

# **NPDES PERMIT NO. NM0028487**

## **FACT SHEET**

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

### **APPLICANT**

Gadsden Independent School District #16  
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### **ISSUING OFFICE**

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### **DATE PREPARED**

November 5, 2024

### **PERMIT ACTION**

Renewal of a permit previously issued on July 2, 2019 with an effective date of September 1, 2019 and an expiration date of August 31, 2024.

### **RECEIVING WATER – BASIN**

Rio Grande River Basin (Segment 20.6.4.101)

**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                                                |
| DO    | Dissolved oxygen                                                           |
| ELG   | Effluent limitation guidelines                                             |
| EPA   | United States Environmental Protection Agency                              |
| ESA   | Endangered Species Act                                                     |
| FWS   | United States Fish and Wildlife Service                                    |
| mg/l  | Milligrams per liter                                                       |
| ug/l  | Micrograms per liter                                                       |
| lbs   | Pounds                                                                     |
| MG    | Million gallons                                                            |
| 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                                                             |
| PFAS  | Per- and polyfluoroalkyl substances                                        |
| POTW  | Publically owned treatment works                                           |
| PFAS  | Per- and polyfluoroalkyl substances                                        |
| RP    | Reasonable potential                                                       |
| SS    | Settleable solids                                                          |
| 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   | Waste Load allocation                                                      |
| WET   | Whole effluent toxicity                                                    |
| WQCC  | New Mexico Water Quality Control Commission                                |
| WQMP  | Water Quality Management Plan                                              |
| WWTP  | Wastewater treatment plant                                                 |

**I. CHANGES FROM THE PREVIOUS PERMIT**

Changes from the permit previously issued on July 2, 2019 with an effective date of September 1, 2019 and an expiration date of August 31, 2024.

:

- PFAS monitoring has been added to the draft permit.
- DO limitation has been added to the draft permit.
- Critical Dilution has been updated.
- TRC limitation has been updated to 11 µg/l.
- Updated WET test to chronic.
- Removal of internal Outfall 01B at the request of the permittee.
- E-reporting requirements for overflows/bypass events.

**II. APPLICANT LOCATION and ACTIVITY**

As described in the application, the facility is located at 1301 Washington Street, Dona Ana County, New Mexico. Outfall 001 is located at Latitude 31° 59' 56.03" N and Longitude 106° 38' 06.52" W.

Under the SIC code 4952, the applicant operates Gadsden Independent School District (ISD) #16 WWTP, which has a design flow of 0.09 MGD providing sanitary services for approximately 3,070 students and staffs. The WWTP primarily consists of lift stations, screens, aeration basins, clarifiers and a UV treatment system before discharged to Rio Grande River. Sewage Sludge is hauled to Dona Ana County South Central Regional WWTP for treatment. Internal Outfall 01B is not receiving wastewater, as a result the permittee requested the removal of internal Outfall 01B.

**III. EFFLUENT CHARACTERISTICS**

Data submitted in Form 2A is as follows:

Outfall 001

| Parameter                                            | Max                 | Avg    |
|------------------------------------------------------|---------------------|--------|
|                                                      | (mg/l unless noted) |        |
| Flow (MGD)                                           | N/A                 | 0.0116 |
| pH, minimum, standard units (s.u.)                   | 7.24                | N/A    |
| pH, maximum, standard units (s.u.)                   | 7.83                | N/A    |
| Biochemical Oxygen Demand, 5-day (BOD <sub>5</sub> ) | N/A                 | 7.00   |
| Total Suspended Solids (TSS in lbs/day)              | N/A                 | 10.44  |
| Fecal Coliform (cfu)                                 | N/A                 | 39.0   |
| Boron                                                |                     | 0.29   |

**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 the 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 application was received on July 11, 2024. Additional information was received, and the application was deemed to be complete on August 20, 2024. It is proposed that the permit be reissued for a 5-year term following regulations promulgated at 40 CFR §122.46(a).

## 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 NPDES permit limits are developed that meet the more stringent of either technology-based effluent limitation guidelines, numerical and/or narrative water quality standard-based effluent limits, or the previous permit.

