NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DRAFT PERMIT FACT SHEET
July 2019

Permittee Name:	Navajo Engineering and Construction Authority ("NECA")
Mailing Address:	P.O. Box 969 Shiprock, New Mexico 87420
Project Location:	NECA Navajo Nation Municipal Pipeline Project Along San Juan River on the Navajo Nation
Contact Person(s):	Brett Grubbs, Manager of Engineering (505) 210-7070
	Monica Redhouse, Project Engineer (505) 210-7070
NPDES Permit No.:	NN0030345

I. STATUS OF PERMIT

NECA (the "permittee") has applied for renewal of its National Pollutant Discharge Elimination System ("NPDES") permit pursuant to U.S. Environmental Protection Agency ("USEPA") regulations set forth in Title 40, U.S. Code of Federal Regulations ("CFR"), Part 122.21. The permit is to authorize the discharge of flushing, hydrostatic test water and disinfection water from the Navajo Nation Municipal Pipeline Project ("NNMPP"). The effluent discharge flows into Hogback Irrigation Canal which is a tributary of San Juan River, a water of the U.S. As the Navajo Nation Environmental Protection Agency ("NNEPA") does not have primary regulatory responsibility for administering the NPDES permitting program, USEPA has primary regulatory responsibility for the discharge. USEPA is proposing to renew the NPDES permit incorporating applicable technology-based effluent limitations and Navajo Nation water quality requirements.

The permittee is currently covered under NPDES Permit No. NN0030345, which became effective on April 1, 2014, and expired on March 31, 2019. A landslide occurred during the Memorial Day weekend of 2014 and obliterated sections of the new pipeline. As a result, no flushing, hydrostatic testing or disinfection was performed and no discharge had occurred under the previous permit. NECA would like to maintain permit coverage in order to perform flushing and testing of its NNMPP. Pursuant to 40 CFR 122.21, 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 (2013 – 2018)	Re-issued permit (2019 – 2024)	Reason for change
DMR submittal	Hardcopy accepted	Switch to e-reporting	EPA e-reporting Rule
Discharge Notification requirement	24 hours prior to commencement of discharge	30 working days prior to commencement of discharge	To allow for adequate time for notification and proper monitoring reporting
Add Best Management Practices (BMP) requirement language	Not included	Requires BMP for erosion control	EPA policy

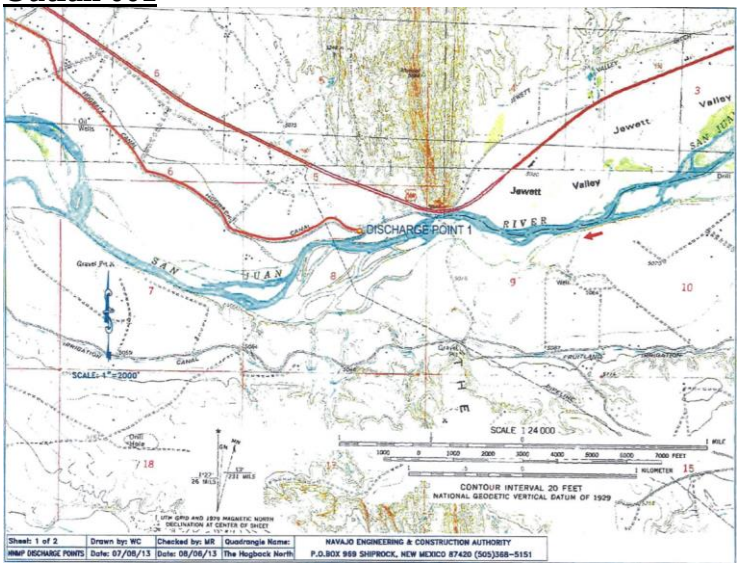
III. GENERAL DESCRIPTION OF FACILITY

The NNMPP involves the construction and installation of pipeline, pumping stations, and ancillary facilities in order to provide capacity to deliver potable water to the Navajo Nation. The Bureau of Reclamation ("BOR") designed the NNMPP Schedule 1 – Fruitland Reach, and Schedules 2-6 – Nenahnezad to Shiprock Reaches.

