

PINE HILL SCHOOL WASTEWATER TREATMENT LAGOON
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
PERMIT FACT SHEET
July 2021

Permittee Name: Ramah Navajo School Board, Inc.

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Pine Hill School
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Pine Hill, New Mexico 87357

Facility Location: BIA Route 125
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Contact Person(s): Wylie Clawson, Facility Maintenance Director

NPDES Permit No.: NN0030325

I. STATUS OF PERMIT

Ramah Navajo School Board, Inc. (“RNSB” or the “permittee”) has applied for the renewal of their National Pollutant Discharge Elimination System (NPDES) permit to authorize the discharge of treated effluent from the Pine Hill School Wastewater Treatment Lagoon to an unnamed dry wash, tributary to Terrero Wash, a tributary to Jaralosa Draw, a tributary to the Zuni River, an eventual tributary to the Little Colorado River a water of the United States. A complete application was submitted on December 28, 2020. EPA Region IX has developed this permit and fact sheet pursuant to Section 402 of the Clean Water Act (CWA), 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.

The permittee is currently discharging under NPDES permit NN0030325 issued on January 1, 2016. Pursuant to 40 CFR § 122.6, the terms of the existing permit are administratively extended until the issuance of a new permit.

This permittee has been classified as a minor discharger.

II. SIGNIFICANT CHANGES TO PREVIOUS PERMIT

Permit Condition	Previous Permit (2015 – 2020)	Re-issued permit (2021 – 2026)	Reason for change
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 Pine Hill School Wastewater Treatment Lagoon/Facility (WWTF) is located in Pine Hill, Western Cibola County, New Mexico, within the Navajo Nation, approximately 35 miles southwest of Gallup, New Mexico. The facility serves a population of over a thousand and receives domestic wastewater. Wastewater from the school compound, a nearby shopping center with a Laundromat and a health clinic flows into the system. The average flow is 0.035 million gallons per day (MGD) and the design capacity of the treatment lagoon is also listed at 0.035 MGD.

The facility is a two-cell unlined facultative lagoon system without any screening. The lagoons have a depth of 12 feet and cover an area of 1.23 acres with a holding capacity of approximately 7.5 million gallons. Wastewater flows by gravity to a collector which directs flow to Cell #1, the south lagoon, at mid-length a transfer pipe allows wastewater to flow by gravity north to Cell #2. There is settling, evaporation, and natural die-off of fecal coliform bacteria in both cells. There is one solar-powered aerator in each lagoon that provides minimum aeration. The overflow discharge pipe is located in the Southwest corner of Cell #2 which is labeled as Outfall No. 001. Disinfection is achieved using a stack-fed or tablet-fed chlorinator and dechlorination occurs directly after by flowing through a stack-fed or tablet-fed dechlorination box prior to discharge to receiving waters.

Although RNSB is a privately-owned treatment facility it is regulated as a publicly owned treatment works (“POTW”). All sampling and monitoring under the permit shall be performed at Outfall No. 001.

IV. DESCRIPTION OF RECEIVING WATER

The discharge of treated domestic wastewater is to an unnamed dry wash, a tributary to Terrero Wash, a tributary to Jaralosa Draw, a tributary to the Zuni River, an eventual tributary to the Little Colorado River, which is a water of the United States. The coordinates for discharge Outfall No. 1 are: Latitude 34° 53’ 19” North and Longitude 108° 25’ 09” West.

V. DESCRIPTION OF DISCHARGE

The facility has a history of noncompliance with the permit reporting requirements, including long periods of non-submittal of DMRs and occasional violations of effluent limits. However, no formal compliance actions were taken prior to April 2017. However, following an inspection in April 2017, multiple deficiencies were noted, including missing DMRs, influent flow not being sampled as required in the permit, and improper use of disinfection products in violation of FIFRA 12(a)(2)(G). RSNB indicated to EPA inspectors that the facility only discharged a couple of times a year, and that the average flow of discharge was 35,000 gallons per day, during such discharge. Following the inspection and EPA providing information about what deficiencies needed to be rectified, and providing technical assistance, RSNB did not rectify the multiple deficiencies. Because of these on-going issues EPA developed a Compliance Plan and shared with RNSB. The requirements of this permit are consistent with the Compliance Plan.

Further, the lack of DMR data makes it difficult to evaluate the status of compliance with the permit requirements. However, based on the limited data submitted, there was an exceedance of the Total Residual Chlorine (TRC) limit in March 2017, as well as insufficient % removal of BOD5 and TSS reported in October 2017. Limits for these parameters is included in the permit.

