

NPDES PERMIT NO. NM0027863 FACT SHEET

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

APPLICANT

Sandia Peak Ski & Tramway
10 Tramway Loop N.E.
Albuquerque, NM 87122

ISSUING OFFICE

U.S. Environmental Protection Agency
Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270

PREPARED BY

Jim Afghani
Environmental Engineer
Permitting Section (6WD-PE)
Water Division (6WD)
Voice: 214-665- 6615
Fax: 214-665-2191
Email: afghani.jim@epa.gov

DATE PREPARED

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PERMIT ACTION

Draft reissuance of the current NPDES permit issued April 28, 2016, with an effective date of June 1, 2016, and an expiration date of May 31, 2021. Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed in Title 40, Code of Federal Regulations, revised as of July 26, 2021.

RECEIVING WATER – BASIN

Cañon de Domingo Baca – Rio Grande Basin

DOCUMENT ABBREVIATIONS

In the document that follows, various abbreviations are used. They are as follows:

4Q3	Lowest four-day average flow rate expected to occur once every three-years
BAT	Best available technology economically achievable
BCT	Best conventional pollutant control technology
BPT	Best practicable control technology currently available
BMP	Best management plan
BOD	Biochemical oxygen demand (five-day unless noted otherwise)
BPJ	Best professional judgment
CD	Critical dilution
CFR	Code of Federal Regulations
cfs	Cubic feet per second
COD	Chemical oxygen demand
COE	United States Corp of Engineers
CWA	Clean Water Act
DMR	Discharge monitoring report
E. coli	Escherichia coli bacteria
ELG	Effluent limitation guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FCB	Fecal coliform bacteria
F&WS	United States Fish and Wildlife Service
mg/L	Milligrams per liter (one part per million)
ug/L	Micrograms per liter (one part per billion)
MGD	Million gallons per day
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMIP	New Mexico NPDES Permit Implementation Procedures
NMWQS	New Mexico State Standards for Interstate and Intrastate Surface Waters
NPDES	National Pollutant Discharge Elimination System
SQL	Minimum quantification level
O&G	Oil and grease
POTW	Publically owned treatment works
RP	Reasonable potential
SIC	Standard industrial classification
s.u.	Standard units (for parameter pH)
SWQB	Surface Water Quality Bureau
TDS	Total dissolved solids
TMDL	Total maximum daily load
TRC	Total residual chlorine
TSS	Total suspended solids
UAA	Use attainability analysis
UV	Ultraviolet light
USFWS	United States Fish & Wildlife Service
USGS	United States Geological Service
WLA	Wasteload allocation
WET	Whole effluent toxicity
WQCC	New Mexico Water Quality Control Commission
WQMP	Water Quality Management Plan
WWTP	Wastewater treatment plant

I. CHANGES FROM THE PREVIOUS PERMIT

The WET Test methods changed resulting in different species being utilized.

II. APPLICANT LOCATION and ACTIVITY

As described in the application, the facility is located 13 miles northwest of San Antonito, Bernalillo County, NM. Under the Standard Industrial Classification Code 7999, the applicant operates an aerial tramway including upper and lower terminal buildings and a restaurant.

Wastewater from the top terminal building and restaurant flows by gravity to the WWTP located 200 yards downhill. The flow enters a wet well housing a submersible pump. Liquid sensors in the wet well activate the pump which lifts wastewater to the aeration basin. The treatment is an aerated Sequencing Batch Reactor (SBR). The SBR runs off an automated timer that discharges approximately every 12 hours. Mixed liquor suspended solids are maintained at 3500 to 4000 mg/L.

The SBR cycles include filling, aeration, settling and decant. Water decanted from the SBR enters a UV disinfection system. The bulbs and sleeves are changed annually. From the UV system, the effluent travels to the outfall. The design flow for the facility is 0.0075 MGD. Sludge is pumped from the aeration basin to an aerated sludge digester. Approximately twice a year the sludge is hauled by truck and taken to the Albuquerque Southside Water Reclamation Plant.