BOR hired NECA to install and construct 29 miles of 24-inch diameter polyvinylchloride pipeline from Farmington, New Mexico to Shiprock, New Mexico. In addition, NECA was hired to perform flushing, hydrostatic testing and disinfection of the new facilities and parts in the NNMPP, prior to placing them into service. NECA has completed installing the pipeline and is ready to perform the flushing, hydrostatic testing and chlorination of the entire pipeline.

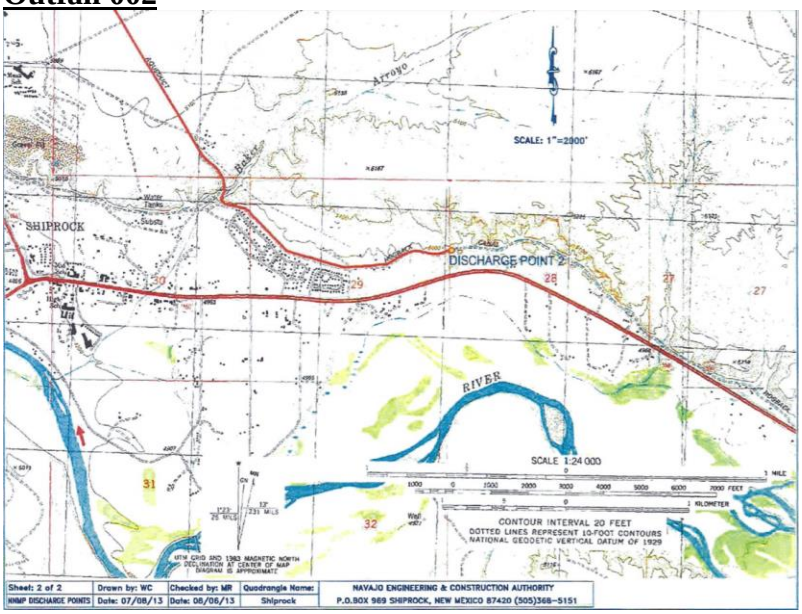
As part of the testing and disinfection of the entire pipeline, NECA will be filling the pipeline with potable water provided by the City of Farmington and the Navajo Tribal Utility Authority's storage tank. After filling the pipeline, the water will be flushed with approximately 3.5 million gallons of potable water until the water from the pipe is clear. The Discharge Point 1 for the flushing is located at the head gate of the Hogback Irrigation Canal near Jewett Valley (herein designated as "Outfall 001").

Outfall 001



Next, hydrostatic testing will be performed on the pipeline in sections which will be followed by disinfection that will utilize approximately 3.8 million gallons of potable water. The Discharge Point 2 for hydrostatic testing and disinfection is located at the Yellowman Lateral of the Hogback Irrigation Canal (herein designated as "Outfall 002").

