the current permit.

For permitting purposes of certain parameters such as WET, the critical dilution of the effluent to the receiving stream is determined. The critical dilution, CD, is calculated as:

$CD = Q_e / (F \cdot Q_a + Q_e)$, where:

Q_e = facility flow (0.28 MGD/0.43 cfs)

Q_a = critical low flow of the receiving waters (0 MGD/0 cfs)

F = fraction of stream allowed for mixing (1.0)

$$\begin{aligned} \text{CD} &= 0.28 \text{ MGD} / [(1.0)(0) + 0.28] \\ &= 1 \\ &= 100 \% \end{aligned}$$

iii. Aluminum

The previous permit established a 30-day average limit of 1.6 mg/l and a daily maximum limit of 2.4 mg/l for total aluminum. After running Reasonable Potential (RP) with current and updated data, the same limits are proposed in this draft permit.

iv. Nickel

The previous permit established a 30-day average limit of 0.15 mg/l and a daily maximum limit of 0.22 mg/l for total nickel. These limits were based on then current NMWQS. After running RP with current data from the facility, there is no RP for Nickel and, thus far, there is no demonstrated need for a WQBEL. No limit will be proposed at this time for total nickel.

vi. Copper

The Water Treatment plant uses copper sulfate in the reservoirs during warmer months to control algae for taste and odor. Current NPDES permit require a 30-day average limit of 0.3 mg/l and a daily maximum limit of 0.5 mg/l for total copper. That limit will be maintained in this draft permit.

5. 303(d) List Impacts

Although the non-classified arroyo has not been identified as impaired in the “2022-2024 State of New Mexico Integrated Clean Water Act Section 303(d) / 305(b) Report,” the Cimarron River from Canadian River to Ponil Creek has been identified as impaired for nutrients and temperature. According to the 2010 “Final Draft TMDL for the Cimarron River Watershed,” the Canadian River has nutrient targets of 0.03 mg/l for total phosphorus and 0.45 mg/l for total nitrogen (Table 5.1). However, the 2010 TMDL states that effluent from the water treatment plant has never been noted to be a significant source contributor of nutrients and should not have an impact on nutrient concentrations in the stream, thus the WLA for the WTP is zero (Table 5.8). Additionally, aluminum was de-listed from the 2010-2012 CWA §303(d) List of Assessed Waterbodies.

EPA has determined the established limitations do not cause or contribute to further impairment. The Cimarron River is classified as Category 4A with irrigation, livestock watering, wildlife habitat, and primary contact as fully supporting; and warmwater aquatic life as not supporting (Nutrient and Temperature). The standard reopener language in the permit allows additional permit conditions if a future TMDL is established.

D. MONITORING FREQUENCY FOR LIMITED PARAMETERS

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity 40 CFR 122.48(b) and to assure compliance with permit limitations 40 CFR 122.44(i)(1). Technology based TSS pollutants are proposed to be monitored one (1) time per week. Flow is proposed to be monitored two (2) times per week, when discharging. These frequencies are consistent with the current permit. The sample type for TSS shall be by grab, also consistent with the current permit.

Total aluminum and copper shall be monitored one (1) time per month by grab sample. Temperature, DO and TRC shall be monitored daily by instantaneous grab sample. The pH shall be monitored one (1) time per week by grab sample, consistent with the previous permit. Regulations at 40 CFR §136 define instantaneous grab as being analyzed within 15-minutes of collection.

Electronic Reporting Rule

Discharge Monitoring Report (DMR) results shall be electronically reported to EPA per 40 CFR 127.16. To submit electronically, access the NetDMR website at https://usepa.servicenow.com/oeca_icis?id=netdmr_homepage. Until approved for Net DMR, the permittee shall request temporary or emergency waivers from electronic reporting. To obtain the waiver, please contact: U.S. EPA - Region 6, Water Enforcement Branch, New Mexico State Coordinator (6EN-WC), (214) 665-6468. If paper reporting is granted temporarily, the permittee shall submit the original DMR signed and certified as required by Part III.D.11 and all other reports required by Part III.D. to the EPA and copies to NMED as required (See Part III.D.IV of the permit). Reports shall be submitted monthly.

Sufficiently Sensitive Analytical Methods (SSM)

The permittee must use sufficiently sensitive EPA-approved analytical methods (SSM) (under 40 CFR part 136 or required under 40 CFR chapter I, subchapters N or O) when quantifying the presence of pollutants in a discharge for analyses of pollutants or pollutant parameters under the permit. In case the approved methods are not sufficiently sensitive to the limits, the most SSM with the lowest method detection limit (MDL) must be used as defined under 40 CFR 122.44(i)(1)(iv)(A). If no analytical laboratory is able to perform a test satisfying the SSM in the region, the most SSM with the lowest MDL must be used after adequate demonstrations by the permittee and EPA approval.

