NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
PROPOSED PERMIT FACT SHEET
MARCH 2021

Permittee Name:	ASARCO LLC
Mailing Address:	4201 West Pima Mine Road PO Box 111 Sahuarita, AZ 85629
Facility Location:	4201 West Pima Mine Road Sahuarita, AZ 85629
Contact Person(s):	Jamie Ekholm, Environmental Manager Phone: (520) 393-4671 Email: jekholm@asarco.com
NPDES Permit No.:	AZ0024635

I. STATUS OF PERMIT

The NPDES permit (the Permit) for the ASARCO Mission Complex was issued on December 5, 2014, with an effective date of January 1, 2015 and a permit expiration date of December 31, 2019.

ASARCO LLC the owner/operator of the Mission North Complex (ASARCO or the Permittee) timely submitted a re-application (Forms 1 and 2F) for an extension of its NPDES permit on February 14, 2019, and EPA timely provided an administrative continuance. All the terms and conditions of the 2014 permit are in effect until the reissuance of a new permit. This fact sheet is based on information provided by the applicant through its application and discharge data submittal, along with the appropriate laws and regulations.

The entire ASARCO Mission North Complex is located both on private lands located in the state of Arizona and on Tribal lands (the Facility or the Mission Complex). Therefore, the Mission Complex is subject to the jurisdiction of both the U.S. Environmental Protection Agency (EPA or Region 9) and the Arizona Department of Environmental Quality (ADEQ). EPA is the federal permit issuing authority for the discharges located on Tribal land, and ADEQ is the issuing agency for discharges located on state land. ADEQ issued a state NPDES permit (AZ0024597) to the Permittee on August 5, 2019 for discharges on state-jurisdictional lands. Discharges on Tribal Lands are covered under this permit (AZ0024635). As such, the requirements of this Permit apply only to portion of the Facility located on Tribal land (as noted above, the jurisdiction over which this NPDES Permit applies is hereinafter referred to as the Mission North Complex).

ASARCO also has two Aquifer Protection Permits (APP) No. P100508 and No. P512406 issued by ADEQ for discharges from the tailings impoundments and other discharging facilities at the Mission Complex. The APPs regulate discharges to the local aquifer.

II. SIGNIFICANT CHANGES TO PREVIOUS PERMIT

Permit Condition	Previous Permit (2014 – 2019)	Re-issued permit (2020 – 2025)	Reason for change
Compliance Schedule to Construct Stormwater Controls	In recognition of the time necessary to complete construction pursuant to the ADEQ permit and to be consistent, the NPDES permit deferred limits in Part I.A.1, Part I.A.2, and Part III	No Compliance Schedule.	Stormwater Control project was completed in 2015.
Submittal of Reports via NetDMR	Submittal of Reports via either Hardcopy or NetDMR permitted	All Reports to be submitted via NetDMR.	EPA e-Reporting Rule adopted and effective December 2015.

III. GENERAL DESCRIPTION OF FACILITY

The Mission Complex is a commercial open pit copper mine located near Sahuarita, Arizona, 18 miles south of Tucson. The mine site is spread out over an area of approximately 19,000 acres (29.7 square miles) and includes an open pit (measuring approximately 2.5 miles long by 1.5 miles across), associated crushing, grinding, and flotation facilities, tailings facilities, waste rock dumps, and warehouse, maintenance, and administrative areas. The area of the Mission North Complex, north of Pima Mine Road, is located on Tribal land of the San Xavier District of the Tohono O'odham Nation (the Nation or TON), while the area south of the Pima Mine Road is primarily owned by ASARCO. As noted above, ADEQ has issued a state NPDES permit to the Permittee for discharges on the privately-owned, state-jurisdictional lands.

Copper mining has been conducted on the site beginning with prospectors in the 1900s. Mining continued with vertical and decline shafts in the 1920s, 1930s, and 1940s. During the Second World War, the mine area also produced tungsten due to the high demand and price for tungsten. Open pit stripping began in 1959.