Outfall 002

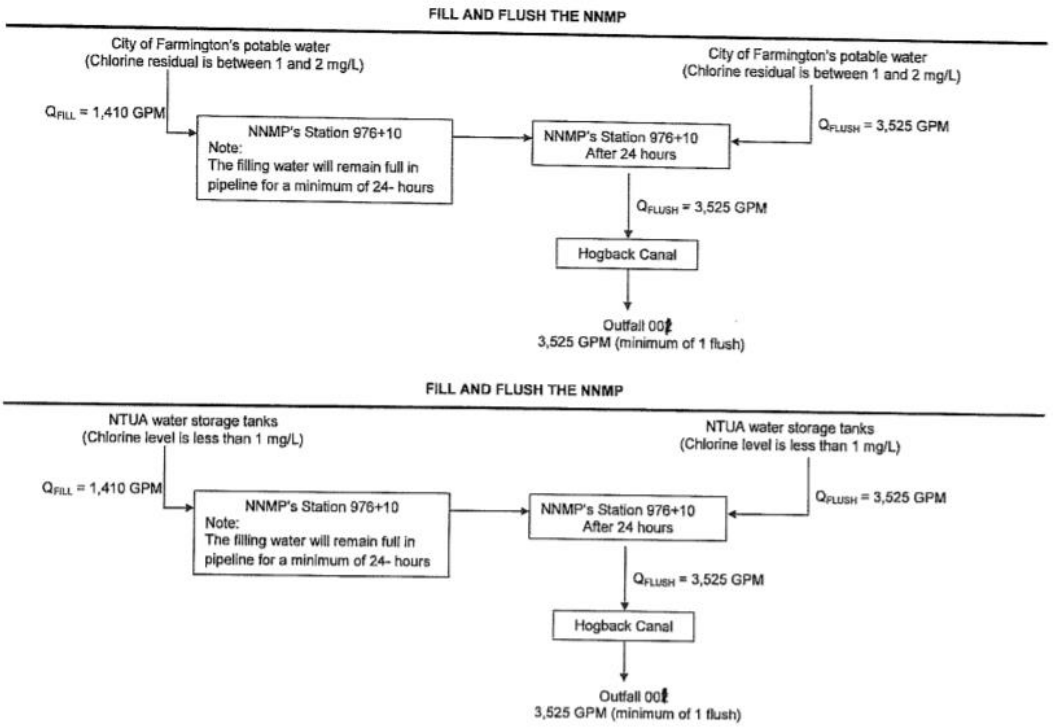


Flushing and hydrostatic testing may introduce pollutants into the discharge due to flushing of residual pollutants from the new units. Disinfection involves the use of chlorine. Both discharge points are located within the Navajo Nation, as summarized in the table below. The Hogback Irrigation Canal intake is on the San Juan River in Hogback, New Mexico. The canal is approximately 17 miles long and ultimately spills into the San Juan River northwest of Shiprock, New Mexico.

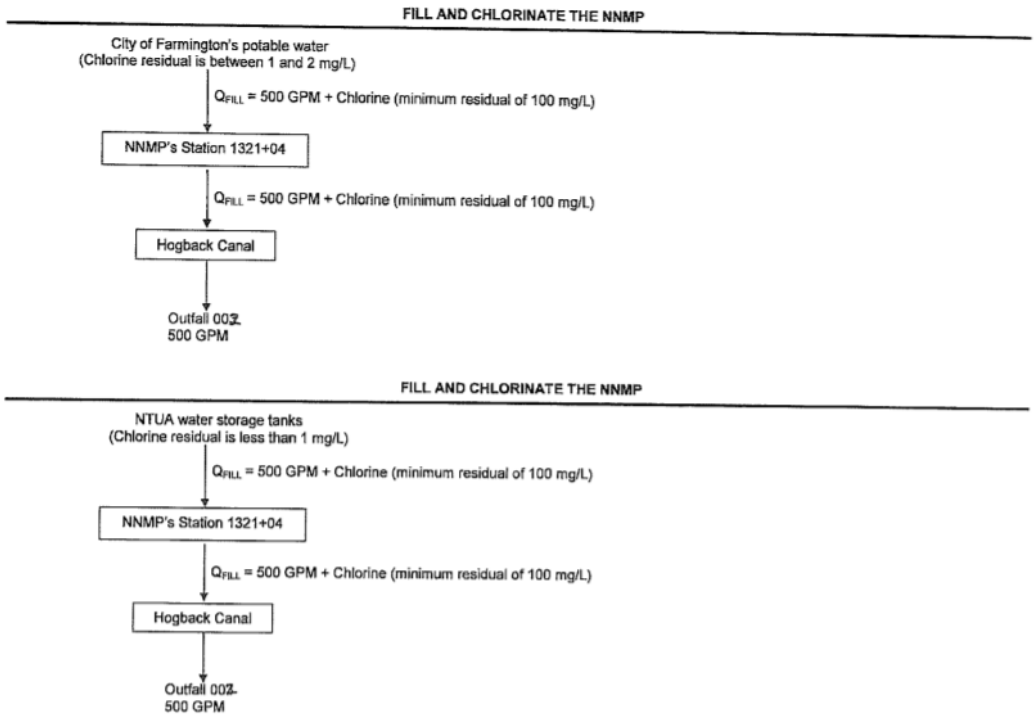
Outfall	Activity	Flow Rate (GPM)	Total Volume (Gallons)	Receiving Water(s)
001	Fill Flush	1,410 3,525	est. 3.5 million	Hogback Irrigation Canal (tributary to San Juan River)
002	Hydrostatic Test Disinfection	500 500	est. 3.8 million	Hogback Irrigation Canal (tributary to San Juan River)