E. WHOLE EFFLUENT TOXICITY REQUIREMENTS

In Section V.C.4.f.ii above; “Critical Conditions”, it was shown that the critical dilution, CD, for the facility is 100%. Based on the nature of the discharge; drinking water treatment plant, the production flow; 0.28 MGD (0.43 cfs), the nature of the receiving water; intermittent, and the critical dilution; 100%, the Table 12 of the NMIP directs the WET test to be a 7 day chronic test using *Ceriodaphnia dubia* and *Pimephales promelas* at a once per permit term frequency for the permit term. According to the NMIP, when a test frequency is 1 time a year or less, the test should occur in winter or springtime when most sensitive juvenile life forms are likely to be present in receiving water and colder ambient temperatures might adversely affect treatment

processes. This will generally be defined as between November 1 and April 30 when discharge occurs.

The draft permit requires five (5) dilutions in addition to the control (0% effluent) to be used in the toxicity tests based on a 0.75 dilution series. These additional effluent concentrations shall be 32%, 42%, 56%, 75%, and 100%. The low-flow effluent concentration (critical low-flow dilution) is defined as 100% effluent. During the period beginning the effective date of the permit and lasting through the expiration date of the permit, the permittee is authorized to discharge from Outfall 001 - the discharge to the non-classified arroyo thence to Cimarron River in Waterbody Segment No. 20.6.4.306 of the Canadian River Basin. Discharges shall be limited and monitored by the permittee as specified below.

EFFLUENT CHARACTERISTIC	DISCHARGE MONITORING	MONITORING REQUIREMENTS	
		MEASUREMENT FREQUENCY	SAMPLE TYPE
Whole Effluent Toxicity Testing (7 Day Static Renewal) 1/	VALUE	MEASUREMENT FREQUENCY	SAMPLE TYPE
<i>Ceriodaphnia dubia</i>	Report	Once/Permit Term	24-Hour Composite
<i>Pimephales promelas</i>	Report	Once/Permit Term	24-Hour Composite

FOOTNOTES

1/ Monitoring and reporting requirements begin on the effective date of this permit. See Part II, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.

VI. ANTIDegradation

The State of New Mexico has antidegradation requirements to protect existing uses through implementation of their WQS. The limitations and monitoring requirements set forth in the draft permit are developed from the appropriate State WQS and are protective of those designated uses. Furthermore, the policy's set forth the intent to protect the existing quality of those waters, whose quality exceeds their designated use. The permit requirements and the limits are protective of the assimilative capacity of the receiving waters, which is protective of the designated uses of that water.

VII. ANTIBACKSLIDING

The draft permit is consistent with the requirements to meet antibacksliding provisions of the Clean Water Act, Section 402(o) and 40 CFR 122.44(l)(1), which state in part that interim or final effluent limitations must be as stringent as those in the previous permit, unless information is available which was not available at the time of permit issuance. The draft permit maintains the effluent limitations of the previous permit for TSS, Temperature, total aluminum, total copper, TRC and pH. DO will be maintained in the draft permit as a monitoring only requirement.

The draft permit eliminates the effluent limitation of total zinc. The permit writer has determined that this change meets the exception to the antibacksliding provisions established at 40 CFR 122.44(l)(2)(i)(B)(1).

VIII. ENDANGERED SPECIES CONSIDERATIONS

According to the most recent county listing available at USFWS, Southwest Region 2 website, <http://www.fws.gov/endangered/>, seven species in Colfax County are listed as endangered or threatened. The Southwestern willow flycatcher (*Empidonax traillii*), Black-footed ferret (*Mustela nigripes*), and New Mexico meadow jumping mouse (*Gulo gulo luscus*) are listed as endangered. The Mexican spotted owl (*Strix occidentalis lucida*) and Arkansas River shiner (*Notropis girardi*).

The southwestern willow flycatcher (*Empidonax traillii extimus*) breeds in dense riparian habitats in southwestern North America, and winters in southern Mexico, Central America, and northern South America. Its breeding range includes far western Texas, New Mexico, Arizona, southern California, southern portions of Nevada and Utah, southwestern Colorado, and possibly extreme northern portions of the Mexican States of Baja California del Norte, Sonora, and Chihuahua. The subspecies was listed as endangered effective March 29, 1995. Approximately 900 to 1100 pairs exist.