The Facility has a production capacity of 400,000 tons per year of copper concentrate. The Facility is currently processing approximately 53,000 tons of ore per day. Future production rates are likely to depend on copper prices. Ore is crushed via the primary gyrotory crusher, rod mill, and ball mill. The ground ore is pumped as a slurry to froth flotation cells, where chalcopyrite is separated from non-copper bearing minerals. Lime, xanthates (a biodegradable additive that serves as a collecting agent), pine oil (a frothing agent), and methyl isobutyl carbonal are added to the mixture to facilitate separation of the copper mineral. In the flotation stage, the chalcopyrite attaches to the air bubbles and is skimmed off. The first initial processing stage,

called “roughing,” removes approximately 88% of chalcopyrite. The skimmed materials from the roughing stages are re-ground and sent to secondary froth flotation cells, the second stage of initial processing. Tailings are collected from the roughing and secondary flotation cells and gravity-fed to the tailings ponds. The copper concentrate (containing approximately 27% copper) is sent off-site for smelting and final processing.

From 1973 to 1978, a leaching plant was operated at the Facility to acid-leach copper from the oxide ore. However, the very high carbonate content of the orebody, and consequently the acid requirements for leaching, made recovery from this orebody via leaching uneconomic, and leaching ceased. A typical copper porphyry deposit, such as that found at the Mission Complex, can contain other minerals including silver, molybdenum, lead, zinc and manganese, and other elements such as traces of arsenic and tungsten. The Mission Complex currently operates a molybdenum recovery circuit.

The Mission Complex currently consists of an open pit copper and molybdenum mine that involves drilling, blasting, loading, and haulage activities to both waste rock dumps and crushers. The waste rock is not processed further. Mined ore is first crushed, then ground in a wet process to produce copper and molybdenum concentrates in a flotation process (as described above). The concentrates are dewatered and filtered and sent off-site for further processing. The residual material that does not float off is known as tailings. The tailings are dewatered and then delivered in a slurry form to tailings storage facilities. Water from these facilities is further decanted and returned to the process.

As stated above, the conditions of this Permit apply only to the Mission North Complex which consists of the San Xavier North (SXN) Pit, a portion of the Mission Integrated Pit, the SXN Waste Rock Dump, the SXN Oxide Dump, the Mission North Waste Dump, 3 Dump, 19 Dump (overburden), and tailings impoundment 1, 2, and 3. The tailings impoundments, SXN Pit, waste rock dumps, and oxide dumps are currently inactive. No crushing or milling activities are conducted within the SXN District of the Nation’s jurisdiction. The Facility has constructed a network of ditches and large impoundments. Fertilizers, herbicides, soil conditioners and pesticides are not applied in the active mine or tribal lease areas. In the event of a discharge, the water would flow into an unnamed wash that flows to the Santa Cruz River.

IV. DESCRIPTION OF RECEIVING WATER

The only Outfall from the Mission North Complex under the proposed NPDES Permit discharges, via Outfall 002D, to an unnamed wash of the Santa Cruz River, which is located at the northeast corner of Tailing Storage Facility No. 3. The receiving wash is located directly east of the Outfall. Outfall 002D receives run-off from the Mission North Dump and the side slopes of Tailing Storage Facility Nos. 1, 2, and 3 (the tailings facilities have been reclaimed and are no longer active mine sites). The unnamed ephemeral wash may be characterized by short, intermittent tributary reaches immediately above its confluence with the Santa Cruz River. From this confluence, the Santa Cruz River flows through potential intermittent tributary reaches approximately 16.4 miles to the beginning of the Traditional Navigable Water (TNW) (Lat. 32.284369, Long. -111.029363). The wash eventually reaches the Santa Cruz River in a segment located between the Tubac Bridge and the Roger Road WWTP. This location on the Santa Cruz River is approximately four miles from Outfall 002D.

The State of Arizona has adopted water quality standards to protect the designated uses of its surface waters. Streams have been divided into segments and designated uses assigned to these segments. The water quality standards vary by the designated use depending on the level of protection required to maintain that use. Pursuant to Arizona's water quality standards, the wash that would receive any discharge from the outfalls at the Mission North Complex are protected by the Aquatic and Wildlife ephemeral (A&We) and Partial Body Contact (PBC) designated uses. See A.A.C. R18-11-105.