NECA states that temporary earth plugs will be constructed at two locations within the canal creating a pond capable of capturing all water necessary to test and disinfect the pipeline. At both discharge points, cable concrete mats will be placed on the side slopes and the bottom width of the irrigation canal to prevent erosion. At the completion of the disinfection and testing of the pipeline, the temporary earth plugs will be removed and the irrigation canal will be restored to its original configuration. NECA received approval to utilize the Hogback Irrigation Canal from the Navajo Nation Irrigation Office when not in use. The irrigation canal is not utilized from November until the start of April in any calendar year.

Schematic of Water Flow at Outfall 001



Schematic of Water Flow at Outfall 002



IV. DESCRIPTION OF RECEIVING WATER

Outfalls 001 and 002 from the NNMPP discharge to the Hogback Irrigation Canal, a non-perennial tributary to the San Juan River located within the Navajo Nation.

The Navajo Nation has approved water quality standards in place for discharges to waters located on the Nation. For Hogback Irrigation Canal and San Juan River, the *Navajo Nation Surface Water Quality Standards* ("NNSWQS") established water quality criteria for the beneficial uses as follows: secondary human contact, fish consumption, aquatic & wildlife habitat and livestock watering (Table 205.1 of the NNSWQS.)

USEPA initially approved the 1999 NNSWQS on March 23, 2006. They were revised in 2007 and approved by USEPA on March 26, 2009. The 2009 NNSWQS were revised in 2015 and 2017 and are pending approval by USEPA. The approved 1999 Navajo Nation water quality standards, the 2007 revisions and the 2017 *draft* revisions will be used on a best professional judgment ("BPJ") basis for purposes of developing water quality-based effluent limitations. The requirements contained in the proposed permit are necessary to prevent violations of applicable water quality standards.

V. DESCRIPTION OF THE DISCHARGE

There has been no previous discharge from the NNMPP due to the 2014 landslide that obliterated a section of the new pipeline. Therefore, the permittee has not been able to perform flushing, hydrotesting or disinfecting the pipeline or characterize the effluent.

VI. DETERMINATION OF NUMERICAL EFFLUENT LIMITATIONS

The Clean Water Act requires point source dischargers to control the amount of pollutants that are discharged to waters of the United States. The control of pollutants is established through effluent limitations and other requirements in NPDES permits. When determining effluent limitations, EPA must consider limitations based on the technology used to treat the pollutant(s) (i.e., technology-based effluent limits) and limitations that are protective of water quality standards (i.e., water quality-based effluent limits).

A. Applicable Federal Technology-Based Effluent Limitations

1. Effluent Limitations Guidelines ("ELGs"):

USEPA has established national standards based on the performance of treatment and control technologies for wastewater discharges to surface waters for certain industrial categories. Effluent limitations guidelines represent the greatest pollutant reductions that are economically achievable for an industry and are based on Best Practicable Control Technology ("BPT"), Best Conventional Pollutant Control Technology ("BCT"), and Best Available Technology Economically Achievable ("BAT"). (Sections 304(b)(1), 304(b)(4), and 304(b)(2) of the CWA, respectively).

There are no ELGs for potable water supply system discharges from flushing, hydrostatic testing or disinfection of newly constructed pipelines. In such circumstances where

ELGs have not been developed, USEPA relies on BPJ pursuant to Section 402(a)(1) of the CWA, to establish technology-based effluent limits on a case-by-case basis. Using this approach and using information of the contaminants present in the intake water (potable water discharges), USEPA proposes the following provisions and effluent limitations for flow, oil and grease, total suspended solids ("TSS"), total residual chlorine ("TRC"), pH and turbidity, as they are typical pollutants of concern in pipeline flushing, hydrostatic testing and disinfection. These requirements are consistent with those in the previous permit.

Where technology-based effluent limitations are not sufficiently stringent to meet water quality standards and/or do not exist, CWA regulations allow USEPA to develop water quality-based effluent limitations.