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 (i.e., “technology-based effluent limits”) and the water quality standards applicable to the receiving water (i.e., “water quality-based effluent limits”). EPA has established the most stringent of applicable technology-based or water quality-based standards in the permit, as described below.

A. Applicable Technology-Based Effluent Limitations

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 effluent quality attainable by secondary treatment for Biochemical Oxygen Demand (BOD₅), Total Suspended Solids (TSS), and pH, as defined in 40 CFR § 133.105, are listed below. TBELS in this section are equivalent to the secondary treatment standards as defined by 40 CFR § 122.45(f) for BOD₅ and TSS.

BOD₅

Concentration-based Limits

30-day average – 45 mg/L

7-day average – 65 mg/L

Removal Efficiency – minimum of 85%

Mass-based Limits

30-day average – (45 mg/L)(0.035 MGD)(8.345 conversion factor) = 13 lbs/day

7-day average – (65 mg/L)(0.035 MGD)(8.345 conversion factor) = 19 lbs/day

TSS

Concentration-based Limits

30-day average – 90 mg/L

7-day average – 135 mg/L

Removal efficiency – Minimum of 65%

Mass-based Limits

30-day average – (90 mg/L)(0.035 MGD)(8.345 conversion factor) = 26 lbs/day

7-day average – (135 mg/L)(0.035 MGD)(8.345 conversion factor) = 39 lbs/day

pH

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

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, 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 - Reasonable Potential Analysis

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

The 2007 NNWQS and 2018 NNWQS revisions established water quality criteria for the following beneficial uses: Secondary Human Contact, Fish Consumption, Aquatic & Wildlife Habitat, and Livestock Watering.

2. Dilution in the Receiving Water

Discharge from Outfall 001 is to Torrero Draw and Zuni River, which 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

For POTWs typical pollutants of concern in untreated and treated domestic wastewater include ammonia, nitrate, oxygen demand, pathogens, temperature, pH, oil and grease, and solids. Chlorine is of concern due to treatment plant disinfection operations and therefore, dechlorination is necessary to minimize impacts on water quality, and a water quality based effluent limit for total residual chlorine (TRC) is also included.

4. History of Compliance Problems and Toxic Impacts

No DMRs were submitted from 2009 to present. However, at the inspection in 2017, staff provided copies of DMRs from 2014 to 2017. Following the inspection and training provided by EPA compliance staff, on NetDMR tool, DMRs were still not submitted timely. A Compliance Plan consistent with EPA's Tribal Enforcement Policy has been developed by EPA and EPA strongly recommends that RNSB implement this Compliance Plan to come into full compliance.

5. Existing Data on Toxic Pollutants

No existing data is available on toxic pollutants. The discharger was not required to conduct a priority pollutant scan during the previous permit cycle, and there was no other information regarding potential toxic pollutants in the effluent provided in the permit application or available from other sources. To characterize the discharge, the current permit requires a priority pollutant scan of an effluent sample obtained during the first discharge following the issuance of the permit.

C. Rationale for Numeric Effluent Limits and Monitoring

Pursuant to the narrative surface water quality standards (of the 2007 NNWQS and 2018 NNWQS revisions), the discharge shall be free from pollutants in amounts or combinations that cause solids, oil, grease, foam, scum, or any other form of objectionable floating debris on the surface of the receiving water body; and be free from any pollutant that may cause a film or iridescent appearance on the surface of the water body, or that may cause a deposit on a shoreline, on a bank, or on aquatic vegetation.

1. E.coli

Presence of pathogens in untreated and treated domestic wastewater indicates that there is a reasonable potential for *E. coli* bacteria levels in the effluent to cause or contribute to an excursion above the water quality standards ("WQS"). In the permit, the monthly geometric mean of *E. coli* bacteria shall not exceed 126/100 ml as a monthly average and 575/100 ml as a single sample maximum. These limits are based on the NNWQS for secondary human contact. The monitoring frequency is once per discharge, consistent with the previous permit.

2. Total Dissolved Solids

Presence of solids in untreated and treated domestic wastewater indicates that there is reasonable potential for TDS levels in the effluent to cause or contribute to an excursion above the WQS. The regulations at 40 CFR § 122.44(i) allow requirements for monitoring as determined to be necessary. The monitoring frequency is once per discharge consistent with the previous permit.