The Status of Water Quality in Arizona - 2018 (Integrated 305(b) Assessment and 303(d)Listing) does not list as impaired the washes near the Mission Complex or the portion of the Santa Cruz River into which the unnamed wash. Nor are the receiving washes (or the downstream Santa Cruz River) listed as outstanding Arizona Waters pursuant to A.A.C. R18-11-112. Thus, the receiving waters are considered "Tier 1" water bodies for antidegradation purposes, pursuant to Arizona Administrative Code (A.A.C.) R18-11-107.01(A)(1)(c).

The numeric effluent limitations in this Permit apply only to the discharges from the following NPDES discharge point:

Outfall No.	**Description of discharge**	**Location of discharge**
Outfall 002D	Runoff from North Dump	Latitude: 32º 1' 45.7" N Longitude: 111º 0' 46.1" W

V. DESCRIPTION OF DISCHARGE

Potential pollutants at the Mission North Complex are found in the following: process solutions, tailings reclamation water, tailings, waste rock, and stormwater contaminated by contact with tailings and acid generating waste rock. However, reclaim water and process solutions are not present in the area covered by the NPDES Permit, and the tailings themselves have been reclaimed and are no longer exposed to storm water. Based on data provided for the aquifer protection permit, the majority of waste rock generated at the Mission North Complex is not acid-generating.

Data from netDMR sampling over the past permit term (January 2015- Present) demonstrates that, due to retention pond containment of stormwater, no discharge was observed at Outfall 002D.

Analytical data for Outfall 002D were presented in Section VII of the ASARCO application submitted on or about April 22, 2013. The data was collected in July 2008. No new discharge data was collected prior to the issuance of the permit effective January 1, 2015 and no new data was collected after the issuance of the permit as no discharge was recorded during the last permit term for Outfall 002D.

VI. DETERMINATION OF EFFLUENT LIMITATIONS

When determining what parameters need monitoring and/or limits included in the draft Permit, both technology-based and water quality-based criteria were compared, and the more stringent criteria selected.

Technology-based Limitations:

The Mission Complex operates a copper concentrator that utilizes the froth flotation process. Process wastewater discharged from the froth flotation process and mine drainage is subject to the effluent limitations at 40 CFR Part 440 Ore Mining and Dressing Point Source Category. Subpart J, the Copper, Lead, Zinc, Gold, Silver, and Molybdenum Ores Subcategory, applies to mines that produce copper, lead, zinc, gold, silver, or molybdenum ores, singly or in combination, with open-pit or underground operations.

Any discharge of mine drainage subject to Part 440 Subpart J may qualify for the *Storm exemption for facilities permitted to discharge* as permitted in 40 CFR Part 440.131(b). This storm water exemption allows a source with an allowable discharge under 40 CFR Part 440 to have an overflow as a result of a storm event that does not meet the limitations established in 40 CFR Part 440 if that facility (1) is designed, constructed, and maintained to contain the maximum volume of wastewater which would be generated by the 10-year, 24-hour storm event, (2) has taken all reasonable steps to maintain treatment and minimize overflow, and (3) provides notification of such discharges.

The Mission North Complex will control all areas of mine drainage and areas of potential mine drainage within containment designed to contain the 24-hour, 100-year storm event. Therefore, discharges from the Mission North Complex qualify for the stormwater exemption. The requirements for containment, maintenance, and sampling of runoff are detailed in Part III of the Permit. The Permittee must establish Best Management Practices (BMPs) and submit a Stormwater Pollution Prevention Plan (SWPPP) for approval by EPA.

Numeric Water Quality Standards:

As outlined in A.A.C. R18-11-109 and Appendix A: Per 40 CFR 122.44(d)(1)(ii), (iii) and (iv), limits have been included in the Permit for parameters with reasonable potential, that is, those known to be or expected to be present in the effluent at a level that could potentially cause any applicable numeric water quality standard to be exceeded. The procedures used to determine reasonable potential are outlined in the *Technical Support Document for Water Quality-based Toxics Control (TSD)* (EPA/505/2-90-001).

