

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
PERMIT FACT SHEET
March 2026**

Permittee Name and Address: U.S. Department of the Interior- Bureau of Indian Affairs
Navajo Regional Office
P.O. Box 1060
Gallup, NM 87305

Permittee Contact: Genevieve Henry
Environmental Protection Specialist
(505) 863-8476; genevieve.henry@bia.gov

Vickie Blackwater
Nenahnezad Community School Principal
(505) 960-6922; Vickie.Blackwater@bie.edu

Facility Address: Nenahnezad Community School
Off County Road 6675
Fruitland, NM 87416

(Mailing Address)
P.O. Box 337
Fruitland, NM 87416

Facility Contact: Ryan Sabaque
Maintenance Worker
(505) 960-6922; Ryan.Sabaque@bie.edu

NPDES Permit No.: NN0020800

I. STATUS OF PERMIT

The U.S. Department of the Interior- Bureau of Indian Affairs (“BIA”) (the “permittee”) applied for the renewal of its National Pollutant Discharge Elimination System (“NPDES”) permit to authorize the discharge of treated effluent from the Nenahnezad wastewater treatment plant (“WWTP”) in San Juan County, New Mexico. The WWTP is owned and operated by BIA. The permittee applied for a permit renewal on April 10, 2024.

The Navajo Nation is a federally recognized tribe. Because the Navajo Nation EPA (“NNEPA”) does not have primary regulatory responsibility for administering the NPDES permitting program, U.S. EPA Region 9 (“EPA”) prepared the draft NPDES permit renewal and fact sheet pursuant to Section 402 of the Clean Water Act (“CWA”), which requires point source

dischargers to control pollutants that are discharged to waters of the United States. The draft permit incorporates both federal standards and applicable tribal water quality requirements.

The permittee is currently covered under NPDES Permit No. NN0020800 which was effective November 1, 2019, through October 31, 2024. EPA reviewed the April 10, 2024 application, deemed it complete and issued an administrative continuance on June 27, 2024. 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 discharger through its permit application, effluent discharge data, and applicable laws and regulations.

Pursuant to Section 402 of CWA, EPA is proposing issuance of the NPDES permit renewal to the permittee for the discharge of treated domestic wastewater from the WWTP to Bitsui Wash located on the Navajo Nation, which is a tributary to San Juan River, a water of the United States.

This permittee is classified as a minor discharger.

II. SIGNIFICANT CHANGES TO PREVIOUS PERMIT

Table 1. Significant Changes to Previous Permit

Permit Condition	Previous Permit (2019 – 2024)	Re-issued permit (2026 – 2031)	Reason for change
DMR submittal	Hardcopy accepted for a portion of the permit period	E-reporting (NetDMR) required	EPA e-reporting Rule.
Biosolids report	Hardcopy accepted for a portion of the permit period	E-reporting (NetDMR) required	EPA e-reporting Rule.
BOD ₅ and TSS mass effluent limits	Mass limits in kg/day	Mass limits in lbs/day	To be consistent with recent EPA Region 9 permits.
Total Dissolved Solids Monitoring	Quarterly	Annually	Reduced frequency, since no numeric WQS apply to the receiving water.
Antimony, dissolved	Once per permit term monitoring	New limit, quarterly monitoring	Required based on reasonable potential analysis to protect water quality standards.
Cadmium	Once per permit term monitoring	New limit, quarterly monitoring	Required based on reasonable potential analysis to protect water quality standards.
Zinc	Once per permit term monitoring	New limit, quarterly monitoring	Required based on reasonable potential analysis to protect water quality standards.

Table 1. Significant Changes to Previous Permit

Permit Condition	Previous Permit (2019 – 2024)	Re-issued permit (2026 – 2031)	Reason for change
Bis[2-ethylhexyl] phthalate monitoring	New limit	Updated name of pollutant	Required based on reasonable potential analysis and to reflect water quality standards.
Pollutant sample type	Composite or grab	All grab	Updated to streamline sampling, due to low variability in wastewater quality.
Best Management Practices (“BMPs”)	None	Incorporate standard BMPs language for small utilities	Provision of 40 CFR § 122.44(k)(4)
Sanitary Sewer Overflow (“SSO”)	None	Incorporate standard SSO language for small utilities	To be consistent with EPA Region 9 policy and recent permits.
Asset Management Program (“AMP”)	None	Incorporate standard asset management requirement for small utilities	Provision of 40 CFR § 122.41(e)
Chronic Whole Effluent Toxicity (WET) testing requirements and triggers	None	Added monitoring and reporting requirements for chronic toxicity using the Test of Significant Toxicity (“TST”)	Monitoring and reporting added to collect data to perform reasonable potential analysis. Testing requirement uses the TST statistical approach (EPA 2010a).

III. GENERAL DESCRIPTION OF FACILITY

The Nenahnezad Community School WWTP is located in Fruitland, San Juan County, New Mexico, which is in the northern portion of the Navajo Nation. The WWTP is adjacent to the school property. The WWTP serves a population of approximately 525, receiving only domestic sewage from the school compound, and has a design flow of 0.023 million gallons per day (“MGD”). The facility is an extended aeration package plant equipped with ultra-violet (“UV”) disinfection. The plant has a bypass capability to a backup four-cell, gravity flow evaporation lagoon system during electrical outages, plant maintenance, and low flow periods. The facility discharges treated wastewater through a 6-inch pipe (Outfall Number 001) into Bitsui Wash, a tributary to San Juan River. This wash is perennial (sourced by overflow from an irrigation canal, and possibly a natural seep). Sludge collected from the package plant is transported off the Navajo Nation for disposal.