The black-footed ferret (*Mustela nigripes*) was listed as endangered in 1967 and was “grandfathered” into the Endangered Species Act of 1973. The black-footed ferret depends on prairie dogs for food and on their burrows for shelter. The historical range of the ferret coincided with the ranges of the black-tailed prairie dog, Gunnison’s prairie dog and white-tailed prairie dog. The ferret’s close association with prairie dog occupied habitat and prairie dog numbers were dramatically reduced by conversion of native grasslands to cropland, poisoning, and disease. The ferret population declined precipitously as a result.

The New Mexico meadow jumping mouse (*Zapus hudsonius luteus*) is a small, nocturnal, solitary mammal and an obligate riparian subspecies. Its historical distribution likely included riparian wetlands along streams in the Sangre de Cristo and San Juan Mountains from southern Colorado to central New Mexico, including the Jemez and Sacramento Mountains. Based on historical and current data, the distribution and abundance of the New Mexico meadow jumping mouse has declined significantly range wide. The majority of local extirpations have occurred since the late 1980s to early 1990s; recent surveys have indicated that about 70 formerly occupied locations are now considered to be extirpated. Nearly all of the current populations are isolated and widely separated, and all of the 29 populations located since 2005 have patches of suitable habitat that are too small to support resilient populations of jumping mice.

The Arkansas River shiner (*Notropis girardi*) is an imperiled minnow that historically inhabited wide, shallow, sandy-bottomed rivers and larger streams in western portions of the Arkansas River basin. The species is now restricted to two geographically isolated and separate populations within the South Canadian River: 1) the upper South Canadian River population in eastern New Mexico and the Texas panhandle upstream of Lake Meredith and 2) the lower South Canadian River population. Primary threats to the Arkansas River shiner include altered flow

regimes, impoundments and other sources of stream fragmentation, modified geomorphology, decreased water quality and the expansion of invasive riparian plant species such as salt cedar and phragmites.

In accordance with requirements under section 7(a)(2) of the Endangered Species Act, EPA has reviewed this permit for its effect on listed threatened and endangered species and designated critical habitat. After review, EPA has determined that the reissuance of this permit will have “no effect” on listed threatened and endangered species nor will adversely modify designated critical habitat. EPA makes this determination based on the following:

1. No additions have been made to the USFWS list of threatened and endangered species and critical habitat designation in the area of the discharge since prior issuance of the permit.
2. EPA has received no additional information since the previous permit issuance which would lead to revision of its determinations.
3. EPA determines that Items 1 and 2 result in no change to the environmental baseline established by the previous permit, therefore, EPA concludes that reissuance of this permit will have “no effect” on listed species and designated critical habitat.

IX. HISTORICAL and ARCHEOLOGICAL PRESERVATION CONSIDERATIONS

The reissuance of this permit should have no impacts on historical properties since no construction activities are proposed during its reissuance.

X. PERMIT REOPENER

The permit may be reopened and modified during the life of the permit if relevant portions of the State WQS are revised or remanded. In addition, the permit may be reopened and modified during the life of the permit if relevant procedures implementing the State Water Quality Standards are either revised or promulgated. Should the State adopt a new WQS, and/or develop or amend a TMDL, this permit may be reopened to establish effluent limitations for the parameter(s) to be consistent with that approved State standard and/or water quality management plan, in accordance with 40 CFR 122.44(d). Modification of the permit is subject to the provisions of 40 CFR 124.5.