Permit Limitations:

Guidance for the determination of reasonable potential to discharge toxic pollutants is included in both the *Technical Support Document for Water Quality Based Toxics Control (TSD)* - Office of Water Enforcement and Permits, U.S. EPA, dated March 1991 and the *U.S.EPA NPDES Permit Writers Manual* - Office of Water, U.S. EPA, dated December 1996. EPA's technical support document contains guidance for determining the need for permit limits. In doing so, the regulatory authority must satisfy all the requirements of 40 CFR 122.44(d)(1)(ii).

In determining whether the discharge causes, has the reasonable potential to cause or contributes to an excursion of a numeric or narrative water quality criterion for individual toxicants, the regulatory authority must consider a variety of factors. These factors include the following:

- Dilution in the receiving water,
- Type of industry,
- Existing data on toxic pollutants,
- History of compliance problems and toxic impacts,
- Type of receiving water and designated use.

A. Dilution in the receiving water

All discharges from outfalls in the Mission Complex are into a wash that flows to the Santa Cruz River. Discharges from the Mission North Complex through the NPDES permitted Outfall 002D will only occur during major storm events or during very wet seasons. Discharges during these conditions would be subject to an unknown amount of dilution in the receiving water. Reasonable potential to exceed surface water quality standards in the receiving water would exist if discharges occurred from the Mission North Complex during dry weather when dilution is not available but such dry weather discharges are not likely to occur and have not occurred in the previous two permit cycles. Determining reasonable potential to exceed standards during wet weather cannot be accomplished unless the in-stream flow rate is known and the dilution factor can be determined.

B. Type of Industry

The Mission Complex is a copper mine employing the froth flotation process to extract copper. Effluent limitations under Part 440 Subpart J have been developed for copper mines to regulate the following metals: copper, zinc, cadmium, lead, and mercury. Copper mines are assigned the highest total toxicity number for discharges under the 1987 Standard Industrial Classification (SIC) code. Reasonable potential exists for discharges from an open-pit copper mine and associated stormwater runoff to exceed surface water quality standards by nature of the type of industry.

C. Determination of Reasonable Potential

Historic effluent monitoring data from 2008 for the Mission Complex demonstrated hardness levels up to 1140mg/l. Arizona water quality standards allow a maximum hardness of 400 mg/l to be used in developing water quality standards.

Water quality standards for ephemeral washes are meant to be protective of acute effects, since stormwater is only present for short periods of time. If effluent meets the daily maximum standard, it will be protective of the acute toxic effect on organisms. Therefore, only Daily Maximum Discharge Limits (MDLs) were determined for this Permit and were set at the lowest applicable Arizona standard. (Note: The statistical TSD procedures for setting Maximum Daily Discharge Limits and Average Monthly Limits were not used for this Permit. The TSD method would only apply when both monthly and daily limits are set.)

As there was no sampling data available for discharge from Outfall 002D from the previous permit cycle, the proposed limits will maintain the limits that were in place in the previous permit.

D. Establishing Daily Maximum Permit Effluent Limitations Based on Hardness

The Permit includes daily maximum permit effluent limitations for metals based on the Arizona aquatic and wildlife (ephemeral) acute toxicity (A&We) criteria for copper and zinc.

The average hardness values measured in effluent from the Mission Complex was 259 mg/l. Therefore, EPA used 259 mg/l for the calculation of effluent limitations. The Permit includes single value effluent limitations for copper and zinc that have been calculated using the equations in the footnotes to Appendix A, Table 2 of the Arizona Surface Water Quality Standards and an upper limit hardness value of 259 mg/l.

The lead limit is based on the PBC standard rather than the A&We standard because the PBC standard, also applicable to ephemeral washes, is more stringent than the A&We standard for lead. The PBC standard is not hardness dependent.

E. Establishing Total Recoverable Metals Effluent Limitations from Water Quality Criteria

Arizona's NPDES Permit Writer's Process Guidance Workbook (Appendix L, Water Quality based Effluent Limitations for Metals and Translator Studies) states that when developing total recoverable effluent limitations for metals, the permit writer should assume that the relationship between total recoverable and dissolved is 1:1 (i.e., translator = 1). Therefore, limitations for copper, lead, and zinc have been incorporated into the Permit as total recoverable limitations.