Although the WWTP is a federal facility and not a publicly-owned treatment works (“POTW”), EPA is proposing technology-based discharge limits similar to those that are applicable to POTWs. Any sampling and monitoring under the proposed permit shall be performed after the UV disinfection system at Outfall No. 001.

On December 27, 2022, NNEPA conducted an NPDES compliance evaluation inspection of the WWTP and noted several deficiencies. A detailed summary of the inspection findings is provided in Part VI.B.4 of this fact sheet.

IV. DESCRIPTION OF RECEIVING WATER

The discharge of treated domestic wastewater is to perennial Bitsui Wash, a tributary to San Juan River, a water of the United States. The coordinates for Outfall No. 001 are: latitude 36° 43' 54.36" North, longitude 108° 24' 18.57" West.

V. DESCRIPTION OF DISCHARGE

Discharge from Outfall 001 flows to perennial Bitsui Wash which may have no natural flow during certain times of the year. The wash is sourced by overflow from an irrigation canal and possibly has a natural seep.

A. Application Discharge Data

Table 2 shows data related to discharge from Outfall 001 based on the permittee’s NPDES renewal application, priority pollutant scan and any applicant-provided supplemental data. Pollutants believed to be absent or never detected in the effluent are not included.

Table 2. Application Discharge Data

Pollutant Parameter	Units	Discharge Data		Number of Samples
		Max Daily Discharge	Average Daily Discharge	
Flow	MGD	0.00150	0.00025	24
Biochemical oxygen demand, 5-day (BOD ₅)	mg/L	4.2	5.0	24
pH	S.U.	6.85 to 7.94		n/a
Temperature (winter)	°C	3.5		n/a
Temperature (summer)	°C	26.3		n/a
Fecal Coliform	CFU	1.0	5.44	2
Total Suspended Solids (TSS)	mg/L	2.5	2.58	2
Ammonia (as N)	mg/L	<0.1	<10.0	4

B. Recent Discharge Monitoring Report Data (2019-2024)

Table 3 shows data related to discharge from Outfall 001 based on permittee’s discharge monitoring reports (“DMRs”) from July 2019 to July 2024. Additional information is available on Enforcement and Compliance History Online (“ECHO”) at <https://echo.epa.gov/detailed-facility-report?fid=NN0030343>. Pollutants believed to be absent or never detected in the effluent are not included in the table.

Table 3. Effluent Data for Outfall 001 from July 2019 – July 2024

Parameters	Units	Permit Effluent Limitations			Effluent Data			Monitoring Frequency
		Monthly Average	Weekly Average	Max Daily	Highest Monthly Average	Highest Weekly Average	Highest Daily Maximum	
Flow Rate	MGD	-- (1)	--	-- (1)	0.19 (11/2019)	--	0.024 (3/2024)	Monthly
Ammonia (as N)	mg/L	-- (1)	--	-- (1)	0.72 (12/2021)	--	--	Monthly
Ammonia Impact Ratio (AIR)	Ratio	1.0 (2)	--	1.0 (2)	--	--	--	Monthly
Biochemical Oxygen Demand 5-day (BOD ₅)	mg/L	30	45	--	6.1 (10/2022)	6.1 (10/2022)	--	Monthly
	kg/day	2.61	3.91	--	4.4 (02/2020)	5.6 (02/2020)	--	
	% Removal	>85 % minimum (4)			lowest = 76 % (03/2024)			
Total Suspended Solids (TSS)	mg/L	30	45	--	22.0 (04/2020)	22.0 (04/2020)	--	Monthly
	kg/day	2.61	3.91	--	3.0 (04/2020)	4.0 (04/2020)	--	
	% Removal	>85 % minimum (3)			lowest = 53 % (03/2024)			
Chlorine, total residual (TRC)	ug/L	--	--	11.0	--	--	--	Monthly
TDS	mg/L	--	--	--	--	--	>2419.6 (10/2022)	Quarterly
<i>E. coli</i>	CFU/ 100mL	126	--	235	>2419.6 (07/2023)	--	>2419.6 (07/2023)	Monthly
pH	S.U.	6.5 to 9.0 (min-max)			5.39 (12/2021) – 8.19 (1/2020)			Monthly
Temperature	°C	-- (1)	--	-- (1)	23.6 (09/2023)	--	--	Monthly
Di[2-ethylhexyl] phthalate (DEHP)	ug/L	--(5)	--	--	2.3 (09/2022)	--	--	Quarterly

- (1) No effluent limits were set but monitoring and reporting were required.
- (2) When monitoring for total Ammonia (as Nitrogen), pH monitoring must be concurrent. The Ammonia Impact Ratio (AIR) is calculated as the ratio of the Ammonia value in the effluent and the applicable ammonia standard from the chronic equation in the Tribal Water Quality Standards. See Attachment E for a 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.
- (3) Both the influent and the effluent shall be monitored. The arithmetic means of the BOD₅ and TSS values, by concentration, for effluent samples collected over a calendar month shall not exceed 15 percent of the arithmetic mean, by concentration, for influent samples collected at approximately the same times during the same period (i.e. minimum of 85% BOD₅ removal; minimum of 85% TSS removal).
- (4) Chlorination for disinfection purpose indicates that there is reasonable potential for TRC levels in the effluent to cause or contribute to an excursion above the WQS. Therefore, a TRC limit of 11 µg/l has been established in the proposed permit to protect the beneficial uses of the receiving waters. No monitoring is required when the UV disinfection system is in operation. If chlorination is used as a backup for disinfection prior to discharge, the permittee shall at all times operate the plant to achieve the lowest possible residual chlorine while still complying with permit limits for *E.coli*.
- (5) Monitoring and reporting required. No limit is set currently.