Technology-based effluent limitations are established in the proposed draft permit for TSS and BOD, and percent removal for each. Water quality-based effluent limitations are established in the proposed draft permit for *E. coli* bacteria, pH and TRC.

### B. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

#### 1. General Comments

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. These levels of treatment are:

BPT - The first level of technology-based standards generally based on the average of the best existing performance facilities within an industrial category or subcategory.

BCT - Technology-based standard for the discharge from existing industrial point sources of conventional pollutants, including BOD, TSS, *E. coli* bacteria, pH, and O&G.

BAT - The most appropriate means available on a national basis for controlling the direct discharge of toxic and non-conventional pollutants to navigable waters. BAT effluent limits represent the best existing performance of treatment technologies that are economically achievable within an industrial point source category or subcategory.

#### 2. Effluent Limitation Guidelines

The facility is a POTW/POTW-like that has technology-based ELG's established at 40 CFR Part 133, Secondary Treatment Regulation. Pollutants with ELG's established in this Chapter are BOD, TSS and

pH. BOD limits of 30 mg/l for the 30-day average and 45 mg/l for the 7-day average and 85% percent (minimum) removal are found at 40 CFR §133.102(a). TSS limits; also 30 mg/l for the 30-day average and 45 mg/l for the 7-day average, average and 85% percent (minimum) removal are found at 40 CFR §133.102(b). ELG’s for pH are between 6-9 s.u. and are found at 40 CFR §133.102(c). The draft permit maintains the previous permit limits for percent removal for both BOD and TSS.

Regulations at 40 CFR §122.45(f)(1) require all pollutants limited in permits to have limits expressed in terms of mass such as pounds per day. When determining mass limits for POTWs or similar, the plant’s design flow is used to establish the mass load. Mass limits are determined by the following mathematical relationship:

$$\text{Loading in lbs/day} = \text{pollutant concentration in mg/l} * 8.345 \text{ (lbs)(l)/(mg)(MG)} * \text{design flow in MGD}$$

$$30\text{-day average BOD/TSS loading} = 30 \text{ mg/l} * 8.345 \text{ (lbs)(l)/(mg)(MG)} * 0.09 \text{ MGD} = 22.5 \text{ lbs/day}$$

$$7\text{-day average BOD/TSS loading} = 45 \text{ mg/l} * 8.345 \text{ (lbs)(l)/(mg)(MG)} * 0.09 \text{ MGD} = 33.8 \text{ lbs/day}$$

A summary of the technology-based limits for the facility is:

| Effluent Characteristic     | Discharge Limitation  |           |                    |           |
|-----------------------------|-----------------------|-----------|--------------------|-----------|
|                             | lbs/day, unless noted |           | mg/l, unless noted |           |
| Parameter                   | 30-day Avg            | 7-day Max | 30-day Avg         | 7-day Max |
| BOD                         | 22.5                  | 33.8      | 30                 | 45        |
| BOD, % removal <sup>1</sup> | ≥ 85                  | ---       | ---                | ---       |
| TSS                         | 22.5                  | 33.8      | 30                 | 45        |
| TSS, % removal              | ≥ 85                  | ---       | ---                | ---       |
| pH                          | N/A                   | N/A       | 6.0 to 9.0 s.u.    |           |

<sup>1</sup> % removal is calculated using the following equation: [(average monthly influent concentration – average monthly effluent concentration) ÷ average monthly influent concentration] \* 100.

### 3. Pretreatment Regulation

The proposed facility is not required to develop a pretreatment program. However, standard permit conditions for pretreatment are included in the permit.

### 4. Sewer Sludge

Part IV of the draft permit addresses general requirements for the proposed generation and/or disposal of sewer sludge pursuant to Section 405(d) of the CWA and 40 CFR 503.

## 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 applicable State WQS and applicable State water quality management plans to assure that surface WQS of the receiving waters are protected and maintained, or attained.

## 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.

Since the receiving water critical low flow is zero, all the applicable WQS must be met at the end of the pipe (point of discharge).