F. Final Limitations Summary

For pollutants with demonstrated reasonable potential to exceed surface water quality standards, this Permit retains effluent limitations based on the most stringent Arizona state water quality standards. Permit effluent limitations based on the A&We were calculated using the footnoted equations to Table 2 of the Arizona surface water quality standards and a single value hardness of 259 mg/l.

TABLE 4 - Basis For Final Permit Limitations

Parameter	Basis Daily Max.
pH	6.5 to 9 - A&We (1), PBC (2)
Copper (3)	AZ WQS - A&We (1), acute
Lead (3)	PBC (2)
Zinc (3)	AZ WQS - A&We (1) , acute

Footnotes:
(1) AZ WQS - A&We = Arizona Surface Water Quality Standard - Aquatic and Wildlife, ephemeral
(2) AZ WQS PBC = Arizona Surface Water Quality Standard - Partial Body Contact
(3) These standards are written for total dissolved metals so a translator of one to one (1:1) dissolved to total recoverable is assumed. The final Permit effluent limitations for these metals are listed as total recoverable metals.

G. Anti-Backsliding

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

H. Antidegradation Policy

EPA's antidegradation policy under CWA Section 303(d)(4) and 40 CFR 131.12 requires 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. The previous Permit also included additional discharge monitoring requirements which established assessment levels (ALs) for the discharge and included a reopener clause to evaluate Reasonable Potential and possible additional permit limits.

As demonstrated in the previous two permit cycles (where no discharge occurred), the likelihood of a discharge is not great. Additionally, if such a discharge were to occur, it would be in response to a large precipitation event, may therefore be of large volume, and would very likely be of very limited duration. Therefore, the discharge is not expected to adversely affect receiving water bodies or result in any degradation of water quality.

VII. NARRATIVE WATER QUALITY-BASED EFFLUENT LIMITS

All applicable narrative limitations set by ADEQ and captured in in A.A.C. R-11-108 are included in the Permit.

VIII. MONITORING AND REPORTING REQUIREMENTS

Additional monitoring at discharge outfalls

The current permit requires continued monitoring of Total Suspended Solids (TSS), Chemical Oxygen Demand (COD), Nitrate/Nitrite (as Total N), Hardness (CaCO3), Arsenic (Total Recoverable), Cadmium (Total Recoverable), Chromium (Total Recoverable), Chromium VI (Dissolved), Mercury (Total Recoverable), and Selenium (Total Recoverable) to characterize the discharge. This Permit maintains the requirement to monitor for these parameters.

IX. SPECIAL CONDITIONS

A. Best Management Practices

Conditions for development of Best Management Practices (BMPs) and a Stormwater Pollution Prevention Plan (SWPPP) are retained from the previous permit. The Permittee shall review and make any changes as necessary to the BMPs and SWPPP to reflect exiting and ongoing operations.

Regulatory Basis for Best Management Practices Program.
The regulations at 40 CFR 122.44(k)(4) state that:

> In addition to the conditions established under 122.43(a), each NPDES permit shall include conditions meeting the following requirements when applicable:
>
> (k) Best management practices (BMPs) to control or abate the discharge of pollutants when: (4) The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

The development of BMP Facility plans and individual BMPs for mining operations is supported by the nature of mining operations in general. Disturbance of the overburden due to surface mining causes significant changes in the physical and chemical nature of the mined area, and BMPs are designed to avoid or control discharges which may cause or contribute to violations of water quality standards.

B. Asset Management

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

Asset management requirements have been established in the Permit to ensure compliance with the provisions of 40 CFR § 122.41(e).

X. OTHER CONSIDERATIONS UNDER FEDERAL LAW

A. Consideration of Environmental Justice

EPA conducted a screening level evaluation of vulnerabilities in the community posed to local residents near the vicinity of the permitted mine using EPA's EJSCREEN tool. The purpose of the screening is to identify areas disproportionately burdened by pollutant loadings and to consider demographic characteristics of the population living in the vicinity of the discharge when drafting permit conditions.