VI. DETERMINATION OF NUMERICAL EFFLUENT LIMITATIONS

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

A. **Applicable Technology-Based Effluent Limitations**

Publicly Owned Wastewater Treatment Systems (“POTWs”)

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 attainable effluent quality for this facility for BOD₅, TSS, and pH, are defined in 40 CFR § 133.102(a), §133.101(f), §133.103(c), §133.105, §133.105(b) and (d).

Technology-based treatment requirements may be imposed on a case-by-case basis under Section 402(a)(1) of the CWA, to the extent that EPA-promulgated effluent limitations are inapplicable (i.e., the regulation allows the permit writer to consider the appropriate technology for the category or class of point sources and any unique factors relating to the discharger) (40 CFR § 125.3(c)(2)).

The permitted facility does not meet the definition of a POTW, as it is federally-owned and operated. However, EPA has applied the technology-based treatment standards described above based on the type of discharge and treatment processes at this facility. Mass limits, as required by 40 CFR § 122.45(f), are also included for BOD₅ and TSS, as calculated below based on the facility’s design flow.

BOD₅:

BOD₅ Concentration-based Limits

30-day average: 30 mg/L

7-day average: 45 mg/L

Minimum of 85% Removal Efficiency

Mass-based Limits

30-day average:

$$\frac{0.023 \text{ MG}}{\text{day}} \times \frac{30 \text{ mg}}{\text{l}} \times \frac{3.785 \text{ kg/MG}}{\text{mg/l}} = 2.61 \text{ kg per day} = 5.75 \text{ lb per day}$$

7-day average:

$$\frac{0.023 \text{ MG}}{\text{day}} \times \frac{45 \text{ mg}}{\text{l}} \times \frac{3.785 \text{ kg/MG}}{\text{mg/l}} = 3.91 \text{ kg per day} = 8.62 \text{ lb per day}$$

TSS:

TSS Concentration-based Limits

30-day average: 30 mg/L

7-day average: 45 mg/L

Minimum of 85% Removal Efficiency

Mass-based Limits

30-day average:

$$\frac{0.023 \text{ MG}}{\text{day}} \times \frac{30 \text{ mg}}{\text{l}} \times \frac{3.785 \text{ kg/MG}}{\text{mg/l}} = 2.61 \text{ kg per day} = 5.75 \text{ lb per day}$$

7-day average:

$$\frac{0.023 \text{ MG}}{\text{day}} \times \frac{45 \text{ mg}}{\text{l}} \times \frac{3.785 \text{ kg/MG}}{\text{mg/l}} = 3.91 \text{ kg per day} = 8.62 \text{ lb per day}$$

pH:

Instantaneous Measurement: 6.5 – 9.0 standard units (S.U.)

B. Water Quality-Based Effluent Limitations

Water quality-based effluent limitations (WQBELs) 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 for a Reasonable Potential Analysis

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

In order to protect the designated uses of surface waters, the Navajo Nation has developed [Navajo Nation Surface Water Quality Standards](#) (“NNSWQS”) for different stream

segments, depending on the level of protection required. EPA approved the 1999 NNSWQS on March 23, 2006. The NNSWQS were later revised in 2007 and approved by EPA on March 26, 2009. EPA partially approved the [2015 NNSWQS revisions](#) on October 5, 2020, effective March 17, 2021. The approved NNSWQS were used for purposes of developing water quality-based effluent limitations. The requirements contained in the proposed permit are necessary to prevent violations of applicable water quality standards.

The following beneficial uses are designated for the unnamed, perennial, tributaries to the San Juan River, as listed in Table 206.1 (page 36) of the NNSWQS:

- **ScHC** – Secondary Human Contact
- **AgWS** – Agriculture Water Supply
- **FC** – Fish Consumption
- **A&W** – Aquatic & Wildlife
- **LW** – Livestock Watering

The following water quality criteria from the NNSWQS were used as the basis for water-quality effluent limitations in the proposed permit, as the discharge demonstrated reasonable potential to cause or contribute to an exceedance of these standards:

E. coli: 126 MPN/100 mL (geometric mean, minimum four samples in 30 days)
235 MPN/100 mL (single sample maximum)

pH: 6.5-9.0 (2015 NNSWQS **ScHC** beneficial use)

Ammonia: Based on Attachment D of the permit (2015 NNSWQS Table 207.20)

AIR: AIR (Ammonia Impact Ratio) ≤ 1 . The NNSWQS do not have AIR criteria, but the ammonia limit is expressed as AIR. An AIR of less than or equal to 1 meets the 2015 NNSWQS Ammonia criteria.

The waterbodies potentially affected by discharge from this facility are not listed as impaired according to CWA Section 303(d) List of Water Quality Limited Segments. No TMDLs are applicable to the receiving water.

2. Dilution in the Receiving Water

Discharge from Outfall No. 001 is to Bitsui Wash, a tributary of the San Juan River, which may have no natural flow during certain times of the year. Therefore, no dilution of the effluent is considered.

3. Type of Industry

Typical pollutants of concern in treated and untreated domestic wastewater include ammonia, nitrate, oxygen demand, pathogens, temperature, pH, oil & grease, turbidity, and solids. Chlorine is of concern when used for disinfection, and dechlorination is necessary to minimize impact to WQBELs.

4. Compliance History

Review of DMRs from July 2019 through July 2024 indicates 42 effluent limit exceedances.

