NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
PROPOSED PERMIT FACT SHEET
August 2, 2017

Permittee Name:	Jamul Indian Village
Mailing Address:	14191 Highway 94 Jamul, CA 91935
Facility Location:	Hollywood Casino Waste Water Treatment Plant 14191 Highway 94 Jamul, CA 91935
Contact Person(s):	Richard Tellow Director of JIV Environmental Department (619) 669-4785
NPDES Permit No.:	CA0084284

I. STATUS OF PERMIT

Jamul Indian Village (the "permittee") has applied for a new National Pollutant Discharge Elimination System (NPDES) permit to authorize the discharge of treated effluent from the Hollywood Casino Waste Water Treatment Plant (WWTP) to Willow Creek located in Jamul, California. A complete application was submitted on July 20, 2016. EPA Region IX has developed this permit and fact sheet pursuant to Section 402 of the Clean Water Act, which requires point source dischargers to control the amount of pollutants that are discharged to waters of the United States through obtaining a NPDES permit.

This permittee has been classified as a minor discharger.

II. GENERAL DESCRIPTION OF FACILITY

The Hollywood Casino WWTP is designed for an average wastewater flow of 68,000 gallons per day (gpd), a maximum flow of 98,000 gpd, and a peak hourly flow of 128,000 gpd. The four sources that comprise the wastewater flow for are the nearby community center, the administration building, the Hollywood Casino, and the cooling tower. The total population served is up to 5,550.

The WWTP is a tertiary treatment facility that treats wastewater physically, biochemically, and chemically using the following treatment components:

- Two (2) influent bar screens and one (1) manual bar screen
- Two (2) anoxic/aeration basins
- Two (2) membrane bioreactors (MBR)
- One (1) 5,000-gallon break tank
- One (1) reverse osmosis train
- One (1) Ozone injection system for odor and color

- One (1) ultra violet light (UV) disinfection reactor system
- Two (2) Metering Pumps for sodium hypochlorite disinfection system
- One (1) 130,000-gallon recycled water effluent storage and blending tank
- Three (3) recycle water transfer pumps
- One (1) 16,200-gallon digester
- One (1) 25,000-gallon brine holding tank
- One (1) 46,000-gallon emergency holding tank

The WWTP utilizes ozone and UV disinfection (primary) as well as sodium hypochlorite disinfection (secondary). Fully-treated wastewater may either be reused on-site or discharged in two different ways. First, it may be reclaimed for facility reuse (i.e., toilet flushing, landscape irrigation, cooling tower water, green roof irrigation). Second, it can be sent to two infiltration basins near the facility to be infiltrated underground for groundwater recharge; this proposed activity is being reviewed separately via EPA's Underground Injection Control (UIC) program. EPA notes that in this specific case this discharge method requires both a NPDES permit as well as UIC authorization. As described below, wastewater discharged to the infiltration basins has potential to result in surface water discharges to Willow Creek and is therefore subject to regulation through an NPDES permit. Third, treated wastewater may be discharged directly to Willow Creek; this NPDES permit proposes to authorize this discharge method.

III. DESCRIPTION OF RECEIVING WATER AND DISCHARGES

Willow Creek is a tributary of Jamul Creek. Jamul Creek and its tributaries run through the eastern portion of the Rancho Jamul Ecological Reserve (RJER), located within the Otay River watershed, entering the reserve from the north and east. Farther downstream the flows are captured in Lower Otay Lake, becoming part of San Diego's municipal water supply. Portions of Willow Creek downstream from the Jamul Indian Village are subject to water quality standards as set forth in the Water Quality Control Plan for the San Diego Basin (Basin Plan)[1].