The discharge from the WWTP is to an intermittent water under 20.6.4.98 NMAC called the Cañon de Domingo Baca (also known as Arroyo de Domingo Baca) thence to a classified reach of the Rio Grande in Segment 20.6.4.105 NMAC of the Rio Grande Basin.

The permittee questioned the jurisdictional status of the receiving water. The applicant attached a letter dated February 17, 2000 with the renewal application providing additional information related to the lack of surface water between the Sandia Peak wastewater discharge point and the Rio Grande. The letter states that the nearest drainage to the discharge point is Cañon de Domingo Baca, approximately 2,500 feet from the discharge point; and that there is no perennial surface water flow in Cañon de Domingo Baca between the Sandia Peak wastewater discharge point and the Rio Grande. Cañon de Domingo Baca is referred to as Arroyo de Domingo Baca about 4 miles west of Sandia Peak, at the eastern corporate boundary of the city of Albuquerque.

The letter goes on to say that surface water is only present in Cañon de Domingo Baca during periods of rapid snowmelt and rainfall events of long duration or high intensity. During these periods, surface water in Cañon de Domingo Baca does not reach the Rio Grande because it infiltrates into permeable sand and gravel and the mountain front, and any remaining runoff is impounded behind South Domingo Baca Dam. The letter also alleges that all storm water runoff for the watershed above the dam is contained by the dam. The South Domingo Baca Dam is a city of Albuquerque storm water control and infiltration basin. In addition, the letter also states that the Cañon de Domingo Baca and Arroyo de Domingo Baca do not cross any tribal, pueblo, or reservation lands.

The applicant's letter has been reviewed by the State. NMED states that the Cañon de Domingo Baca (also known as Arroyo de Domingo Baca) is classified as an intermittent water under 20.6.4.98 NMAC, that there is a potential pathway from the South Domingo Baca Dam through the South Domingo Baca Channel to the Rio Grande and stormwater events could overflow the dam and water could be conveyed to the Rio Grande.

The South Domingo Baca Dam is an earth dam built on the Arroyo Domingo Baca River and is located in Albuquerque, New Mexico. It is also known as South Arroyo DE Domingo Baca Dam. According to the Albuquerque Metropolitan Arroyo Flood Control Authority (AMAFCA), the South Domingo Baca Dam is an Office of State Engineer (OSE) jurisdictional dam. AMAFCA has a valid permit from the OSE to operate the flood control facility. Per the dam filing sheet (on file with the OSE), the 100-yr volume contained in the dam will empty out its principal outlet in 30 hours. All AMAFCA flood control facilities have an outlet so all water that enters the dam will eventually discharge into the downstream receiving body (in this case, the South Domingo Baca Arroyo). The system downstream of the dam is a series of open channel and large diameter culverts, until it enters the North Diversion Channel and the Rio Grande.

EPA also found evidence that the South Domingo Baca Dam has discharged in the past in the U.S, Army Corps of Engineers “Albuquerque Arroyos Sedimentation Study” Technical Report HL-95-2, March 1995. On page 9 is a picture of damage caused by discharges from the dam. On Page 50, the table of 100-yr flood flows includes an estimate of 1,400 cfs for Domingo Baca Arroyo. It appears likely that discharges from the Sandia Peak Ski & Tramway facility could travel beyond the South Domingo Baca Dam and reach the Rio Grande under at least some heavier rainfall events.

As a conservative measure, NMED recommended that EPA reissue the permit. The discharge is located at Latitude 35° 11' 43" North, Longitude 106° 25' 59" West. A map of the facility is provided on page 15.

III. EFFLUENT CHARACTERISTICS

A quantitative description of the discharge(s) described in the EPA Permit Application Form 2E received April 13, 2021, are presented below:

Parameter	Max	Avg
	(mg/L unless noted)	
Flow, million gallons/day (MGD)	0.0075	0.0014
pH, minimum, standard units (s.u.)	6.85	NA
pH, maximum, standard units (s.u.)	7.75	NA
Biochemical Oxygen Demand, (BOD)	2	2
Fecal Coliform (MPN/100 mL)	1	1
Total Suspended Solids (TSS)	5	5
Temperature (°C)	24.9	24.9

In addition, on August 8, 2018, a Compliance Evaluation Inspection (CEI) was conducted at the Sandia Peak Ski & Tramway WWTP by the NMED, SWQB. The purpose of this inspection is to determine compliance with the NPDES permitting program in accordance with requirements of the federal CWA. As part of this inspection, the DMRs were also reviewed to determine if any excursions of the NPDES permit limits took place during this time period. There were no excursions noted during this time period.