3. Total Residual Chlorine (TRC)

Chlorination for disinfection purposes indicates that there is a reasonable potential for TRC levels in the effluent to cause or contribute to an excursion above the WQS. Therefore, a TRC limit of 11 ug/L, the Navajo Nation chronic toxicity criteria for aquatic and wildlife, has been

established in the permit to protect the beneficial uses of the receiving water. The monitoring frequency is once per discharge, consistent with the previous permit.

4. Ammonia and Ammonia Impact Ratio

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. Due to the potential for ammonia to be present in sanitary wastewater at toxic levels and due to the conversion of ammonia to nitrate, effluent limitations are established using the Ammonia Impact Ratio (“AIR”) for all facilities.

The AIR is calculated as the ratio of the ammonia value in the effluent to the applicable ammonia water quality standard. The NNWQS contain ammonia criteria which are pH and temperature dependent. Therefore, pH, temperature, and ammonia sampling must be concurrent. See Attachment D. of the permit for a sample log to help calculate and record the AIR values and

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 after dilution.

5. Temperature

The Navajo water quality standard requires that effluent not raise the temperature of the receiving water by 3 degrees centigrade in receiving water with a designated use of Aquatic & Wildlife Habitat (warm). There is no indication that there is a reasonable potential for the discharge to cause or contribute to an excursion of this limit. However, because temperature is required to be taken concurrently with ammonia and pH values to calculate the Ammonia Impact Ratio (AIR) temperature shall be monitored.

D. Anti-Backsliding

Section 402(o) and 303(d)(4) of the CWA and 40 CFR § 122.44(l)(1) prohibits 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 does not establish any effluent limits less stringent than those in the previous permit and does not allow backsliding.

E. Antidegradation Policy

EPA's antidegradation policy under CWA § 303(d)(4) and 40 CFR § 131.12 and NNWQS 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 for total suspended solids, turbidity or oil and grease under section 303(d) of the CWA.

Therefore, due to the sufficient technology based limits as well as water quality-based effluent limits, 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

The NNWQS contains narrative water quality standards applicable to the receiving water. Therefore, the permit incorporates 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.

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

IX. SPECIAL CONDITIONS

A. Biosolids

Standard requirements for the monitoring, reporting, recordkeeping, and handling of biosolids in accordance with 40 CFR § 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”) by February 19th of the following year.

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 wastewater treatment lagoon 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 May, 2021 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 Ozone. There was no screening data on Wastewater Discharge Indicator available.

However, EPA has conducted outreach by public noticing the permit as well as reaching out to the Navajo Nation by offering consultation on the issuance of this permit. EPA in this action is simply renewing an existing wastewater discharge permit with no backsliding.

EPA is aware of the potential for cumulative burden of the permitted discharge on the impacted community and will issue this permit in consideration of Navajo Nation Water Quality Standards and consistent with the CWA, which is protective of all beneficial uses of the receiving water, including human health. EPA believes that by implementing and requiring compliance with all relevant provisions of the CWA, including provisions designed to ensure protection of human health, as well as all other beneficial uses of the receiving water, the permit is sufficient to ensure the effluent authorized to be discharged will not cause or contribute to elevated human health risk in the vicinity of the facility.

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.

EPA obtained a list of threatened and endangered species that may occur in the proposed project location or that may be affected by the proposed project on April 5, 2021. This Information for Planning and Conservation ("IPaC") report provides an up-to-date listing of all proposed (P), candidate (C), threatened (T) and endangered (E) species that occur in the action area. The listed species are provided in the Table below.

Listed species, designated under the U.S. Endangered Species Act

Type	Common Name	Scientific Name	Status	Critical Habitat in Project area
Fish	Zuni Bluehead Sucker	<i>Catostomus discobolus yarrowi</i>	E	No*
Birds	Southwestern Willow Flycatcher	<i>Empidonax traillii extimus</i>	E	No*
	Yellow-billed Cuckoo	<i>Coccyzus americanus</i>	T	No
	Mexican Spotted Owl	<i>Strix occidentalis lucida</i>	T	No*
Plants	Pecos Sunflower	<i>Helianthus paradoxus</i>	T	No*
	Zuni Fleabane	<i>Erigeron rhizomatous</i>	T	No

*These species have designated critical habitat outside of the Action Area.