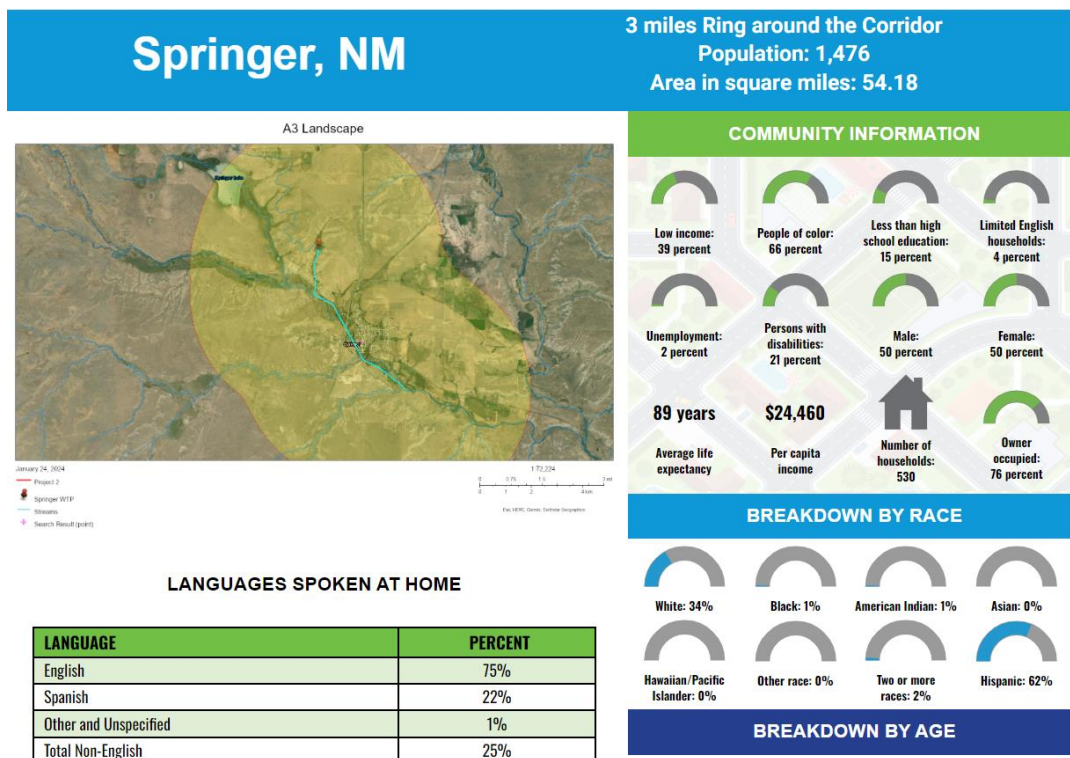
XI. ENVIRONMENTAL JUSTICE

Executive Order 13985, *Advancing Racial Equity and Supporting for Underserved Communities through the Federal Government* signed on January 20, 2021, directs each federal agency to “make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities.” The EPA strives to enhance the ability of overburdened communities to participate fully and meaningfully in the permitting process for EPA-issued permits, including NPDES permits. “Overburdened” communities can include minority, low-

income, tribal, and indigenous populations or communities that potentially experience disproportionate environmental harms and risks. As part of an agency-wide effort, the EPA Region 6 will consider prioritizing enhanced public involvement opportunities for EPA-issued permits that may involve activities with significant public health or environmental impacts on already overburdened communities. For more information, please visit <http://www.epa.gov/ejscreen>.

As part of the Permit development process, the EPA conducted a screening analysis to determine whether this Permit action could affect overburdened communities. The EPA used EJScreen 2.2 a nationally consistent geospatial tool that contains demographic and environmental data for the United States at the Census block group level. This tool is used to identify Permits for which enhanced outreach may be warranted.

The study area was chosen at the proposed 001 discharge, 5-miles downstream path of the discharge (Unnamed creek to Cimarron River) and a 3-mile buffer around the path. The population of the study area is 1,476 persons. All twelve (12) of the Environmental Justice Indexes scores for the state percentile of the facility were below the 80 percentiles (80%ile). Furthermore, the ACS summary report indicates that 62% of the population in Springer are of Hispanic descent and 22% of the population speak Spanish at home. These results indicate that the percentage of Spanish speaking individuals is high and public participation may be affected, therefore EPA will translate the Public Notice to Spanish to help and engage public participation in this permitting action. If more participation is justified, EPA can translate other documents to Spanish as needed.



XII. VARIANCE REQUESTS

No variance requests have been received.

XIII. CERTIFICATION

The permit is in the process of certification by the State of New Mexico following regulations promulgated at 40 CFR §124.53. A draft permit and draft public notice will be sent to the District Engineer, Corps of Engineers; to the Regional Director of the U.S. Fish and Wildlife Service and to the National Marine Fisheries Service prior to the publication of that notice.

XIV. FINAL DETERMINATION

The public notice describes the procedures for the formulation of final determinations.

XV. ADMINISTRATIVE RECORD

The following information was used to develop the draft permit:

A. APPLICATION(S)

EPA Application Form 2C received November 2, 2023.

B. 40 CFR CITATIONS

Citations to 40 CFR as of January 24, 2024.

Sections 122, 124, 125, 133, 136

C. STATE WATER QUALITY REFERENCES

New Mexico State Standards for Interstate and Intrastate Surface Water, 20.6.4 NMAC, as amended through February 2023.

Final US EPA-Approved Total Maximum Daily Loads for the Cimarron River Watershed [Canadian River to Headwaters], September 3, 2010.

Procedures for Implementing NPDES Permits in New Mexico, March 15, 2012.

Statewide Water Quality Management Plan, December 17, 2002.

State of New Mexico 303(d) List for Assessed Stream and River Reaches, 2022-2024.

D. OTHER

<https://ecos.fws.gov/endangered/>