IV. REGULATORY AUTHORITY/PERMIT ACTION

In November 1972, Congress passed the Federal Water Pollution Control Act establishing the NPDES permit program to control water pollution. These amendments established technology-based or end-of-pipe control mechanisms and an interim goal to achieve “water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water”; more commonly known as the “swimmable, fishable” goal.

Further amendments in 1977 of the CWA gave EPA the authority to implement pollution control programs such as setting wastewater standards for industry and established the basic structure for regulating pollutants discharges into the waters of the United States. In addition, it made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions.

Regulations governing the EPA administered NPDES permit program are generally found at 40 CFR §122 (program requirements & permit conditions), §124 (procedures for decision making), §125 (technology-based standards) and §136 (analytical procedures). Other parts of 40 CFR provide guidance for specific activities and may be used in this document as required.

It is proposed that the permit be reissued for a 5-year term following regulations promulgated at 40 CFR §122.46(a). The previous permit expired on May 31, 2021. The application was received on April 13, 2021. The existing permit is administratively continued until this permit is issued.

V. DRAFT PERMIT RATIONALE AND PROPOSED PERMIT CONDITIONS

A. OVERVIEW of TECHNOLOGY-BASED VERSUS WATER QUALITY STANDARDS-BASED EFFLUENT LIMITATIONS AND CONDITIONS

Regulations contained in 40 CFR §122.44 require that NPDES permit limits are developed that meet the more stringent of either technology-based effluent limitation guidelines, numerical and/or narrative water quality standard-based effluent limits, or the previous permit. Technology-based effluent limitations are established in the proposed draft permit for TSS and BOD. Water quality-based effluent limitations are established in the proposed draft permit for E. coli bacteria and pH.

B. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

Regulations promulgated at 40 CFR §122.44 (a) require technology-based effluent limitations to be placed in NPDES permits based on ELGs where applicable, on BPJ in the absence of guidelines, or on a combination of the two. In the absence of promulgated guidelines for the discharge, permit conditions may be established using BPJ procedures. EPA establishes limitations based on the following technology-based controls: BPT, BCT, and BAT. These levels of treatment are:

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

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

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

The facility is a private WWTP treating sanitary and restaurant wastewater. The SBR technology is identical to POTW's that have technology based ELG's established at 40 CFR Part 133, Secondary Treatment Regulation. Based on the BPJ of the permit drafter, application of these technology-based limits represents BAT for the private domestic activity described.

Pollutants with ELG’s established in this Chapter are BOD, TSS and pH. BOD limits of 30 mg/L for the 30-day average and 45 mg/L for the 7-day average are found at 40 CFR §133.102(a). TSS limits; also 30 mg/L for the 30-day average and 45 mg/L for the 7-day average, are found at 40 CFR §133.102(b). ELG’s for pH are between 6-9 s.u. and are found at 40 CFR §133.102(c).

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

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

$$\begin{aligned} \text{30-day average BOD/TSS loading} &= 30 \text{ mg/L} * 8.345 \text{ lbs (L)/MG (mg)} * 0.0075 \text{ MGD} = 1.88 \text{ lbs/Day} \\ \text{7-Day average BOD/TSS loading} &= 2.82 \text{ lbs/ Day} \end{aligned}$$

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

EFFLUENT	LIMITATIONS			
	lbs/Day		mg/L (unless noted)	
Parameter	30-Day Avg.	7-Day Avg.	30-Day Avg.	7-Day Avg.
Flow	N/A	N/A	Measure MGD	Measure MGD
BOD ₅	1.88	2.82	30	45
TSS	1.88	2.82	30	45
pH	N/A	N/A	6.0 – 9.0 standard units	

C. WATER QUALITY BASED LIMITATIONS

1. General Comments

Water quality-based requirements are necessary where effluent limits more stringent than technology-based limits are necessary to maintain or achieve federal or state water quality limits. Under Section 301(b)(1)(C) of the CWA, discharges are subject to effluent limitations based on federal or state WQS.