Parameter	Number of Exceedances
TSS Percent Removal	20
BOD ₅ Percent Removal	16
pH Minimum	2
BOD ₅ Monthly Avg.- Mass	1
BOD ₅ Weekly Avg.- Mass	1
TSS Monthly Avg.- Mass	1
TSS Weekly Avg.- Mass	1

NNEPA conducted a compliance evaluation inspection on December 27, 2022, and identified the following areas of concern: (1) BIA needs to start collecting actual flow values every time an NPDES sample is collected. These flow values are required to calculate the mass-based values for BOD₅ and TSS, (2) BIA needs to collect the required samples pursuant to the NPDES permit and to report all the values required on the DMR, (3) BIA needs to make sure it collects both temperature and pH measurements concurrently in order to determine if the Ammonia water quality standards are being met, (4) BIA needs to ensure the reported values on the DMRs are correct, (5) BIA needs to submit an NPDES permit application as soon as possible since the permit for the school's wastewater treatment facility expires on October 31, 2024.

There has been no enforcement action taken against BIA for its operation of the Nenahnezad Community School WWTP under NPDES permit No. NN0020800.

5. Existing Data on Toxic Pollutants for a Reasonable Potential Analysis

For pollutants with effluent data available, EPA conducted a reasonable potential ("RP") 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 concentrations based on monitoring data to account for effluent variability and a limited data set. The projected maximum effluent concentrations were estimated assuming an effluent coefficient of variation of 0.6 for pollutants and the 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:

$$\text{Projected maximum concentration} = C_e \times \text{reasonable potential multiplier factor}$$

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

Table 4. Summary of Reasonable Potential Statistical Analysis

Pollutant Parameter ⁽¹⁾	Units	Maximum Observed Effluent Concentration	<i>n</i>	RP Multiplier	Projected Maximum Effluent Concentration	Most Stringent Water Quality Criterion	Statistical Reasonable Potential?
<i>E.Coli</i>	CPU (100mL)	2,419.60	>20	1.67	4,040.73	126	Yes
Bis[2-ethylhexyl] phthalate (BEHP)	µg/L	2.3	19	2.4	5.52	0.32	Yes
Antimony	µg/L	6.4	1	13.2	84.4	30.0	Yes
Cadmium ⁽²⁾	µg/L	0.11	1	13.2	1.4	0.1425	Yes
Zinc ⁽²⁾	µg/L	31	1	13.2	409.2	322.66	Yes

(1) For purposes of RP analysis, parameters measured as Non-Detect are considered to be zero. Only detected pollutants are included in this analysis.

(2) Used hardness value of 340 mg/L from data collected at Bitsui Wash.

C. Rationale for Numeric Effluent Limits and Monitoring

EPA evaluated pollutants expected to be present in the effluent and selected the most stringent of applicable technology-based effluent limits 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 standards, EPA has established- monitoring requirements in the permit. This data will be re-evaluated and the permit re-opened to incorporate effluent limitations if necessary. Effluent limits are explained below and summarized in Table 5.

Flow:

No limits have been established for flow, but flow rates must be monitored and reported. Continuous monitoring is required for flow when discharging at Outfall 001.

BOD₅ and TSS:

EPA retains the more stringent effluent limits for BOD₅ and TSS, which are based on the technical capability of the secondary treatment process as defined by 40 CFR § 133.105(a) and (b). Mass limits are also required for BOD₅ and TSS under 40 CFR § 122.45(f). Based on the

0.023 MGD design flow, the mass-based limits are included in the permit. Monitoring is required monthly.

E. coli:

The presence of pathogens in untreated and treated domestic wastewater indicates a reasonable potential for *E. coli* bacteria levels in the effluent to cause or contribute to an excursion above the 2015 NNSWQS. The limits will continue to maintain protection of water quality and are based on the 2015 NNSWQS Section 207.B for protection of **ScHC**. As required by the final permit, the of *E. coli* bacteria must not exceed 126/100 CFU/ml as a monthly geometric mean and 235/100 CFU/ml as a single sample maximum. The monitoring frequency has been revised from the previous permit to weekly, since at least four samples per month are needed to calculate a geometric mean.

Total Dissolved Solids ("TDS"):

While the 2015 NNSWQS does not include criteria for TDS, the regulations at 40 CFR §122.44(i) allow requirements for monitoring as determined to be necessary. No numeric limits are set at this time. The monitoring frequency is reduced to annually.

Ammonia and Ammonia Impact Ratio ("AIR"):

Treated and untreated domestic wastewater may contain levels of ammonia that are toxic to aquatic organisms. Ammonia is converted to nitrate during the biological nitrification process, and then nitrate is converted to nitrogen gas through the biological denitrification process. Due to the potential for ammonia to be present in sanitary wastewater at toxic levels, the establishment of reasonable potential for ammonia levels to cause an excursion above water quality standards, and due to the conversion of ammonia to nitrate, effluent limitations using the AIR are carried over from the previous permit.

AIR is determined by the concurrent measurement of ammonia concentration, pH and temperature. AIR is calculated by dividing the ammonia concentration in the effluent by the applicable ammonia criteria as described in Attachment D in the permit. The water quality standards for ammonia in freshwater for protection of **A&W** are listed in 2015 NNSWQS Tables 207.19, 207.20 and 207.2. The ammonia 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. The AIR effluent limitation value is 1.0, carried over from the previous permit.

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. Any AIR value more than 1.0 will indicate an exceedance of the permit limit.

pH:

Untreated and treated domestic wastewater could be contaminated with substances that affect pH, which indicates reasonable potential for pH levels in the effluent to cause or contribute to an excursion above the WQS. To ensure adequate protection of beneficial uses of the receiving water, a minimum pH limit of 6.5 and a maximum limit of 9.0 S.U. are established based on 2015 NNSWQS Section 207.C. The permit limit is carried over from the previous permit, and the monitoring frequency is once per month. Measurements for pH are required to be taken concurrently with ammonia and temperature measurements.