Treated wastewater that is not reused by the Jamul Indian Village is proposed to be discharged to the on-site groundwater infiltration basins or, at times, thru a surface outfall to Willow Creek. The infiltration basins are located within 100 feet of the Creek. For facilities located in Indian Country, subsurface disposal to groundwater infiltration systems is regulated by EPA through the Underground Injection Control (UIC) program and the discharge of pollutants to surface waters are regulated through National Pollutant Discharge Elimination System (NPDES) permits. As noted in EPA's May 10, 2016 comment letter on the Jamul Indian Village Draft Supplemental Environmental Impact Statement (SDEIS), "the rock characterization within the effluent infiltration area identified fractures that could enable treated effluent flows to intersect groundwater and daylight along Willow Creek to the east and southeast of the infiltration areas. This indicates a potential hydrological connection between groundwater and surface waters. The Clean Water Act prohibits the discharge of any pollutant to surface waters of the United States without a National Pollutant Discharge Elimination System (NPDES) permit." Because the discharge method to the on-site groundwater infiltration basins may reach both groundwater and surface waters, the permittee sought approval for UIC registration for its Class

[1] The Basin Plan can be found at the following link:
http://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/index.shtml

V injection well (groundwater infiltration system) in addition to this NPDES discharge permit before commencing to discharge by means of underground injection.

In the event that these infiltration basins reach design capacity (or are unable to be used pending UIC authorization), the treated wastewater is proposed to be discharged to Willow Creek via a surface outfall directly adjacent to the WWTP. The surface outfall would have an energy dissipater to reduce the potential for erosion. Discharged water would flow overland approximately 60 feet before entering Willow Creek. This NPDES permit proposes to authorize this direct surface discharge through the surface outfall to Willow Creek without the need of UIC authorization. Because both methods of discharge (i.e., underground injection or direct surface discharge) reach the same location of Willow Creek, without any available dilution in either case, as explained below, the same effluent limits apply to both discharge methods. For clarity, the surface outfall is referred to as Outfall 001 and the infiltration basins are referred to as Outfall 002. The effluent limitations contained herein are applicable at the point of discharge from Outfall 001 to Willow Creek and at the point of discharge into the infiltration basins (Outfall 002).

At present, all excess wastewater is trucked off-site to a City of San Diego disposal facility. Once this permit becomes effective (and UIC authorization is granted), the permittee expects use of the surface outfall (Outfall 001) to occur infrequently during the months of January and February and not at all during the remainder of the year, as the water would either be reused on-site or sent to the groundwater infiltration basins for subsurface disposal (Outfall 002).

IV. DESCRIPTION OF DISCHARGE

A. Application Discharge Data

The permittee does not have available discharge data since this will be a new discharge. The facility predicts an average daily discharge rate of 70,000 GPD, with seasonal discharge only in the winter months.

B. Recent Discharge Monitoring Report (DMR) Data

New, permit; not applicable.

V. SIGNIFICANT CHANGES TO PREVIOUS PERMIT

New permit; not applicable.

VI. DETERMINATION OF NUMERICAL EFFLUENT LIMITATIONS

EPA has developed effluent limitations and monitoring requirements in the permit based on an evaluation of the technology used to treat the pollutant (e.g., "technology-based effluent limits") and the water quality standards applicable to the receiving water (e.g., "water quality-based effluent limits"). EPA has established the most stringent of applicable technology-based or water quality-based standards in the proposed 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 Clean Water Act. The minimum levels of effluent quality attainable by secondary treatment for Biochemical Oxygen Demand (BOD_5), Total Suspended Solids (TSS), and pH, as defined in 40 CFR 133.102, are listed below. Mass limits, as required by 40 CFR 122.45(f), are included for BOD_5 and TSS.

BOD_5

Concentration-based Limits

30-day average – 30 mg/L
7-day average – 45 mg/L
Removal Efficiency – minimum of 85%

Mass-based Limits

30-day average – (30 mg/L)(0.07 MGD)(8.345 conversion factor) = 17.5 lbs/day
7-day average – (45 mg/L)(0.07 MGD)(8.345 conversion factor) = 26.3 lbs/day

TSS

Concentration-based Limits

30-day average – 30 mg/L
7-day average – 45 mg/L
Removal efficiency – Minimum of 85%

Mass-based Limits

30-day average – (30 mg/L)(0.07 MGD)(8.345 conversion factor) = 17.5 lbs/day
7-day average – (45 mg/L)(0.07 MGD)(8.345 conversion factor) = 26.3 lbs/day

pH

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

Technology-based treatment requirements may be imposed on a case by case basis under Section 402(a)(1) of the Act, 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 applicant) (40 CFR 125.3(c)(2)).