Effluent limitations and/or conditions established in the draft permit follow applicable State WQS and applicable State water quality management plans to assure that surface WQS of the receiving waters are protected and maintained or attained.

2. Implementation

The NPDES permits contain technology-based effluent limitations reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional water quality-based effluent limitations and/or conditions are included in the NPDES permits. State narrative and numerical water quality standards are used in conjunction with EPA criteria and other available toxicity information to determine the adequacy of technology-based permit limits and the need for additional water quality-based controls.

3. State Water Quality Standards

The general and specific stream standards are provided in NMWQS (20.6.4 NMAC, effective July 24, 2020). The discharge from the WWTP is to the Cañon de Domingo Baca (also known as Arroyo de Domingo Baca).

The Cañon de Domingo Baca is classified as an intermittent water under 20.6.4.98 NMAC. There is a potential pathway from South Domingo Baca Dam through the South Domingo Baca Channel to the Rio Grande. Stormwater events could overflow the dam and water could be conveyed to the Rio Grande in Segment 20.6.4.105 NMAC of the Rio Grande Basin. The description of this segment is “The main stem of the Rio Grande from the headwaters of Elephant Butte reservoir upstream to Alameda bridge (Corrales bridge), excluding waters on Isleta pueblo.

Designated uses of the Cañon de Domingo Baca are livestock watering, wildlife habitat, marginal warmwater aquatic life and primary contact. The use-specific criteria in 20.6.4.900 NMAC are applicable to the designated uses, except that the following site-specific criteria apply: the monthly geometric mean of *E. coli* bacteria 206 cfu/100 mL or less, single sample 940 cfu/100 mL or less.

The CWA sections 101(a) (2) and 303(c) require water quality standards to provide, wherever attainable, water quality for the protection and propagation of fish, shellfish, wildlife, and recreation in and on the water, functions commonly referred to as “fishable/swimmable” uses. EPA's current water quality regulation effectively establishes a rebuttable presumption that “fishable/swimmable” uses are attainable and therefore should apply to a water body unless it can be demonstrated that such uses are not attainable. EPA does not expect the State to adopt uses for ephemeral waters that cannot be attained, but in those instances, the State must submit a UAA to support an aquatic life designation that does not meet the CWA §101(a)(2) objective as required by 40 CFR 131.10(j)(1).

The known uses of Cañon de Domingo Baca are not those contained for Segment No.20.6.4.105, but based on the above, are for livestock watering, wildlife habitat, marginal warmwater aquatic life and primary contact. The determination of cold-water or warm-water aquatic uses is based on the first downstream designation from the stream segment. The Rio Grande is the first designated stream, and it is designated as a marginal warmwater aquatic use and based on this rationale Cañon de Domingo Baca will be evaluated for marginal warmwater aquatic use.

4. Permit Action - Water Quality-Based Limits

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

a. BACTERIA

The Cañon de Domingo Baca has a site-specific TMDL criteria for *E. coli* for Rio Grande segment from Isleta Pueblo band to Alameda Street Bridge. The previous permit had the daily maximum limitation of 410 cfu/100 mL (or mpn/100mL), 30-day average limitation of 47 cfu/100 mL (or mpn/100mL) and WLA of 1.34×10^7 cfu/day at the point of discharge for the facility. The TMDL will be maintained in this draft permit.

b. pH

In the previous permit, limits for pH were based on 20.6.4.900 and for both primary contact and warmwater aquatic protection. The draft permit will maintain these water quality limits of 6.6 to 9.0 s.u.

c. TOXICS

i. General Comments

The CWA in Section 301 (b) requires that effluent limitations for point sources include any limitations necessary to meet water quality standards. Federal regulations found at 40 CFR §122.44 (d) state that if a discharge poses the reasonable potential to cause an in-stream excursion above a water quality criteria, the permit must contain an effluent limit for that pollutant.