## 3. State Water Quality Standards

The general and specific stream standards are provided in NMWQS (20.6.4 NMAC approved on February 8, 2023). The discharge is to Rio Grande River (20.6.4.101 NMAC). The designated uses of the receiving water are irrigation, livestock watering, wildlife habitat, marginal warmwater aquatic life and primary contact.

## 4. Permit Action - Water Quality-Based Limits

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

### a. pH

For marginal warmwater aquatic life and primary contact, criteria for pH is between 6.6 and 9.0 s.u. pursuant to 20.6.4.900.D and H(6) NMAC.

### b. Bacteria

For primary contact, criteria for E. coli bacteria is at 126 cfu/100 ml monthly geometric mean and 410 cfu/100 ml daily maximum pursuant to 20.6.4.900.D NMAC.

### c. Dissolved Oxygen

The State of New Mexico WQS criterion applicable to the marginal warmwater designated use is at least 5 mg/L for dissolved oxygen. Since the critical low flow is zero, this limit must be met end of pipe. The draft permit proposes a DO limitation of 5 mg/L at Outfall 001.

### d. PFAS

At this time, EPA has no data indicating that PFAS is present in the Gadsden ISD discharge. There are no industrial users of the system expected to contribute PFAS into the collection system. As explained at <https://www.epa.gov/pfas>, PFAS are a group of synthetic chemicals that have been in use since the 1940s. PFAS are found in a wide array of consumer and industrial products. PFAS manufacturing and processing facilities, facilities using PFAS in production of other products, airports, and military

installations can be contributors of PFAS releases into the air, soil, and water. Due to their widespread use and persistence in the environment, most people in the United States have been exposed to PFAS. Exposure to some PFAS above certain levels may increase risk of adverse health effects.<sup>1</sup> EPA is collecting information to evaluate the potential impacts that discharges of PFAS from industrial plants may have on downstream drinking water, recreational and aquatic life uses.

Although the New Mexico Water Quality Standards do not include numeric criteria for PFAS, the 2022 New Mexico Water Quality Standards narrative criterion supply guidance including:

20.6.4.7(E)(2) NMAC states: “**Emerging contaminants**” refer to water contaminants that may cause significant ecological or human health effects at low concentrations. Emerging contaminants are generally chemical compounds recognized as having deleterious effects at environmental concentrations whose negative impacts have not been fully quantified and may not have regulatory numeric criteria.

20.6.4.7(T)(2) NMAC states: “**Toxic pollutant**” means those pollutants, or combination of pollutants, including disease-causing agents, that after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will cause death, shortened life spans, disease, adverse behavioral changes, reproductive or physiological impairment or physical deformations in such organisms or their offspring.

Since PFAS chemicals are persistent in the environment and may lead to adverse human health and environmental effects, the draft permit requires that the facilities conduct influent, effluent, and sludge sampling for PFAS according to the frequency outlined in the permit.

The purpose of this monitoring and reporting requirement is to better understand potential discharges of PFAS from this facility and to inform future permitting decisions, including the potential development of water quality-based effluent limits on a facility-specific basis. EPA is authorized to require this monitoring and reporting by CWA § 308(a), which states:

*“SEC. 308. (a) Whenever required to carry out the objective of this Act, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this Act; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out sections 305, 311, 402, 404 (relating to State permit programs), 405, and 504 of this Act—*

*A. the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as he may reasonably require;”*

EPA notes that there is currently not an analytical method approved in 40 CFR Part 136 for PFAS. As stated in 40 CFR § 122.44(i)(1)(iv)(B), in the case of pollutants or pollutant parameters for which there are no approved methods under 40 CFR Part 136 or methods are not otherwise required under 40 CFR chapter I, subchapter N or O, monitoring shall be conducted according to a test procedure specified in the permit for such pollutants or pollutant parameters. Therefore, the draft permit specifies that until there is an analytical method approved in 40 CFR Part 136 for PFAS, monitoring shall be conducted

using Method 1633. The Adsorbable Organic Fluorine CWA wastewater method 1621 can be used in conjunction with method 1633, if appropriate. This is consistent with the December 5, 2022 USEPA Memorandum, *Addressing PFAS Discharges in NPDES Permits and Through the Pretreatment Program and Monitoring Programs*, from Radhika Fox (<https://www.epa.gov/newsreleases/epa-issues-guidance-states-reduce-harmful-pfas-pollution> ).