B. Water Quality-Based Effluent Limitations

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

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

EPA evaluated the reasonable potential to discharge toxic pollutants according to guidance provided in the *Technical Support Document for Water Quality-Based Toxics Control* (TSD) (Office of Water Enforcement and Permits, U.S. EPA, March 1991) and the *U.S. EPA NPDES Permit Writers Manual* (Office of Water, U.S. EPA, December 1996). These factors include:

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

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

The Tribe does not have approved water quality standards for discharges to Willow Creek. However, the discharge of treated wastewater from the WWTP flows to Jamul Creek, in the Otay River Watershed, for which the State of California has established water quality standards that are applicable downstream from Indian Country. Therefore, water quality standards applicable to the Jamul Creek and its tributaries are used to evaluate water quality based controls applicable to the discharge, and EPA has applied state water quality standards based on the 2016 Water Quality Control Plan for the San Diego Basin, hereafter referred to as the Basin Plan, for this purpose.

The Basin Plan on page 2-46 lists the beneficial uses designated for Jamul Creek (Hydrologic Unit Basin Number 10.33) as: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Service Supply (IND), Industrial Process Supply (PROC), Contact Water Recreation (REC-1), Non-contact Water Recreation (REC-2), Preservation of Biological Habitats of Special Significance (BIOL), Warm Freshwater Habitat (WARM), and Wildlife Habitat (WILD).

Applicable water quality standards establish water quality criteria for the protection of aquatic wildlife from acute and chronic exposure to certain metals that are hardness dependent, with a "cap" of 400 mg/l.

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

2. Dilution in the Receiving Water

Discharges from Outfall 001 are to Willow Creek; discharges from Outfall 002 have the potential to reach Willow Creek. Willow Creek may have no natural flow during certain times of the year. Therefore, no dilution of the effluent has been considered in the development of water quality-based effluent limits applicable to the discharge.

3. Type of Industry

Typical pollutants of concern in untreated and treated domestic wastewater include ammonia, nitrate, oxygen demand, pathogens, temperature, pH, oil and grease, and solids. Chlorine and turbidity may also be of concern due to treatment plant operations.

The WWTP will not serve any residential customers, and most flows originate from sanitary uses at the casino. No industrial sources will discharge to the WWTP. The permittee will be required to conduct a full scan of priority pollutants within 90 days of discharge from the new treatment plant and in the 3rd and 5th year thereafter. Reasonable potential will be re-evaluated at this time and the permit may be re-opened to incorporate new water quality-based limits as necessary. (See Priority Toxic Pollutant Scan below.)

4. History of Compliance Problems and Toxic Impacts

New permit; not applicable.

5. Existing Data on Toxic Pollutants

This is a new discharge and therefore no discharge of effluent has been reported during the previous permit term and therefore there is no data on toxic pollutants.

C. Rationale for Numeric Effluent Limits and Monitoring

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

Ammonia

Treated and untreated domestic wastewater may contain levels of ammonia that are toxic to aquatic organisms. Ammonia is converted to nitrate during biological nitrification process, and then nitrate is converted to nitrogen gas through biological denitrification process. In 2013, EPA finalized national Aquatic Life Ambient Water Quality Criteria for Ammonia. Due to the potential for ammonia to be present in sanitary wastewater at toxic levels, effluent limitations have been established for ammonia. Because limitations for ammonia are pH and temperature dependent, reporting incorporates use of the Ammonia Impact Ratio ("AIR"), as described in the draft permit.

BOD_5 and TSS

Limits for BOD_5 and TSS are established for POTWs as described above and are incorporated into the permit. Under 40 CFR Section 122.45(f), mass limits are also required for BOD_5 and TSS. Based on the design flow, the mass-based limits are included in the proposed permit.