Antimony, dissolved:

Based on the reasonable potential analysis, EPA has determined that the discharge has a reasonable potential to cause or contribute to an exceedance of applicable water quality standards for antimony, dissolved.

To ensure adequate protection of beneficial uses of the receiving water, a monthly average limit of 30.0 ug/L is established based on 2015 NNSWQS Table 207.1. Quarterly monitoring has been established to determine compliance with the limit.

Cadmium:

Based on the reasonable potential analysis, EPA has determined that the discharge has a reasonable potential to cause or contribute to an exceedance of applicable water quality standards for cadmium.

To ensure adequate protection of beneficial uses of the receiving water, a monthly average limit of 0.1425 ug/L is established based on 2015 NNSWQS Table 207.1, and a hardness value of 340 mg/L collected at Bitsui Wash. Quarterly monitoring has been established to determine compliance with the limit.

Zinc:

Based on the reasonable potential analysis, EPA has determined that the discharge has a reasonable potential to cause or contribute to an exceedance of applicable water quality standards for Antimony.

To ensure adequate protection of beneficial uses of the receiving water, a monthly average limit of 322.66 ug/L is established based on 2015 NNSWQS Table 207.1, and a hardness value of 340 mg/L collected at Bitsui Wash. Quarterly monitoring has been established to determine compliance with the limit.

Bis[2-ethylhexyl] phthalate:

Based on the reasonable potential analysis, EPA has determined that the discharge has a reasonable potential to cause or contribute to an exceedance of applicable water quality standards for Bis[2-ethylhexyl] phthalate (BEHP). BEHP is the most common member of the class of phthalates, which are used as plasticizers.

The previous permit contained quarterly monitoring for Di[2-ethylhexyl] phthalate, which is the same chemical as Bis[2-ethylhexyl] phthalate. The current permit uses the chemical name Bis[2-ethylhexyl] phthalate, as this is the name used in the 2015 NNQWQS. To ensure adequate protection of beneficial uses of the receiving water, a limit of 0.32 ug/L is established based on 2015 NNSWQS Table 207.1. Quarterly monitoring has been retained.

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.

Hardness (as CaCO₃):

The Navajo Nation Water Quality Standards includes hardness-dependent criteria for the protection of freshwater aquatic life for metals. "Hardness" means the sum of the calcium and magnesium concentrations, expressed as calcium carbonate (CaCO₃), in milligrams per liter (mg/L) and may be calculated using the following formula: $\text{Hardness (as CaCO}_3) = 2.5 \times \text{Ca}^{2+} (\text{mg/L}) + 4.1 \times \text{Mg}^{2+} (\text{mg/L})$. Hardness analysis is done from a dissolved water sample. In order to have sufficient effluent hardness data to calculate hardness-dependent metals criteria, this draft permit includes a requirement for annual monitoring for hardness.

Priority Pollutant Scan:

The permit includes a monitoring requirement for the full list of priority pollutants as listed in 40 CFR Part 423, Appendix A. The requirement is carried over from the previous permit, which will assist in confirming the likelihood of reasonable potential for exceedance of limits. Monitoring must be performed at least once during the fourth year of the permit term.

D. Anti-Backsliding

CWA § 402(o) and § 303(d)(4) and 40 CFR § 122.44(l)(1) prohibit 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 limits are equal to or more stringent than those in the previous permit.

E. Antidegradation Policy

Antidegradation Policy EPA's antidegradation policy under CWA Section 303(d)(4) and 40 CFR § 131.12 and the NNSWQS require that existing water uses and the level of water quality necessary to protect the existing uses be maintained. The receiving water is not listed as an impaired waterbody for BOD5, TSS, coliform, temperature or total ammonia under section 303(d) of the CWA.

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 has been conducted of the effluent, demonstrating that most pollutants will be discharged below detection levels. Therefore, due to the low (non-detected) 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 LIMITS

The approved 2015 NNSWQS contain narrative water quality standards applicable to the receiving water. Therefore, the permit incorporates applicable narrative water quality-based limits in Part I, section A.3 of the permit.

VIII. MONITORING AND REPORTING REQUIREMENTS

The permit requires the permittee to conduct monitoring for all pollutants or parameters in Table 5, at the minimum frequency specified. Additionally, where effluent concentrations of pollutant parameters are unknown or where data are insufficient to determine reasonable potential, monitoring is proposed for pollutant parameters where effluent limits have not been established.

A. Influent and Effluent Monitoring and Reporting

The permittee must conduct influent and effluent monitoring to evaluate compliance with the 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 permit. All monitoring data shall be electronically reported via [EPA's Central Data Exchange \(CDX\)](#) on monthly DMR forms and submitted monthly as specified in the permit.

B. Priority Toxic Pollutants Scan

A priority toxic pollutants scan must be conducted at least once during the 4th year of

the permit cycle to ensure that the discharge does not contain toxic pollutants in concentrations that may cause a violation of water quality standards. The permittee must conduct the priority pollutants scan concurrent with whole effluent toxicity testing. Permit Attachment E provides a complete list of Priority Toxic Pollutants, including identifying the volatile compounds that should be collected via grab sample procedures. The permittee must 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 permit or by EPA. This is consistent with Priority pollutants listed in 40 CFR § 131.36.

C. Whole Effluent Toxicity (WET) Requirements

The CWA requires that all waters be suitable for aquatic life, which includes the protection and propagation of fish, shellfish, and wildlife. To determine whether CWA requirements protecting aquatic life from chronic and acute toxicity are met, 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 Part 136 and/or in applicable water quality standards.