In June 2020, EPA conducted an EJSCREEN analysis of the community near the vicinity of the outfall. Of the 11 environmental indicators screened through EJSCREEN, the evaluation determined elevated indicator scores for the following factors:

- PM 2.5
- Ozone
- Superfund Proximity

EPA has conducted outreach by contacting representatives of the Tohono O'odham Nation during the Permit development process and provided the draft factsheet and Permit to the Nation for additional comments during the public comment period. Any concerns raised or comments received either during the Permit development process or during the public comment period were reviewed and addressed by EPA.

As a result of the analysis, EPA is aware of the potential for cumulative burden of the permitted discharge on the impacted community and is issuing this Permit in consideration of the Nation and consistent with the Clean Water Act, which is protective of all beneficial uses of the receiving water, including human health.

B. Impact to Threatened and Endangered Species

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

ASARCO has been party to three Section 7 consultations for the proposed impacts to the Pima pineapple cactus (PPC) at the Mission Complex. The Army Corps of Engineers (ACE) was the lead federal agency for consultations that concluded in 1998 and 2014, and the United States Environmental Protection Agency (EPA) was the lead agency for a consultation that concluded in 2002.

The 2002 Section 7 consultation between EPA and the United States Fish and Wildlife Service (USFWS) concluded with a biological opinion (BO) in which another 58.5 acres were identified as potentially lost and mitigation was required. These additional acres were added to the 877.2 acres of conservation area with protections established in the 1998 consultation for a total of 935.7 acres.

1. EPA would work with ASARCO and USFWS to expand the size of the PPC conservation area at the Mission complex.
2. EPA would work with ASARCO and USFWS to transplant affected PPC to the newly expanded segments of the conservation area.
3. EPA would participate on the stakeholder participation team developing the PPC recovery plan and consider contributing to on-going survey efforts in Pima and Santa Cruz counties to determine the status of PPC on State lands.
4. EPA, in cooperation with USFWS, would develop long-term conservation strategies for PPC and incorporated those into the NPDES permits.

History of Prior Consultation with FWS

Between 2002 and 2013 EPA, Asarco and ACE engaged in discussions on how a CWA 404 permit would be obtained and coverage areas to be included. No 404 permit was issued, and all stormwater controls not requiring a 404 permit were completed. Activities requiring a 404 permit were not completed. Impacts to the PPC and its habitat in the Nation's stormwater control areas covered by the NPDES permit did not occur.

In 2014, ASARCO requested a preliminary jurisdictional determination to obtain a 404 permit to complete stormwater controls on both private and federal portions of their property. A consultation was again initiated between ACE and USFWS resulting in a biological opinion (BO) that expanded the conservation area by 59.7 acres as opposed to the 58.5 acres identified in the 2002 consultation. The 59.7 acres were split between the two permits, 25.2 acres impacts on private land (with ADEQ issued AZPDES permit) and 34.5 acres on TON lease lands (subject to the EPA issued NPDES permit). This new BO superseded the 2002 BO for a total of 936.9 acres to be set aside. Two 404 permits were issued by the ACE representing the private and TON owned areas.

In 2018, ASARCO requested termination of the private lands 404 permit for stormwater controls. Because Section 7 consultation for both the private and TON lands part of the project were previously conducted together, a re-initiation of Section 7 consultation was required.

In 2019, a Section 7 consultation was initiated between ACE and USFWS to modify the remaining 404 Permit. A new conservation measure was proposed and approved which allowed for the establishment of a 750-acre conservation area. The new area is 150 acres of the former PPC preserve area and 600 acres of prime PPC habitat. As of the past two permit cycles all construction of storm water diversion features and retention basins etc has been completed and there has been no discharge from Outfall 002D to date.

EPA's findings

In preparation for the re-issuance of the Permit EPA obtained and reviewed a list of threatened and endangered species found in the project area. Based on the information obtained the following species were listed or proposed in the project area: Jaguar (*Panthera onca*),

Sonoran Pronghorn (*Antilocapra americana sonoriensis*), California Least tern (*Strena antillarum browni*), Yellow-billed Cuckoo (*Coccyzus americanus*), Northern Mexican Gartersnake (*Thamnophis eques megalops*), Sonoyta Mud turtle (*Kinosternon sonoriense longifemorale*), and Pima Pineapple Cactus (*Coryphantha scheeri var. robustispina*).