Dissolved Oxygen

The Basin Plan establishes standards for minimum dissolved oxygen. Dissolved oxygen levels shall not be less than 5.0 mg/l in inland surface waters with designated WARM beneficial uses. The annual mean dissolved oxygen concentration shall not be less than 7 mg/l more than 10% of the time. The draft permit contains a minimum daily dissolved oxygen limit of 5.0 mg/l to be measured once per month.

Fecal Coliform / Total Coliform

Based on the nature of WWTP effluent, there is a reasonable potential for fecal coliform to violate water quality standards. Based on REC-1 and REC-2 beneficial uses, average fecal coliform concentration based on a minimum of not less than five samples for any 30-day period shall not exceed 200 organisms per 100 ml, nor shall more than 10% of the total number of samples during any 30-day period exceed 400 organisms per 100 ml.

However, EPA is aware that the permittee may opt to re-use some or all of the wastewater at certain times. Hence, the effluent must meet California (Title 22) disinfection standards for the re-use of wastewater. For spray irrigation of food crops, parks, playgrounds, schoolyards, and other areas of public access, wastewater must be adequately disinfected, oxidized, coagulated, clarified, and filtered. Title 22 § 60301.230(b) requires that for "disinfected tertiary recycled water" the median concentration of total coliform bacteria measured in the disinfected effluent must not exceed a most probable number (MPN) of 2.2 per 100 ml as a 7-day median and the number of total coliform bacteria must not exceed an MPN of 23 per 100 ml in more than one sample in any 30-day period. No sample shall exceed an MPN of 240 total coliform bacteria per 100 milliliters.

Therefore, the draft permit contains an average weekly total coliform limit of 2.2 MPN/100 ml to be monitored once per week. Given the frequency of monitoring, EPA notes that compliance with this weekly average also ensures compliance with all other standards described above, including the less-stringent fecal coliform standards from the Basin Plan. Although the limit for total coliform required in the draft permit is analogous to Title 22 standards, EPA is not including effluent limits in the permit to demonstrate full compliance with California Title 22 disinfection standards.

Flow

No limits are established for flow, but flow rates must be monitored and reported. Monitoring is required weekly.

Nitrate

Treated and untreated domestic wastewater may contain levels of ammonia that are toxic to aquatic organisms. Ammonia is converted to nitrate during biological nitrification process, and then nitrate is converted to nitrogen gas through biological denitrification process.

Table 3-4 of the Basin Plan lists the nitrate MCL for the protection of MUN designated uses as 45 mg/L (as NO_3). Due to the potential for ammonia to be present in sanitary wastewater and due to the conversion of ammonia to nitrate, a maximum daily effluent limitation of 45 mg/l for nitrate (as NO_3) is established.

Oil & Grease

EPA considers oil & grease as a conventional pollutant pursuant to 304(a)(4) of the CWA and 40 CFR 401.16. The Basin Plan indicates that waters shall not contain oils, greases, waxes, or other materials in concentrations which result in a visible film or coating on the surface of the water or on objects in the water, or which cause nuisance or which otherwise adversely affect beneficial uses. Although no effluent data are available for oil & grease, EPA is setting effluent limitations consistent with facilities meeting a minimum of secondary treatment (i.e., 15 mg/l maximum daily and 10 mg/l average monthly).

pH

The Basin Plan requires that a pH of 6.5-8.5 must be met at all times and that changes in normal ambient pH level not exceed 0.5 units. This is more stringent than technology-based requirements for pH, therefore, this limit is included in the draft permit.

Phosphorus

The Basin Plan states that a desired goal in order to prevent plant nuisances in streams and other flowing waters appears to be 0.1 mg/l total P. Phosphorus is a common pollutant in wastewater discharges and has the potential to contribute to impairments in downstream waterbodies; therefore, monitoring has been established for phosphorus in the draft permit.