In the permit, EPA requires the permittee to analyze WET test data using the Test of Significant Toxicity (TST) statistical approach. This statistical approach is described in *National Pollutant*

Discharge Elimination System Test of Significant Toxicity Technical Document (EPA 833-R-10-003, 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 Percent Effect (PE)), 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 $\leq 5\%$ —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 indicated by a low long-run toxicity laboratory control coefficient of variation for the test species/WET method, using a minimum of 30 to 50 toxicity tests.

The WWTP has not sampled or analyzed the discharge for WET. No information suggests that the WWTP has reasonable potential to cause or contribute to an exceedance of approved WET water quality standards. Thus, no chronic toxicity WQBELs are required for the permitted discharge (40 CFR § 122.44(d)(1)). However, EPA has established requirements for the permittee to monitor and report for chronic toxicity in Year 4 of the permit term, so that effluent toxicity can be assessed in relation to applicable WET water quality standards (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) = $[(V_e + V_a) / V_e]$. Following the mass balance equation, if the dilution ratio $D = Q_s / Q_e$, then

$$[(Q_e + Q_s) / Q_e] = 1 + D = S$$

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_0) is:

$$\text{IWC mean response (\% effluent)} \leq 0.75 \times \text{Control mean response}$$

The TST's alternative hypothesis (H_a) is:

$$\text{IWC mean response (\% effluent)} > 0.75 \times \text{Control mean response}$$

For this permit, results obtained from a single chronic toxicity test are analyzed using the TST statistical approach, where the chronic toxicity IWC for Discharge Outfall Number 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.

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. The permit includes electronic reporting requirements for biosolids reporting. The permittee shall submit a biosolids annual program report on [EPA's Central Data Exchange \(CDX\)](#) by February 19th of the following year. The permit includes a requirement for submitting a report 120 days prior to disposal of biosolids. Electronic submittals should be copied to R9NPDES@epa.gov. Biosolids reports should be submitted through [CDX](#). (For more information, see [Compliance and Annual Biosolids Reporting](#).)

B. Development and Implementation of Best Management Practices

Pursuant to 40 CFR § 122.44(k)(4), EPA may impose Best Management Practices (BMPs) which are "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. Therefore, the permit requires that the permittee develop (or update) and implement a Pollution Prevention Plan with appropriate pollution prevention measures or BMPs

designed to prevent pollutants from entering the receiving water while performing normal processing operations at the facility.

At a minimum, the permittee is required to develop and implement BMPs that are necessary to control BOD₅ and TSS concentrations and reduce the ammonia impact ratio.

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. USEPA published a guide entitled Incorporating Asset Management Planning Provisions into NPDES Permits (December 2014) that directs Municipalities “to manage their aging sewer and stormwater systems at a time of urban population growth [and] more stringent water quality protection requirements...” 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. The permittee shall develop an Asset Management Plan that considers short-and long-term vulnerabilities of collection systems, facilities, treatment systems, and outfalls. Intent is to ensure facility operations are not disrupted and compliance with permit conditions is achieved. 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. 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 a listed or candidate species, or result in the destruction or adverse modification of its habitat. EPA’s reissuance of the permit pursuant to Section 402 of the Clean Water Act is subject to Section 7 of the Endangered Species Act. Consultation is required for actions that EPA has determined may affect threatened or endangered species or critical habitat. 50 C.F.R. § 402.14(a).

EPA has determined that reissuance of the permit will have no effect on the two listed bird species, two listed fish species, two proposed insect species, and one listed plant species that may be found within the action area, and will have no effect on the critical habitat of one of the listed fish species that is located within the action area. Therefore, consultation with the U.S. Fish and Wildlife Service (USFWS) is not required.

Action Area

The action area for reissuance of the permit is defined as the WWTP and Bitsui Wash, as well as the San Juan River downstream of the discharge point.

On January 21, 2026, EPA generated a species list from the USFWS New Mexico Ecological Services Field Office website, which identified seven threatened and endangered species, as well as associated critical habitat that may occur in the vicinity of the WWTP and its effluent discharge. This Information for Planning and Conservation (IPaC) report provided an up-to-date list of all proposed (P), candidate (C), threatened (T) and endangered (E) species that occur in the action area. The listed species are provided in Table 5.

Table 5. Listed Species, Designated under the U.S. Endangered Species Act

Type	Common Name	Scientific Name	Status ¹	Critical Habitat
Birds	Southwestern Willow Flycatcher	<i>Empidonax traillii extimus</i>	E	No ²
	Yellow-billed Cuckoo	<i>Coccyzus americanus</i>	T	No ²
Fish	Colorado Pikeminnow	<i>Ptychocheilus lucius</i>	E	Yes
	Razorback Sucker	<i>Xyrauchen texanus</i>	E	No ²
Insect	Monarch Butterfly	<i>Danaus plexippus</i>	P, T	No ³
	Suckley's Cuckoo Bumble Bee	<i>Bombus suckleyi</i>	P, E	No
Plant	Mesa Verde Cactus	<i>Sclerocactus mesae-verdae</i>	T	No

¹ Threatened (T) or endangered (E) species. (P) indicates proposed listing; all others are final.

² These species have final critical habitats, but outside of the action area.

³ This species has proposed critical habitat, but outside of the action area.

Birds

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, and pools, for nesting. There is final critical habitat for this species, but not within the action area. The proposed permit contains water quality-based effluent limits to protect receiving water quality and all beneficial uses, including protection of aquatic life and wildlife. The permitted discharge is not expected to adversely affect receiving water bodies or result in any degradation of water quality (see Fact Sheet Section VI.e). EPA has thus determined that reissuance of this NPDES permit will not affect the Southwestern willow flycatcher or final critical habitat for the Southwestern willow flycatcher.