All applicable facilities are required to fill out appropriate sections of the Form 2A, 2S or 2E, to apply for an NPDES permit or reissuance of an NPDES permit. The new form is applicable not only to POTWs, but also to facilities that are similar to POTWs, but which do not meet the regulatory definition of “publicly owned treatment works” (like private domestics, or similar facilities on Federal property).

The forms were designed and promulgated to “make it easier for permit applicants to provide the necessary information with their applications and minimize the need for additional follow-up requests from permitting authorities,” per the summary statement in the preamble to the Rule. These forms became effective December 1, 1999, after publication of the final rule on August 4, 1999, Volume 64, Number 149, pages 42433 through 42527 of the FRL. The facility is designated as a minor, and does not need to fill out the expanded pollutant testing section Part D of Form 2A. There are no toxics that need to be placed in the draft permit except for those presented below.

ii. TRC

The facility uses UV to control bacteria. The previous permit maintained an 11 ug/L TRC limit in the event chlorine is used as treatment chemical for process equipment sanitization, bacteria backup control and/or filamentaceous algae control. This requirement will be maintained in the draft permit, with monitoring only required when chlorine is used (e.g. for facility cleaning/maintenance or when UV system is out of order).

D. MONITORING FREQUENCY FOR LIMITED PARAMETERS

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity, 40 CFR §122.48(b), and to assure compliance with permit limitations, 40 CFR §122.44(i) (1). Sample frequency is based on the NMIP. Technology based pollutants; BOD and TSS are proposed to be monitored once per month. Flow is proposed to be monitored continuously by totalizing meter. These frequencies are the same as the current permit. Sample type for BOD and TSS are grab which is consistent with the previous permit.

Water quality-based pollutant monitoring frequency for E. coli shall be once per month by grab sample which is the same as the previous permit. The pollutant pH shall be monitored five times per week which is the same as the previous permit, using instantaneous grab samples. When chlorine is used to disinfect treatment equipment and/or treat filamentaceous algae, TRC shall be sampled daily using instantaneous grab samples. Regulations at 40 CFR §136 define instantaneous grab as being analyzed within 15-minutes of collection.

E. WHOLE EFFLUENT TOXICITY LIMITATIONS

Procedures for implementing WET terms and conditions in NPDES permits are contained in the NMIP, March 15, 2012. Table 11 of Section V of the NMIP outlines the type of WET testing for different types of discharges.

The Cañon de Domingo Baca is described as being an intermittent waterbody; flowing only under periods of rapid snowmelt or when rainfall of long enough duration and/or intensity occur. Discharges into intermittent streams for a minor POTW (private domestic less than 0.1MGD) require a one-time chronic test at a 100% CD. The test species shall be *Ceriodaphnia dubia* and *Pimephales promelas* (fathead minnow). Testing shall be performed during the first year after the permit effective date and samples shall be taken during the period between November 1 and April 30.

WET (7-Day Chronic Static Renewal/ NOEC) *	VALUE	FREQUENCY	TYPE
<i>Ceriodaphnia dubia</i>	Report	Once/Permit Term	24-Hr Composite
<i>Pimephales promelas</i>	Report	Once/Permit Term	24-Hr Composite

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

VI. FACILITY OPERATIONAL PRACTICES

A. SEWAGE SLUDGE

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

B. WASTEWATER POLLUTION PREVENTION REQUIREMENTS

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

C. INDUSTRIAL WASTEWATER CONTRIBUTIONS

The treatment plant has no non-categorical Significant Industrial User's (SIU) and no Categorical Industrial User's (CIU). The EPA has tentatively determined that the permittee will not be required to develop a full pretreatment program. However, general pretreatment provisions have been required. The facility is required to report to EPA, in terms of character and volume of pollutants any significant indirect dischargers into the POTW subject to pretreatment standards under §307(b) of the CWA and 40 CFR Part 403.