Temperature

The Basin Plan states that the natural receiving water temperature of intrastate waters shall not be altered unless it can be demonstrated to the satisfaction of the Regional Board that such alteration in temperature does not adversely affect beneficial uses. As mentioned above, one potential source of wastewater to this WWTP is a cooling tower. Therefore, the draft permit contains a monitoring requirement for temperature as well as a requirement that the discharge not cause or contribute to a net increase in receiving water temperature (Part I.A.3.a).

Total Residual Chlorine

As mentioned previously, the facility utilizes UV for primary disinfection and sodium hypochlorite for secondary disinfection. Although the Basin Plan does not specify a maximum concentration of total residual chlorine, EPA approved water quality standards may be applied to protect downstream uses. In particular, U.S. Fish and Wildlife noted that live oak trees just downstream of the discharge depend on microbiota in the soil which could be impacted by discharges of chlorine. EPA's National Recommended Water Quality Criteria for chlorine in freshwater are 19 µg/l and 11 µg/l. These criteria are established as maximum daily and average monthly effluent limits, respectively, in the draft permit with no allowance for dilution.

Toxicity

The effluent shall be free of toxicity. This permit incorporates an effluent limit of "Pass" utilizing the Test for Significant Toxicity with no allowance for dilution. See Special Condition IX.D below.

Turbidity

The Basin Plan states that waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. The draft permit requires that the discharge not cause a 20 percent increase in turbidity above naturally occurring levels.

D. Anti-Backsliding

New permit; not applicable.

E. Antidegradation Policy

EPA's antidegradation policy at 40 CFR 131.12 and the California Statement of Policy with Respect to Maintaining High Quality Waters (Resolution No. 68-16) require that existing water uses and the level of water quality necessary to protect the existing uses be maintained.

As described in this document, the permit establishes effluent limits and monitoring requirements to ensure that all applicable water quality standards are met. The permit does not include a mixing zone; therefore, these limits will apply at the end of pipe without consideration of dilution in the receiving water. Furthermore, the waterbody is not listed as an impaired waterbody under section 303(d) of the CWA.

Due to the low levels of toxic pollutants present in the effluent, the high level of treatment being obtained, the small flowrate and the water quality-based effluent limitations, the discharge is not expected to adversely affect receiving water bodies or result in any degradation of water quality.

I. NARRATIVE WATER QUALITY-BASED EFFLUENT LIMITS

The Basin Plan contains narrative water quality standards applicable to the receiving water. Therefore, the permit incorporates narrative discharge limitations based on applicable narrative water quality standards.

VIII. MONITORING AND REPORTING REQUIREMENTS

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

A. Effluent Monitoring and Reporting

The permittee shall conduct effluent monitoring to evaluate compliance with the proposed 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 136, unless otherwise specified in the proposed permit. All monitoring data shall be reported on monthly DMRs and submitted quarterly as specified in the proposed permit. All DMRs are to be submitted electronically to EPA using NetDMR.

B. Priority Toxic Pollutants Scan

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

C. Whole Effluent Toxicity Testing

The permit establishes tests for chronic toxicity. Chronic toxicity testing evaluates reduced growth/reproduction at 100 percent effluent. Chronic toxicity testing results are to be reported based on the Test of Significant Toxicity statistical analysis approach.

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 also includes, for dischargers who are required to submit biosolids annual reports, which include major POTWs that prepare sewage sludge and other facilities designated as "Class 1 sludge management facilities", electronic reporting requirements. Permittees shall submit biosolids annual reports using EPA's NPDES Electronic Reporting Tool ("NeT"). For example, the annual report for calendar year 2016, which is due by February 19, 2017, must be submitted electronically.

B. Pretreatment

As described above, there are no industrial facilities discharging to the WWTP. Therefore, there are no pretreatment requirements in this permit.

C. Capacity Attainment and Planning

The permit requires that a written report be filed within ninety (90) days if the average dry-weather wastewater treatment flow for any month exceeds 90 percent of the annual dry weather design capacity of the waste treatment and/or disposal facilities.