The yellow-billed cuckoo (*Coccyzus americanus*) is a migratory bird species that travels 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. There is final critical habitat for this species, but not within the action area. The proposed permit contains water quality-based effluent limits to protect receiving water quality and all beneficial uses, including protection of aquatic life and wildlife. The permitted discharge is not expected to adversely affect receiving water bodies or result in any degradation of water quality (see Fact Sheet Section VI.e). EPA has thus determined that its action will not affect the yellow-billed cuckoo or final critical habitat for the yellow-billed cuckoo.

Fish

Colorado pikeminnow (*Ptychocheilus lucius*) is endemic to the Colorado River basin and historically found in major tributaries such as the San Juan River (<https://ecos.fws.gov/ecp/species/3531>). Such species spawn in groups over the summer where cobble and gravel streambeds are recently cleaned by spring peak flows, and they mature where snowmelt flows decrease to stable summer flows with periodic flash floods. The San Juan River subbasin consists of adult fish resulting from augmentation efforts after the wild population of Colorado pikeminnow was nearly extirpated in the late 1990s. Adult abundance has only recently been estimated; estimates indicate a relatively small adult population comprised of stocked individuals, which appears to be increasing in the last few years. Reproduction has been documented annually since 2013, with increasing catch rates of larval fish, but recruitment of wild fish beyond their first year appears to be limited. Currently, the available data suggest persistence of Colorado pikeminnow in the San Juan River is reliant on stocking. And long-term resiliency of the San Juan River subbasin has been low based on a continued reliance on stocking to maintain that population. There is final critical habitat for this species, downstream of the discharge point, in the San Juan River. The proposed permit contains water quality-based effluent limits to protect receiving water quality and all beneficial uses, including protection of aquatic life and wildlife. The permitted discharge is not expected to adversely affect receiving water bodies or result in any degradation of water quality (see Fact Sheet Section VI.e). EPA has thus determined that reissuance of this NPDES permit will not affect the Colorado pikeminnow or final critical habitat for the Colorado pikeminnow.

Razorback suckers (*Xyrauchen texanus*) (<https://ecos.fws.gov/ecp/species/530>) are endemic to the warm-water portions of the Colorado River basin of the southwestern United States and in San Juan River subbasin. They are found throughout the basin in both lotic and lentic habitats but are most common in low-velocity habitats such as backwaters, floodplains, flatwater river reaches, and reservoirs. Razorback suckers prefer cobble or rocky substrate for spawning but have been documented to clear sediment away from cobble when conditions are unacceptable and even spawn successfully over clay beds. Depending on the subbasin, juveniles and adults frequently have access to appropriate habitat throughout the system ranging from backwaters and floodplains to deep and slow-moving pools. However, nonnative fishes

are frequently found in such habitats as well. Stocking and reintroduction programs have allowed the species to persist despite a chronic lack of wild recruitment to the adult life stage in most populations. Stocking programs have succeeded in reintroducing adults that survive current ecological conditions and fulfill their ecological role. There is final critical habitat for this species, but not within the action area. The proposed permit contains water quality-based effluent limits to protect receiving water quality and all beneficial uses, including protection of aquatic life and wildlife. The permitted discharge is not expected to adversely affect receiving water bodies or result in any degradation of water quality (see Fact Sheet Section VI.e). EPA has thus determined that its action will not affect the Razorback sucker or final critical habitat for the Razorback sucker.

Insects

The monarch butterfly (*Danaus plexippus*) (<https://ecos.fws.gov/ecp/species/9743>) is a proposed threatened species. Monarchs in western North America undergo long distance migration, and live for an extended period of time. During the breeding season, monarchs lay their eggs on milkweed host plants. Larvae emerge after two to five days, and larvae then pupate into a chrysalis before emerging 6 to 14 days later as an adult butterfly. Critical habitat has been proposed for the monarch butterfly, which is entirely outside the action area. The proposed permit contains water quality-based effluent limits to protect receiving water quality and all beneficial uses, including protection of aquatic life and wildlife. The permitted discharge is not expected to adversely affect receiving water bodies or result in any degradation of water quality (see Fact Sheet Section VI.e). EPA has thus determined that its action will not affect the monarch butterfly or proposed critical habitat for the monarch butterfly.

USFWS proposed the Suckley's cuckoo bumble bee (*Bombus suckleyi*) for listing as endangered on December 17, 2024 (<https://ecos.fws.gov/ecp/species/10885>). Suckley's cuckoo bumble bee is an obligate social parasite (it depends on social hosts for survival and raising young). Bumble bees in this subgenus lack a mechanism to carry pollen and are unable to produce worker bees, so they are entirely dependent on social bumble bee hosts to collect pollen to rear their young. Host colony availability is critical for the species' survival and overall viability. Cuckoo bumble bees are generally observed in low abundance at the margins of a host species' range, and cuckoo bumble bee distributions are less than that of the host species. The species has a broad historical distribution across North America and it has been found in various habitat types including prairies, grasslands, meadows, urban and agricultural areas, and woodlands from 2 to 3,200 meters (6 to 10,500 feet) in elevation. No critical habitat has been proposed for the Suckley's cuckoo bumble bee. The proposed permit contains water quality-based effluent limits to protect receiving water quality and all beneficial uses, including protection of aquatic life and wildlife. The permitted discharge is not expected to adversely affect receiving water bodies or result in any degradation of water quality (see Fact Sheet Section VI.e). EPA has thus determined that its action will not affect the Suckley's cuckoo bumble bee.