D. OPERATION AND REPORTING

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

VII. 303(d) LIST

The Cañon de Domingo Baca (also known as Arroyo de Domingo Baca) is not listed on the 2020-2022 State of New Mexico CWA §303(d)/§305(b) Integrated Report. Additional permit conditions are not needed at this time to address impaired water issues. The standard reopen language in the permit allows additional permit conditions if warranted by future changes.

VIII. ANTIDegradation

The NMAC, Section 20.6.4.8 "Antidegradation Policy and Implementation Plan" sets forth the requirements to protect designated uses through implementation of the State water quality standards. The limitations and monitoring requirements set forth in the proposed permit are developed from the State water quality standards and are protective of those designated uses. Furthermore, the policy sets forth the intent to protect the existing quality of those waters, whose quality exceeds their designated use. The permit requirements and the limits are protective of the assimilative capacity of the receiving waters, which is protective of the designated uses of that water, NMAC Section 20.6.4.8.A.2.

IX. ANTIBACKSLIDING

The proposed permit is consistent with the requirements and exemption to meet Anti-backsliding provisions of the Clean Water Act, Section 402(o) and 40 CFR Part 122.44(i)(B), which state in part that interim or final effluent limitations must be as stringent as those in the previous permit, unless information is available which was not available at the time of permit issuance. The proposed permit maintains the limitation requirements of the previous permit for BOD, TSS, and E. coli and pH.

X. ENDANGERED SPECIES CONSIDERATIONS

According to the most recent county listing available at US FWS on June 4, 2021, Southwest Region 2 website at <http://ecos.fws.gov> (http://ecos.fws.gov/tess_public/reports/species-by-current-range-county?fips=35001), six species in Bernalillo County are listed as endangered or threatened. The Southwestern willow flycatcher (*Empidonax traillii extimus*), Rio Grande Silver Minnow (*Hybognathus amarus*) and New Mexico meadow jumping mouse (*Zapus hudsonius luteus*) are listed as endangered. The Yellow-billed Cuckoo (*Coccyzus americanus*) and Mexican spotted owl (*Strix occidentalis lucida*) are listed as threatened. The Monarch butterfly (*Danaus plexippus*) and Sprague's pipit (*Anthus spragueii*) are listed as candidate and resolved taxon respectively.

The American bald eagle (*Haliaeetus leucocephalus*) was previously listed as endangered; however, the USFWS removed the American bald eagle in the lower 48 states from the Federal List of Endangered and Threatened Wildlife Federal Register, July 9, 2007, (Volume 72, Number 130).

Southwestern Willow flycatcher's habitat occurs in riparian areas along streams, rivers, and other wetlands where dense willow, cottonwood, buttonbush and arrow-weed are present. The primary reason for decline is the reduction, degradation and elimination of the riparian habitat. Other reasons include brood parasitism by the brown-headed cowbird and stochastic events like fire and floods that destroy fragmented populations.

Rio Grande Silvery minnow is a small herbivorous North American fish. It is one of the seven North American members of the genus *Hybognathus*, in the cyprinid family. It was once abundant throughout the Rio Grande and Pecos basins, but now is limited to just a few locations of the Rio Grande in New Mexico. Within North America, the Rio Grande silvery minnow inhabits the Rio Grande River. The Rio Grande silvery minnow currently occupies less than 10% of its historic range and is now only found in the Rio Grande River from Cochiti Pueblo, downstream to the in-stream flow of Elephant Butte Reservoir. Apparently, this species is now extinct in Texas.

The maximum size for the Rio Grande silvery minnow is 8.9 cm (3.5 in). They travel in schools. The abundance of the Rio Grande silvery minnow varies from season to season and from year to year. If stream or river flows do not significantly increase during the spring, this species is less likely to spawn that year. Silvery minnows tend to skim the bottom of rivers and streams. These fish are herbivores, whose diet consists of river plants and benthic macro-invertebrates.