2. Flow Volume and Duration:

A requirement for monitoring discharge volume is included in the proposed permit to ensure that the discharge will not cause severe erosion at any discharge location(s). In accordance with the requirements set forth at 40 CFR Parts 122.45(e), specific authorized volume and duration will be proposed for each discharge outfall. The total volume of flushing water discharge must not exceed 3.5 million gallons at Outfall 001, with the flow rate not exceeding 3,525 gallons per minutes (GPM). The total combined volume of hydrostatic testing and disinfection discharges must not exceed 3.8 million gallons at Outfall 002, with the discharge flow rate not exceeding 500 GPM. In addition, the duration of each discharge shall not exceed 14 days.

B. Water Quality-Based Effluent Limitations (WQBELs")

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

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

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

1. Applicable standards, designated uses and impairments of receiving water:

The NNSWQS established water quality criteria for the following beneficial uses (Hogback Irrigation Canal---non-perennial tributary to the San Juan River) are defined by the NNSWQS as secondary human contact, fish consumption, aquatic & wildlife habitat ("A&W"), and livestock watering (Table 205.1).

2. Dilution in the receiving water:

Discharge from Outfalls 001 and 002 is to the Hogback Irrigation Canal, which will have no flow during November to April each year. Therefore, no dilution of the effluent has been considered in the development of water quality-based effluent limits applicable to the discharge.

3. Type of industry:

Typical pollutants of concern in pipeline flushing, hydrostatic testing and disinfection include pH, solids, TRC, and oil and grease.

4. History of compliance problems and toxic impacts:

Not applicable as there has been no discharge under the previous permit.

5. Existing data on toxic pollutants:

No existing data is available on toxic pollutants.

C. Rationale for Numeric Effluent Limits and Monitoring

Pursuant to the narrative surface water quality standards (Section 202 of 2007 NNSWQS and Section 203 of 2017 *draft* 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 water body; 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.

Oil and Grease (O&G): Consistent with the previous permit, the proposed permit requires monitoring and limitation for O&G. New pipes used for drinking water are often coated with oils and other O&G components. Therefore, during the flushing and hydrostatic testing, there is a reasonable potential for O&G levels in the effluent to cause or contribute to an excursion above the WQS. The NNWQS has the narrative requirement that "All surface waters 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 water body; 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. Therefore, on the basis of BPJ, the proposed permit establishes a daily maximum limit of 10 mg/l and a daily average of 5 mg/l, which are commonly used as a numeric translation for the narrative O&G requirements in other permits in the Navajo Nation.

Total Suspended Solids (TSS): Consistent with the previous permit, the proposed permit requires monitoring and limitation for TSS. Dirt and solids may find their way inside the pipelines during their installation underground. Therefore, during the flushing, hydrostatic testing and disinfection of the pipeline, there is a reasonable potential for suspended solids levels in the effluent to cause or contribute to an excursion above the WQS. The NNWQS established standards for suspended solids as 80mg/L and 25 mg/L to protect the beneficial uses of A&W (warm water) and A&W (cold water), respectively. "*[S]tandards are expressed as a median value determined from a minimum of four samples collected at least seven days apart"* (see Section 206 of 2007 NNSWQS and Section 207 of 2017 *draft* revisions). This permit however limits the total discharge time to 14 days or less, which is not long enough to allow for adequate sample collection for WQS purposes. Therefore, on the basis of BPJ, a daily maximum limit of 30 mg/l and a daily average

limit of 10 mg/l have been established which are commonly used as numeric limits in POTW permits in the Navajo Nation to meet surface water quality standards, as well as for protection of the beneficial uses of the receiving waters.

Total Residual Chorine (TRC): Consistent with the previous permit, the proposed permit requires monitoring and limitation for TRC. The use of potable water for flushing, hydrostatic testing and pipeline 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 daily maximum limit of 11 µg/l has been established in the proposed permit to protect the beneficial uses of the receiving waters (See particularly aquatic & wildlife habitat and livestock watering Table 206.1 and Section 206 of 2007 NNSWQS and 2017 *draft* revisions).

pH: Consistent with the previous permit, the proposed permit requires pH monitoring and limitations. The use of potable water for flushing, hydrostatic testing and chlorination could be contaminated with any substance found in the newly constructed pipelines. Therefore, there is a reasonable potential for pH levels in the effluent to cause or contribute to an excursion above the WQS. To ensure adequate protection of beneficial uses of the receiving water, a maximum pH limit of 9.0 and a minimum limit of 6.5 S.U. are established (Section 206.C. of 2007 NNSWQS and 2017 *draft* revisions). These limits are consistent with those in the previous permit.