The action area is defined as the wastewater treatment facility and discharge Outfall 001, and a surrounding area in Cibola and McKinley counties in New Mexico. The discharge is to an unnamed wash, tributary to the Terrero Wash, a tributary to Jaralosa Draw, a tributary to the Zuni River, an eventual tributary to the Little Colorado River, a water of the United States. The defined project area is a square of about 50 square miles around the discharge Outfall 001. As the discharge from the facility is limited to only about twice a year and an average discharge flow of only 0.035 MGD for a short duration, the receiving unnamed wash or other downstream tributaries may have no natural flow during significant portions of the year. Therefore, water from the discharge is very unlikely to reach the Zuni River. If in the rare instance that the effluent were to be discharged during a precipitation event large enough to result in continuous flow from the Outfall it would be so heavily diluted during such times of high flow that as to have no effect on the waters of the Zuni River or the Little Colorado River.

Fish

Zuni Bluehead Sucker (*Catostomus discobolus yarrowi*) is found commonly in shaded pools and pool-runs (0.3 to 0.5 m deep) with water velocity < 10 cm/sec where the substrate varies from gravel, cobble, and boulders to bedrock. (<http://ecos.fws.gov/ecp/species/3536>). Though there is critical habitat for this species listed in the State of New Mexico, the project action area does not provide suitable habitat for the Zuni Bluehead Sucker because the receiving water is a dry wash, which is tributary to the Terrero Wash, a tributary to the Jaralosa Draw, an eventual tributary to the Zuni River. All of these waters prior to the Zuni River are dry for a significant part of the year with no fast-flowing water. Any water discharged from the outfall is very unlikely to reach a segment of a receiving water that has habitat suitable for the Zuni Bluehead Sucker. Therefore, EPA has determined that the action will have “no effect” on the Zuni Bluehead Sucker.

Birds

The Southwestern Willow Flycatcher (*Empidonax traillii extimus*) is a small usually less than six inches including tail 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, pools, for nesting. Such habitat is not found in the vicinity of Pine Hill wastewater treatment facility. While the Southwestern Willow Flycatcher is present in Cibola and McKinley counties in New Mexico, in which the action area for this permit is located, there is no critical habitat located in Cibola or McKinley Counties. Occasional short-term discharges from the treatment lagoon would thus not impact the species, nor would it create conditions for establishment of conditions for typical flycatcher habitat. Therefore, EPA has determined that the action will have “no effect” on the Southwestern Willow Flycatcher.

The Yellow-billed Cuckoo (*Coccyzus americanus*) is a migratory bird species, traveling 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. Habitat conditions through most of the western 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. (<https://ecos.fws.gov/ecp/species/3911>). In February 2020 USFWS proposed 72 units in the arid southwest as critical habitat for the western yellow-billed cuckoo which were its best assessment of areas that meet the definition of critical habitat for the western yellow-billed cuckoo. See page 11477 of the following Federal Register notice: (<https://www.govinfo.gov/content/pkg/FR-2020-02-27/pdf/2020-02642.pdf>). The USFWS has not yet finalized this proposed critical habitat designation. However, the action area does not fall into any of the 72 identified units proposed to be designated as critical habitat by the USFWS. The action area does not provide dense cover, in fact because of the highly mobile nature of the yellow-billed cuckoo, the geography of the action area, and fact that the action area is outside any proposed critical habitat areas, it is very unlikely for the Yellow-billed Cuckoo to interact with the occasional short-term discharges from the Pine Hill wastewater treatment lagoons authorized by this permit. Therefore, EPA has determined that its action will have “no effect” on the Yellow-billed Cuckoo.

The Mexican Spotted Owl (*Strix occidentalis lucida*) (<https://ecos.fws.gov/ecp/species/8196>) is a resident of old-growth or mature forests that possess complex structural components (uneven aged stands, high canopy closure, multi-storied levels, high tree density). Canyons with riparian or conifer communities are also important components. In southern Arizona and New Mexico, the mixed conifer, Madrean pine-oak, Arizona cypress, encinal oak woodlands, and associated riparian forests provide habitat in the small mountain ranges (Sky Islands) distributed across the landscape. Owls are also found in canyon habitat dominated by vertical-walled rocky cliffs within complex watersheds, including tributary side canyons. Rock walls with caves, ledges, and

other areas provide protected nest and roost sites. Canyon habitat may include small isolated patches or stringers of forested vegetation including stands of mixed-conifer, ponderosa pine, pine-oak, pinyon-juniper, and/or riparian vegetation in which owls regularly roost and forage. Roosting and nesting habitats exhibit certain identifiable features, including large trees (those with a trunk diameter of 12 inches (in) (30.5 centimeters (cm)) or more (i.e., high tree basal area)), uneven aged tree stands, multi-storied canopy, a tree canopy creating shade over 40 percent or more of the ground (i.e., moderate to high canopy closure), and decadence in the form of downed logs and snags (standing dead trees). Canopy closure is typically greater than 40 percent. Owl foraging habitat includes a wide variety of forest conditions, canyon bottoms, cliff faces, tops of canyon rims, and riparian areas. Critical habitat was finalized on August 31, 2004(69 FR 53182) in Arizona in Apache, Cochise, Coconino, Gila, Graham, Greenlee, Maricopa, Navajo, Pima, Pinal, Santa Cruz, and Yavapai counties. No critical habitat has been designated in Cibola and McKinley counties in New Mexico where the action area is located.