Silvery minnows prefer large streams with slow to moderate current flowing over a mud, gravel substrate, or shifting sand-silt substrate bottom. Silvery minnows typically occupy stream habitats where water depths are moderate 0.2 to 0.8 m (8 in. to 31.5 in.) and have velocity from 0 to 30 cm (0 to 1 ft./sec).

During the winter, these minnows are most commonly found in nearly still water with debris cover. However, during low flows, they are found in isolated pools and in watered reaches immediately down stream of diversion structures. They have also been found in irrigation ditches and canals.

New Mexico meadow jumping mouse is a water-loving animal that lives only along the banks of southwestern streams. It is semi-aquatic, and its large back feet may assist it with swimming as well as jumping. Unlike other subspecies of meadow jumping mouse, it is never found in meadows or grasslands without suitable perennial water and riparian habitat. It is rarely found more than a few feet (1.8 m) from running water.

These mice are naturally rare and scattered across isolated population centers, and no wonder; riparian areas make up less than 1 percent of the landmass in the Southwest.

But these precious arteries of life are in decline, and the jumping mouse along with them. The mouse has been extirpated from 70 to 80 percent of its historic range, which extended from the San Juan Mountains in southwestern Colorado into the Rio Grande Valley in New Mexico and the White Mountains in Arizona. These days, they are found only in 5 isolated mountain ranges in Colorado, New Mexico, and Arizona, and in the Rio Grande Valley.

In all historical locations surveyed since 2000, populations have undergone large declines and, in some cases, may have completely disappeared. Overgrazing by livestock is the primary driver of this decline; cattle grazing, even with low numbers of cows, destroys sensitive streamside habitat through loss of vegetation, alteration of the vegetative community by selective grazing of certain species, soil compaction, and general destruction from trampling. A mouse in grazed habitat generally cannot collect enough food during its short active period to make it through the winter.

During surveys in 2005 and 2006, every population of New Mexico meadow jumping mice was found in areas inaccessible to livestock.

Yellow-Billed Cuckoo uses wooded habitat with dense cover and water nearby, including woodlands with low, scrubby, vegetation, overgrown orchards, abandoned farmland, and dense thickets along streams and marshes. In the Midwest, look for cuckoos in shrub-lands of mixed willow and dogwood, and in dense stands of small trees such as American elm.

In the central and eastern U.S., Yellow-billed Cuckoos' nests in oaks, beech, hawthorn, and ash. In the West, nests are often placed in willows along streams and rivers, with nearby cottonwoods serving as foraging sites.

Mexican Spotted owl nests, forages, roosts and disperses in a wide variety of biotic communities:

- Mixed-conifer forests are commonly used throughout the range and may include Douglas fir, white fir, southwestern white pine, limber pine, and ponderosa pine. Understory may include Gambel oak, maples, box elder, and/or New Mexico locust. Highest densities of Mexican spotted owls occur in mixed-conifer forests that have experienced minimal human disturbance.
- Madrean pine-oak forests are commonly used throughout the range, and, in the southwestern U.S., are typically dominated by an overstory of Chihuahua and Apache pines, with species such as Douglas fir, ponderosa pine, and Arizona cypress. Evergreen oaks are typically prominent in the understory.
- Rocky canyons are utilized by Mexican spotted owls in the northern part of their range, including far northern Arizona and New Mexico, and southern Utah and Colorado. Nesting habitat is typically in areas with complex forest structure or rocky canyons, and contains mature or old growth stands which are uneven-aged, multistoried, and have high canopy closure. In the northern portion of the range (southern Utah and Colorado), most nests are in caves or on cliff ledges in steep-walled canyons. Elsewhere, the majority of nests are in Douglas-fir trees (*Pseudotsuga menziesii*).

The patterns of habitat use by foraging owls are not well known, but Mexican spotted owls generally forage in a broader array of habitats than they use for roosting, and most commonly in Douglas fir. Ganey and Balda (1994) found that, in northern Arizona, owls generally foraged slightly more than expected in unlogged forests, and less so in selectively logged forests. However, patterns of habitat use varied between study areas and between individual birds, making generalizations difficult.