In October 2021, EPA published a PFAS Strategic Roadmap that described EPA's commitments to action for 2021 through 2024. This roadmap includes a commitment to issue new guidance recommending PFAS monitoring in both state-issued and federally-issued NPDES permits using EPA's recently published analytical method 1633. In anticipation of this guidance, EPA has included PFAS monitoring in the draft permit using analytical Method 1633 (<https://www.epa.gov/cwa-methods/cwa-analytical-methods-and-polyfluorinated-alkyl-substances-pfas> ).

As a result, influent and effluent PFAS monitoring has been included in the draft permit at a monitoring frequency of once per permit term (5 years). The biosolids will not be monitored for PFAS because the sludge from the facilities is sent to the Dona Ana County South Central Regional WWTP. See draft permit for further reporting requirements.

#### e. Toxics

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 2A and 2S, to apply for an NPDES permit or reissuance of an NPDES permit. The new form is applicable not only to POTWs, but also to facilities that are similar to POTWs, but which do not meet the regulatory definition of "publicly owned treatment works" (like private domestics, or similar facilities on Federal property). 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. In the previous permit monitoring for Boron was included in the permit requirements. Data provided by the permittee demonstrated that the average concentration of boron in the effluent was 0.29 mg/l. Boron was evaluated for reasonable potential and it was determined that there was no potential to violate WQS consistent with the designated uses for the receiving water. Monitoring will continue to be required; however no limitations will be proposed in the draft permit.

#### i. Critical Dilutions

Critical dilutions 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 SWQB of the NMED provided EPA

with the 4Q3 for the Gadsden ISD WWTP. The discharge for this facility must be met at end of pipe, because the 4Q3 is 0 cfs.

Because of the immediate receiving water critical low flow is 0.0 cfs, the CD is 100%.

f. TRC

The application indicates that the facility uses ultraviolet (UV) light for bacteria control. TRC limitations will be continued in the draft permit when chlorine is either used as a back-up system and/or when chlorine is used to disinfect plant equipment.

The WQS for TRC is 11 µg/l for chronic conditions and 19 µg/l for acute. Limitations must be met end of pipe since the low flow is zero. As a result, the draft permit proposes the limitation of 11 µg/l for TRC, which is the most stringent. The permit directs the TRC limit to be applicable when chlorine is used for bacteria control and/or cleaning.

5. 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). Sample frequency is based on Table 9 (page 34 of the NMIP) for design flow of 0.1 MGD or less and based on compliance history. Flow, TSS and BOD mass limits for Outfall 001 will be measured at 01A due to concerns, raised in the previous permit renewal, of placing a meter at the river outfall location. Boron will be monitored once a month by grab. BOD, TSS and percent removal monitoring frequency were increased to 2/month as a result of recurring exceedances of limits in the previous permit cycle as mentioned above.

| Parameter        | Frequency | Sample Type                                    | Outfall Monitored                                      |
|------------------|-----------|------------------------------------------------|--------------------------------------------------------|
| Flow             | Daily     | Continuous at 01A, 001 will be measured at 01A | 001 & 01A                                              |
| pH               | 1/week    | Instantaneous Grab                             | 001                                                    |
| BOD <sub>5</sub> | 2/month   | Grab                                           | 01A (for concentration limit)<br>001 (for mass limit)* |
| TSS              | 2/month   | Grab                                           | 01A (for concentration limit)<br>001 (for mass limit)* |
| % Removal        | 2/month   | Calculation                                    | 001                                                    |
| TRC              | 1/week    | Instantaneous Grab                             | 001                                                    |
| E. coli Bacteria | 1/month   | Grab                                           | 001                                                    |
| Boron            | 1/month   | Grab                                           | 001                                                    |
| DO               | 1/month   | Instantaneous Grab                             | 001                                                    |

\*Established at this outfall for more clarity instead.