No critical habitats were located within the project area. There continues to be no nexus between any discharge authorized under the NPDES permit and any of the species listed above. During the two previous permit terms, there were no discharges associated with the permitted Outfall 002D. Moreover, any interaction with listed species and the effluent discharged, if it did occur, is likely to be incidental to a rare large precipitation event with a duration that is likely to be limited to just a few hours.

Based on these facts, EPA concluded that the renewal of this Permit will have no effect on the six mammal, bird, and reptile species and may affect but is unlikely to adversely affect the Pima Pineapple Cactus for which EPA sought concurrence from the USFWS. In a letter dated March 3, 2021 the USFWS concurred.

C. Impact to National Historic Properties

The historic preservation review process mandated by Section 106 of NHPA is outlined in regulations issued by the federal Advisory Council on Historic Preservation (ACHP) titled, "Protection of Historic Properties" at 36 CFR Part 800. In considering these requirements, EPA must determine whether the proposed federal permit is an undertaking and whether it has the potential to cause effects on historic properties. Issuance of a federal permit is considered a federal undertaking; therefore, EPA is required to meet the statutory responsibilities under Section 106 for this Permit.

EPA has proposed a finding that no historic properties will be affected by this undertaking. EPA offered to consult with the Tribal Historic Preservation Officer (THPO) with respect to the project by documenting the area of potential effect (APE), and documenting steps taken to identify historic properties, if any, that may be affected by this undertaking. EPA did not receive comments from the THPO.

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

Under CWA Section 401, a federal agency may not issue a permit that may result in any discharge into waters of the United States unless a state or authorized tribe where the discharge would originate issues a 401 certification verifying compliance with existing water quality requirements or waives the certification requirement. For permits on tribal lands, if a tribe does not have authority to issue a 401certification, EPA makes the determination regarding the 401 certification.

The Tohono O'odham Nation does not have authority to issue 401 water quality certifications. EPA therefore solicited comments regarding issuance of a 401certification for this Permit during the public comment period for the proposed Permit. No comments were received on EPA's proposed issuance of a 401 certification during this period and therefore, EPA has issued such certification with the final issuance of the Permit.

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 permittee shall comply with all EPA Region 9 Standard Conditions, which are applicable to all EPA-issued NPDES permits pursuant to 40 CFR 122.41. Those standard conditions are found in Appendix B to the Permit.

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. The public provided forty-five (45) days to review and comment on the draft Permit and the draft fact sheet.

B. Public Comment Period (40 CFR 124.10)

Notice of the draft Permit was placed on EPA's Webpage and/or in a daily or weekly newspaper within the area affected by the facility or activity, with a minimum of thirty (30) days provided for interested parties to respond in writing to EPA. After the closing of the public comment period, EPA responded to all significant comments prior to concurrently with the final issuance of the Permit.

One comment was received during the public comment period from the Tohono O'odham Nation in support of the issuance of the permit renewal. EPA noted this and has included the letter in the administrative record for this permit. No other comments were received.

C. Public Hearing (40 CFR 124.12)

During the comment period, any interested person could have requested a public hearing on the Draft Permit (see 40 CFR §124.11 and §124.12). No request for a public hearing was received during the comment period.

XIII. CONTACT INFORMATION

Additional information relating to this fact sheet and the final permit may be directed to:

Gary Sheth, 415-972-3516
sheth.gary@epa.gov
EPA Region IX
75 Hawthorne Street (WTR 2-3)
San Francisco, California 94105

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.

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

Arizona Water Quality Standards, 18 A.A.C. 11, December 31, 2016.

EPA Region IX NPDES Compliance Evaluation Inspection (CEI) Report, March 23, 2016.

ADEQ Permit No. AZ0024597 Permit and Factsheet, August 5th, 2019.

Memo to file re: Waters of the US. Gary Sheth, EPA, November 20, 2020.

Letter of Concurrence from FWS. From Jeffery A. Humphrey, Field Supervisor, USFWS Arizona Ecological Services Office, March 3rd, 2021.