The action area identified for this permit lacks the habitat requirements for this species as it does not have mature old-growth forests with multi-storied levels of standing trees and high tree-density with over 40 percent canopy closure and large diameter trees suitable for roosting. The action area also doesn't have high steep canyon walls with ledges, etc. which the owls can use alternatively for roosting. Occasional short-term discharges from the treatment lagoon would thus not impact the species, nor would it create conditions for establishment of conditions for typical owl habitat. Therefore, EPA has determined that the action will have "no effect" on the Mexican Spotted Owl.

Plants

The Pecos sunflower (*Helianthus paradoxus*) is listed as threatened. (<https://ecos.fws.gov/ecp/species/7211>) The Pecos sunflower is an annual member of the sunflower family (*Asteraceae*). It grows in permanently saturated soils located near permanent springs or wetlands. The receiving water for Outfall 001 is Torrero Draw, a tributary to Jaralosa Draw, tributary to the Zuni River, and eventual tributary to The Little Colorado River. Both Torrero Draw and Jaralosa Draw are dry for significant portions of the year, and therefore are not suitable for the Pecos sunflower. Additionally, though the USFW has listed critical habitat for the Pecos Sunflower, the action area is not located in any Unit of such listed critical habitat. (<https://www.govinfo.gov/content/pkg/FR-2008-04-01/pdf/E8-5811.pdf>). Therefore, EPA has determined that its action will have "no effect" on the Pecos sunflower.

The Zuni fleabane (*Erigeron rhizomatous*) (<http://ecos.fws.gov/species/5700>) is listed as threatened. Zuni fleabane grows in selenium-rich red or gray detrital clay soils derived from the Chinle and Baca formations. Plants are found at elevations from 7,300-8,000 ft (2,230-2,440 m) in pinyon-juniper woodland. Zuni fleabane prefers slopes of up to 40 degrees, usually with a north-facing aspect. Although the overall vegetative cover is usually high, there are few other competing plants on the steep easily erodible slopes that are Zuni fleabane's primary habitat. Zuni fleabane is found only in areas of suitable soils. These soils occur most extensively in the Sawtooth Mountains and in the northwestern part of the Datil Mountains in Catron County, New Mexico. The USFWS has not listed any critical habitat for the Zuni fleabane. The action area is located at an elevation below that where the Zuni fleabane is found and is comprised of gently sloping topography with soil that is not suitable for the Zuni fleabane. Therefore, EPA has determined that the action will have "no effect" on the Zuni fleabane.

Considering the available information available, including the fact that there is no designated critical habitat for any of the listed species found within the project action area, EPA has determined that its action will have “no effect” on any of these species. A copy of the draft fact sheet and permit was forwarded to the New Mexico Field Office of the USFWS for review and comment prior to and during the 30-day public review period. No comments were received during the comment period. If, in the future, EPA obtains 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.

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 Sections 307(c)(1) through (3)). Section 307(c) of the CZMA and implementing regulations at 40 CFR Part 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 (Tribe or Territory) Coastal Zone Management program, and the State (Tribe or Territory) or its designated agency concurs with the certification. The permit does not affect land or water use in the coastal zone; therefore, CZMA does not apply to this permit.

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. This permit is a renewal of an existing wastewater treatment lagoon permit, and there is no additional disturbance to land due to the issuance of this permit. Pursuant to the NHPA and 36 CFR § 800.3(a)(1), EPA is making a determination 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.

E. Water Quality Certification Requirements

For States, Territories, or Tribes with EPA approved water quality standards, but where EPA is the permit writing authority EPA and the discharger are required to seek certification (including the discharger paying applicable fees) that the 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 Tribal law. EPA cannot issue the permit until the certifying State, Territory, or Tribe has granted certification under 40 CFR § 124.53 or waived its right to certify.

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.

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 and fact sheet was 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 issued. No comments were received during the public comment period.

C. Public Hearing (40 CFR § 124.12)

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.

XIII. CONTACT INFORMATION

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

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

XIV. REFERENCES

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- 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>
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