Calculation for totaling mass loading for 001 from internal outfalls:

$$\text{Mass Loading (lbs/day) Outfall 01A} = \text{BOD or TSS Concentration (mg/L)} * 8.345(\text{lbs})(\text{l}) / (\text{mg})(\text{MG}) * \text{flow rate}(\text{MGD})$$

D. WHOLE EFFLUENT TOXICITY

The receiving water, perennial stream currently has a 4Q3 of 0.00. Based on the nature of the discharge, a POTW/POTW-like, the design flow of 0.09 MGD, and the nature of the receiving water with the critical dilution of 100% approximately, the NMIP directs the WET testing to be 7-day chronic tests using *Ceriodaphnia dubia* and *Pimephales promelas* once per permit term. The test is preferably

completed at the 5<sup>th</sup> year of the permit term and the result should be sent along with an application for another NPDES permit renewal. (Previous Permit had a CD of 12% with acute testing requirements)

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 must be 32%, 42%, 56%, 75% and 100%. The low-flow effluent concentration (critical low-flow dilution) is defined as 100% effluent. The permittee shall monitor discharge(s) as specified below:

| <b>WET Testing (7-day Static Renewal)<sup>1</sup></b> | <b>NOEC</b> | <b>Frequency<sup>2</sup></b> | <b>Type</b> |
|-------------------------------------------------------|-------------|------------------------------|-------------|
| Ceriodaphnia dubia                                    | Report      | Once/5 year                  | Grab        |
| Pimephales promelas                                   | Report      | Once/5 year                  | Grab        |

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

<sup>2</sup> The test shall take place between November 1 and April 30 if possible. This permit does not establish requirements to automatically increase the WET testing frequency after a test failure, or to begin a toxicity reduction evaluation (TRE) in the event of multiple failures. However, upon failure of any WET test, the permittee must report the results to EPA and NMED, Surface Water Quality Bureau, in writing, within 5 business days of notification of the test failure. EPA and NMED will review the test results and determine the appropriate action necessary, if any.

**VI. FACILITY OPERATIONAL PRACTICES**

**A. SEWAGE SLUDGE**

The permittee shall use only those sewage sludge disposal or reuse practices that comply with the federal regulations established in 40 CFR Part 503 "Standards for the Use or Disposal of Sewage Sludge". EPA may at a later date issue a sludge-only permit. Until such future issuance of a sludge-only permit, sludge management and disposal at the facility will be subject to Part 503 sewage sludge requirements. Part 503 regulations are self-implementing, which means that facilities must comply with them whether or not a sludge-only permit has been issued. Part IV of the draft permit contains sewage sludge permit requirements.

**B. WASTE WATER POLLUTION PREVENTION REQUIREMENTS**

The permittee shall institute programs directed towards pollution prevention. The permittee will institute programs to improve the operating efficiency and extend the useful life of the treatment system.

**C. INDUSTRIAL WASTEWATER CONTRIBUTIONS**

The treatment plant has no non-categorical Significant Industrial User's (SIU) and no Categorical Industrial User's (CIU). The EPA has tentatively determined that the permittee will not be required to develop a full pretreatment program. However, general pretreatment provisions have been required. The facility is required to report to EPA, in terms of character and volume of pollutants any significant indirect dischargers into the POTW subject to pretreatment standards under §307(b) of the CWA and 40 CFR Part 403. The permittee shall require any indirect discharger to the treatment works to comply with the reporting requirements of Sections 204(b), 307, and 308 of the Act, including any requirements established under 40 CFR Part 403. The following pollutants may not be introduced into the treatment facility: Pollutants which create a fire or explosion hazard in the publicly owned treatment works (POTW), including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21; Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works are specifically designed to accommodate such discharge; Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, resulting in Interference; Any pollutant, including oxygen demanding pollutants (e.g., BOD),

released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW; Heat in amounts which will inhibit biological activity in the POTW resulting in Interference but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees Centigrade (104 degrees Fahrenheit) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits; Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through; Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; and any trucked or hauled pollutants, except at discharge points designated by the POTW.