Plant

Mesa Verde cactus (*Sclerocactus mesae-verdae*) is a perennial desert plant that grows lowly and has an estimated lifespan of at least 50 years (<https://ecos.fws.gov/ecp/species/6005>). Distribution of the species is sporadic and widely scattered, with at least 80% of the population occurring on Navajo Nation lands. Most Mesa Verde cactus plants during the 2022 status assessment on the Navajo Nation were found on hillslope shoulders, backslopes, and summits. No critical habitat has been proposed for the Mesa Verde cactus. The proposed permit contains water quality-based effluent limits to protect receiving water quality and all beneficial uses, including protection of aquatic life and wildlife. The permitted discharge is not expected to adversely affect receiving water bodies or result in any degradation of water quality (see Fact Sheet Section VI.e). EPA has thus determined that its action will not affect the Mesa Verde cactus.

Conclusion

Considering the information available, EPA concludes that the reissuance of this NPDES permit will have no effect on any of the above-listed species. 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 because of critical habitat or listed species within the action area.

B. Migratory Bird Treaty Act and Bald Eagle Protection Act

The Migratory Bird Treaty Act (“MBT”) (16 USC 703-712) protects migratory birds. Bald Eagle nests would be protected under the Bald Eagle Protection Act (Eagle Act) (16 USC 668 et seq.), but they are not expected to be found near the facility.

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)). CZMA §307(c) 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 proposed activity complies with the State (or Territory) Coastal Zone Management program, and the State (or Territory) or its designated agency concurs with the certification.

This permit does not affect land or water use in the coastal zone.

D. Impact to Essential Fish Habitat

The 1996 amendments to the Magnuson-Stevens Fishery Management and Conservation Act (“MSA”) set forth 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 determine whether Federal actions may adversely impact Essential Fish Habitat (“EFH”).

The proposed 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 proposed permit does not allow direct discharge to areas of EFH. Therefore, EPA has determined that the proposed permit will not adversely affect EFH.

E. Impact to National Historic Properties

The National Historic Preservation Act (“NHPA”) Section 106 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 has determined that issuing this 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)

EPA can only issue the permit after the certifying Tribe has granted certification under 40 CFR § 124.55 or waived its right to certify. For this permit, the permittee is required to seek water quality certification (including paying applicable fees) that this permit will meet applicable water quality standards obtained water quality certification from the Navajo Nation EPA that this Permit will meet applicable water quality standards. Certification under section 401 of the CWA must be in writing and include 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 Navajo Nation law. EPA cannot issue the permit until the NNEPA has granted certification under 40 CFR § 124.53 or waived its right to certify.

G. Government-to-Government Consultation

EPA’s Policy on Consultation and Coordination with Indian Tribes¹ states that consultation could be appropriate when actions and decisions may affect Tribal interests. EPA offered Navajo Nation the opportunity to consult on EPA’s issuance of the permit on June 3, 2025. Navajo Nation did not accept the offer to initiate Government-to-Government consultation.

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; or new permit conditions for species pursuant to ESA requirements.

¹EPA Policy on Consultation and Coordination with Indian Tribes: <https://www.epa.gov/tribal/epa-policy-consultation-indian-tribes>

B. Clean Water Act Section 402(k)

The permittee is authorized to discharge from the identified facility at the outfall location(s) specified in the permit, in accordance with the effluent limits, monitoring requirements, and other conditions set forth in the permit. This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process. Any discharges not expressly authorized in the Permit cannot become authorized or shielded from liability under CWA section 402(k) by disclosure to EPA, State, or local authorities after issuance of the Permit via any means, including during an inspection.

Any wastestream or pollutant loading greater than or different than the proposed discharge (the “proposed discharge” is based on the chemical-specific data and the facility’s design flow as described in the permit application, or any other supplemental information provided to EPA during the permitting process) is not authorized by this Permit

EPA notes that such other discharges or increases may be allowable, but Permittee must first submit a request to EPA to authorize such other discharge or increase. request. This request will allow EPA to conduct an updated reasonable potential analysis to reassess whether a WQBEL is needed for the newly proposed discharge. Permit modification or reissuance may be required before the discharge would be authorized.

C. Standard Provisions

The permit requires the permittee to comply with EPA Region 9 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 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 will be placed on the EPA website, with a minimum of 30 days provided for interested parties to respond in writing to EPA. The draft permit and fact sheet will be posted on the EPA website for the duration of the public comment period. After the closing of the public comment period, EPA is required to respond to all significant comments at the time a final permit decision is reached or at the same time a final permit is actually issued.

C. Public Hearing (40 CFR § 124.12(c))

A public hearing may be requested in writing by any interested party during the public comment period. 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 and additional information relating to this proposal may be directed to:

Amelia Whitson
(415) 972-3216
U.S. EPA Region 9
Whitson.Amelia@epa.gov

XIV. REFERENCES

- EPA. 1991. *Technical Support Document for Water Quality-based Toxics Control*. Office of Water, EPA. EPA/505/2-90-001.
- EPA. 2010a. *National Pollutant Discharge Elimination System Test of Significant Toxicity Technical Document*. Office of Wastewater Management, EPA. EPA-833-R-10-004. June.
- EPA. 2010b. *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>
- Navajo Nation Environmental Protection Agency (NNEPA). 2015. *Navajo Nation Surface Water Quality Standards 2015*. Passed by Navajo Nation Council Resources and Development Committee May 23, 2017. Partially approved by U.S. EPA, effective March 17, 2021. [Approved 2015 Surface Water Quality Standards and Revisions](#)
- USFWS. 2026. IPaC List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project: Nenahnezad Community School NPDES Permit Renewal. <https://ipac.ecosphere.fws.gov/publicDocument/5S7HY2JOWVGIFFSEQBEAKTPRNI>