D. Development of an Initial Investigation TRE Workplan for Whole Effluent Toxicity

In the event effluent toxicity is triggered from WET test results, the permit requires the permittee to develop and implement a Toxics Reduction Evaluation (TRE) Workplan. For acute toxicity, unacceptable effluent toxicity is found when "Fail" is determined, as indicated by a statistically significant difference between a test sample of 100 percent effluent and a control using a t-test. For chronic toxicity, unacceptable effluent toxicity is found in a single test result greater than 1.6 TU_c, or when any one or more monthly test results in a calculated median value greater than 1.0 TU_c. The draft permit also requires additional toxicity testing if a chronic toxicity monitoring trigger is exceeded. Within 90 days of the permit effective date, the permittee shall prepare and submit a copy of their Initial Investigation TRE Workplan (1-2 pages) for acute and chronic toxicity to EPA for review.

E. Contaminants of Emerging Concern

As mentioned previously, the receiving water (Willow Creek) is a tributary to Jamul Creek which runs through the Rancho Jamul Ecological Reserve (RJER) within the Otay River watershed. Farther downstream the flows are captured in the Otay Reservoirs, becoming part of San Diego's municipal water supply. The RJER connects the San Diego National Wildlife Refuge (SDNWR) lands of the US Fish and Wildlife Service (USFWS) to the northwest, County and City (San Diego, Chula Vista) open space lands to the west, the Bureau of Land Management (BLM) to the south, and CDFW's Hollenbeck Canyon Wildlife Area, to the east. Preserved land continuity is necessary to preserve large contiguous home-range territories required by species such as mountain lion, American badger and golden eagle, as well as protecting migration corridors and genetic linkages necessary to keep gene pools from bottle-necking, isolating subpopulations and making them vulnerable to threats such as wildfires and drought.

Due to the discharge's potential to impact the RJER, EPA has included additional requirements to ensure that the health of the reserve is not adversely impacted by the discharge. These requirements include a Contaminants of Emerging Concern (CEC) Study. The CEC Study requires quarterly testing for one year for pollutants identified by the Southern California Coastal Water Research Project ("SCCWRP") as recommended for initial monitoring in freshwater. The details of this Study are outlined in Part III.C of the draft permit.

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.

Using U.S. Fish & Wildlife's Information for Planning and Conservation ("IPaC") Tool, EPA acquired a list of threatened and endangered species with the potential of being in the vicinity of the discharge. The species include:

Birds

California Condor (Gymnogyps californianus) – Endangered
Coastal California (Gnatcatcher Polioptila californica californica) – Threatened
Least Bell's Vireo (Vireo bellii pusillus) – Endangered
Southwestern Willow Flycatcher (Empidonax traillii extimus) – Endangered

Flowering Plants

Mexican Flannelbush (Fremontodendron mexicanum) – Endangered
Otay Tarplant (Deinandra conjugens) – Threatened
San Diego Ambrosia (Ambrosia pumila) – Endangered
San Diego Thornmint (Acanthomintha ilicifolia) – Threatened

Insects

Quino Checkerspot Butterfly (Euphydryas editha quino) – Endangered

In addition to these listed species, the California Department of Fish and Wildlife (CDFW) informed EPA that, beginning in October 2014, the first steps have been taken to recolonize rare, threatened or endangered aquatic species in the Otay watershed. A small number of male and female western pond turtles were translocated from an adjacent watershed to the Jamul creek sub-basin within the RJER. A handful of additional turtles were translocated from the same donor population in 2015. As of late 2015, two of these turtles have migrated from their translocation site to nearby instream pools within Jamul creek. The CDFW is continuing to monitor this population.

Additionally, the RJER is within the historic range of both Arroyo toad and California red-legged frog. Along with western pond turtle, these species were identified as candidates for reintroduction to the Otay watershed as a primary incentive for acquisition and expansion of

RJER. Potential efforts to reintroduce these species are pending completion of the last segment of the mitigation bank stream restoration project. The Arroyo toad is listed as federally endangered, and is a state designated species of special concern. California red-legged frog is listed as federally threatened, and is a state designated species of special concern.