#### D. OPERATION AND REPORTING

The applicant is required to operate the treatment facility at maximum efficiency at all times; to monitor the facility's discharge on a regular basis; and report the results quarterly. The monitoring results will be available to the public.

##### 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://netdmr.epa.gov>. 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.

#### VII. 303(d) LIST

The receiving water segment 20.6.4.101 NMAC (Assessment Unit: Rio Grande (International Mexico boundary to Anthony Bridge) has been listed in 303(d) list for E.coli and Boron. There is no approved TMDL for Boron. Monitoring for Boron has been added to the draft permit as a result. The TMDL for the Main Stem of the Lower Rio Grande (from the International boundary with Mexico to Elephant Butte Dam) for E. coli bacteria was approved in 2007. The facility has waste load allocation for E. coli of  $4.20 \times 10^8$  cfu/day with a daily maximum effluent limit of 126 cfu/100ml in the TMDL. Therefore, these requirements are continued in the draft permit. The permit has a standard reopener clause that would allow the permit to be changed if at a later date additional requirements on new or revised TMDLs are completed.

#### VIII. ANTIDEGRADATION

The NMAC, Section 20.6.4.8 “Antidegradation Policy and Implementation Plan” sets forth the requirements to protect designated uses through implementation of the State water quality standards. The limitations and monitoring requirements set forth in the proposed permit are developed from the State water quality standards and are protective of those designated uses. Furthermore, the policy sets 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 water, which is protective of the designated uses of that water, NMAC Section 20.6.4.8.A.2.

## **IX. ENDANGERED SPECIES CONSIDERATIONS**

There are two species listed as endangered species: Sneed Pincushion Cactus and Southwestern Willow Flycatcher. There is one species listed as threatened: Yellow Billed Cuckoo.

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. The facility is located outside of any designated critical habitat.
2. The draft permit is consistent with the States WQS and does not increase pollutant loadings.
3. Reissuance of this permit will not result in the destruction or adverse modification of habitat, as no construction activities are planned.
4. EPA determines that Items 1, thru 3 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.

## **X. HISTORICAL and ARCHEOLOGICAL PRESERVATION CONSIDERATIONS**

The reissuance of the permit should have no impact on historical and/or archeological sites since no construction activities are planned in the reissuance.

## **XI. PERMIT REOPENER**

The permit may be reopened and modified during the life of the permit if NMWQS are promulgated or revised. In addition, if the State develops a TMDL, this permit may be reopened to establish effluent limitations for the parameter(s) to be consistent with that TMDL. Modification of the permit is subject to the provisions of 40 CFR §124.5.

## **XII. VARIANCE REQUESTS**

None

## **XIII. CERTIFICATION**

The permit is in the process of certification by the State Agency following regulations promulgated at 40 CFR 124.53. A draft permit and draft public notice will be sent to the District Engineer of COE, to the Regional Director of FWS 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 proposed permit:

##### **A. APPLICATION(S)**

EPA Application Forms 1, 2A and 2S dated July 11, 2024. Additional information received on August 10, 2024

##### **B. 40 CFR CITATIONS**

Sections 122, 124, 125, 133, 136

##### **C. STATE OF NEW MEXICO REFERENCES**

New Mexico State Standards for Interstate and Intrastate Surface Water, 20.6.4 NMAC, as amended by the New Mexico Water Quality Control Commission (WQCC) on September 24, 2022 and approved by the U.S. Environmental Protection Agency (EPA) on February 8, 2023.

Procedures for Implementing National Pollutant Discharge Elimination System Permits in New Mexico, March 15, 2012.

2024-2026 State of New Mexico Clean Water Act 303(d)/305(b) Integrated Report.

TMDL for the Main Stem of the Lower Rio Grande (from the International boundary with Mexico to Elephant Butte Dam), June 11, 2007