In accordance with requirements under section 7(a)(2) of the Endangered Species Act, EPA has reviewed this permit for its effect on listed threatened and endangered species and designated critical habitat. After review, EPA has determined that the reissuance of this permit will have “no effect” on listed threatened and endangered species nor will adversely modify designated critical habitat. EPA makes this determination based on the following:

1. Consultation #2-22-01-I-101 with the USFWS, February 2, 2001, concurred with EPA’s “no effect” determination regarding the discharge from the facility on threatened and endangered species and their habitat.
2. No additions have been made to the USFWS list of threatened and endangered species and critical habitat designation in the area of the discharge since prior issuance of the permit.

3. EPA has received no additional information since the previous permit issuance which would lead to revision of its determinations.

4. EPA determines that Items 1, thru 3 result in no change to the environmental baseline established by the previous permit, therefore, EPA concludes that reissuance of this permit will have “no effect” on listed species and designated critical habitat.

XI. HISTORICAL and ARCHEOLOGICAL PRESERVATION CONSIDERATIONS

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

XII. PERMIT REOPENER

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

XIII. VARIANCE REQUESTS: No variance requests have been received.

XIV. CERTIFICATION

The permit is in the process of certification by the State Agency following regulations promulgated at 40 CFR 124.53.

A draft permit and draft public notice will be sent to the District Engineer, Corps of Engineers; to the Regional Director of the U.S. Fish and Wildlife Service and to the National Marine Fisheries Service prior to the publication of that notice.

XV. FINAL DETERMINATION

The public notice describes the procedures for the formulation of final determinations.

XVI. ADMINISTRATIVE RECORD

The following information was used to develop the proposed permit:

A. APPLICATION(s): EPA Application Form 2E received April 13, 2021.

B. 40 CFR CITATIONS: Citations to 40 CFR are as of June 4, 2021.
Sections 122, 124, 125, 133, 136

C. STATE OF NEW MEXICO REFERENCES

New Mexico Water Quality Standards: New Mexico State Standards for Interstate and Intrastate Surface Water, 20.6.4 NMAC, as approved by EPA on July 24, 2020

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

Statewide Water Quality Management Plan approved by EPA on October 23, 2020

State of New Mexico CWA §303(d)/§305(b) Integrated List & Report, 2020 - 2022.

The US Fish and Wildlife Service (USFWS), Southwest Region 2 website,
<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=35001>

Requested input on April 30, 2021 on a letter attached the renewal application stating that the Sandia Peak Tram discharge never reaches to the Waters of US (WOTUS) from Susan A. Lucas Kamat, Acting Program Manager, Point Source Regulation Section, NMED on discharge segment for the WWTP.

Received input on May 2, 2021 stating that the Cañon de Domingo Baca (also known as Arroyo de Domingo Baca) is classified as an intermittent water under 20.6.4.98 NMAC. There is a potential pathway from the South Domingo Baca Dam through the South Domingo Baca Channel to the Rio Grande. Stormwater events could overflow the dam and water could be conveyed to the Rio Grande. As a conservative measure, NMED recommends that EPA reissue the permit.

Email to Helen Nguyen, EPA, R6 on May 6, 2021 requesting DMR data for the Sandia Peak Ski and Tramway. Received data on May 6, 2021.

Emailed draft permit to Susan A. Lucas Kamat on June 24, 2021, Acting Program Manager, Point Source Regulation Section, NMED for initial review and comments/recommendations. Received initial comments/recommendations from Jason Martinez, SWQB/ PSRS Municipal Team, on June 30, 2021.

Spoke with Susan A. Lucas Kamat on July 26, 2021, Acting Program Manager, Point Source Regulation Section, NMED. Also spoke with PJ Chavez on July 26, 2021, Storm Water Quality Engineer with AMAFCA regarding occurrence of any discharges from the South Domingo Baca Dam down towards the Rio Grande and if the dam is designed to draw down within 96-hrs per NM Water Law. Received an email on July 27, 2021 from Mr. Chavez detailing water flow path from dam and draw down timing.



Exhibit "B"