Numerous biological resource assessments, protocol surveys, and botanical surveys were performed for this project by Natural Investigations Co. (2006; 2007; 2009; 2011; 2012), Forensic Entomology Services (2011; 2012; 2013), and Pacific Southwest Biological Services (2000a,b; 2001; 2002; 2006; 2011a,b,c,d; 2013). No federally-listed species have been detected within the project area. No designated critical habitat exists within, or adjacent to, the project area. No impacts to federally-listed species were identified for operation of the casino project (including the WWTP).

The draft permit authorizes the discharge of no more than 0.07 MGD of tertiary treated wastewater to Willow Creek. The draft permit contains limitations and provisions for monitoring conventional, toxic, and non-conventional pollutants, in compliance with Federal requirements and the California Regional Water Quality Control Plan for the San Diego Basin. Requirements are written to ensure an appropriate level of effluent quality that is protective of beneficial uses of the river, including wildlife, as well as rare, threatened, and endangered species.

In consideration all the information available, EPA has found that the discharge is not likely to adversely affect any of the listed species. EPA forwarded a copy of the draft permit and this fact sheet to USFWS for review and comment on conclusions concerning the effects of the proposed permit on listed species.

B. 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 Sections 307(c)(1) through (3)). Section 307(c) of the CZMA and implementing regulations at 40 CFR 930 prohibit EPA from issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the 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.

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

C. Impact to Essential Fish Habitat

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

The 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 directly discharge to areas of essential fish habitat. Therefore, EPA has determined that the proposed permit will not adversely affect essential fish habitat.

D. Impact to National Historic Properties

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to consider the effect of their undertakings on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places. Pursuant to the NHPA and 36 CFR §800.3(a)(1), EPA is making a determination that issuing this proposed NPDES permit does not have the potential to affect any historic properties or cultural properties as there are no historic properties at the discharge points. As a result, Section 106 does not require EPA to undertake additional consultations on this permit issuance.

XI. STANDARD CONDITIONS

A. Reopener Provision

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

B. Standard Provisions

The permit requires the permittee to comply with EPA Region IX Standard Federal NPDES Permit Conditions, dated July 1, 2001.

XII. ADMINISTRATIVE INFORMATION

A. Public Notice (40 CFR 124.10)

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

B. Public Comment Period (40 CFR 124.10)

Notice of the draft permit will be placed in a daily or weekly newspaper within the area affected by the facility or activity, with a minimum of 30 days provided for interested parties to respond in writing to EPA. 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. The request should state the nature of the issues proposed to be raised during the hearing. A public hearing will be held if EPA determines there is a significant amount of interest expressed during the 30-day public comment period or when it is necessary to clarify the issues involved in the permit decision.

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

For States, Territories, or Tribes with EPA approved water quality standards, EPA is requesting certification from the affected State, Territory, or Tribe that the proposed permit will meet all applicable water quality standards. Certification under section 401 of the CWA shall be in writing and shall include the conditions necessary to assure compliance with referenced applicable provisions of sections 208(e), 301, 302, 303, 306, and 307 of the CWA and appropriate requirements of Territory law.

XIII. CONTACT INFORMATION

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

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213-244-1823
Cobb.Michael@epa.gov

EPA Region IX
Southern California Field Office
600 Wilshire Blvd., Suite 1460
Los Angeles, CA 90017

XIV. REFERENCES

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

EPA. 1996. *Regions IX & X Guidance for Implementing Whole Effluent Toxicity Testing Programs*, Interim Final, May 31. 1996.

EPA. 2002a. *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms* - Fifth Edition. Office of Water, EPA. EPA-821-R-02-012.

EPA. 2002b. *National Recommended Water Quality Criteria*. Office of Water, EPA. EPA-822-R-02-047.

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

CRWQCB-SDR. 2016. *Water Quality Control Plan for the San Diego Basin*. California Regional Water Quality Control Board – San Diego Region.