Turbidity: Consistent with the previous permit, the proposed permit requires monitoring and limitation for turbidity. The use of potable water for flushing and hydrostatic testing indicates that there is a reasonable potential for turbidity levels in the effluent to cause or contribute to an excursion above the WQS. To ensure adequate protection of beneficial uses of the receiving water, a daily maximum limit of 50 Nephelometric Turbidity Units ("NTU") is established based on BPJ, and taking into account that the effluent is the only water likely to be present in receiving waters. 50 NTU is considered a benchmark for background turbidity level.

D. Anti-Backsliding

Section 402(o) of the CWA prohibits the renewal or reissuance of an NPDES permit that contains effluent limits less stringent than those established in the previous permit, except as provided in the statute. The proposed permit is a renewal and does not allow backsliding.

E. Antidegradation Policy

USEPA's antidegradation policy at 40 CFR Section 131.12 and NNEPA's policy at Section 201 of the NNSWQS require that existing water uses and the level of water quality necessary to protect the existing uses be maintained. Due to the nature of the discharge activities, the proposed permit requires the permittee to meet the water quality standard in the receiving water. The proposed permit 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 in Section 203 of the NNSWQS are included in the proposed permit.

VIII. MONITORING AND REPORTING REQUIREMENTS

The proposed permit requires the permittee to conduct monitoring for all pollutants or parameters where effluent limits have been established, at the minimum frequency specified. The permit also requires reporting of discharge data obtained during each discharge event. If no discharge occurs during the reporting period, the permittee must specify "No discharge" on the DMRs and submit them on an annual basis, due on January 28th of each year.

IX. SPECIAL CONDITIONS

A. Outfall Erosion Protection

In order to prevent erosion and scouring of the channel or canal due to high volume discharge, the permittee must establish erosion protection and/or energy dissipation at the outfall location. The permittee must develop a plan that describes preventive measures or Best Management Practices ("BMPs") that specifically apply to the 2 outfall locations. This may include BMPs such as rip rap, perforated pipe, construction of a splash pool, diffuser, or other means that will slow down the velocity of the discharge and maintain a stable channel. The permittee will construct temporary earth plugs at the outfall locations within the canal creating a pond capable of capturing all water necessary to test and disinfect the pipeline. At both discharge points, the permittee will place cable concrete mats placed on the side slopes and the bottom width of the irrigation canal to prevent erosion. At the completion of the disinfection and testing of the pipeline, the temporary earth plugs must be removed and the irrigation canal must be restored to its original configuration.

B. Outfall Monitoring Inspection

Due to concerns that the volume of discharge may cause problems in the wash, such as flooding or erosion, the Permittee must establish a monitoring procedure to evaluate the effects of the discharge on the wash. The monitoring procedure must consist of daily visual monitoring at the discharge points. If significant erosion or potential flooding is observed, the permittee must notify USEPA and NNEPA within 24 hours. If it is determined that a problem exists, a solution to the erosion problem may involve reducing the allowable volume or flow rate of discharge.

X. OTHER CONSIDERATIONS UNDER FEDERAL LAW

A. Consideration of Environmental Justice

USEPA conducted a screening level evaluation of the potential impact of the discharge from the proposed NNMPP pipeline flushing, hydrotesting and disinfection and other permitted facilities within the immediate area on local residents through use of USEPA's EJSCREEN tool. Specifically, USEPA used EJSCREEN to identify facilities near the discharge that could pose risk to local residents through discharge of environmental contaminants. USEPA has also evaluated whether demographic characteristics of the population living in the vicinity of the discharge indicate that the local population might be particularly susceptible to such environmental risks. The results show that, at the time of this analysis conducted on June 25, 2019, the area in

which the discharge is located was above the 91st percentile nationally for ozone. The EJSCREEN analysis of demographic characteristics of the community living near the facility indicates the local population may be at relatively higher risk if exposed to environmental contaminants than the general population. Demographic characteristics that showed potentially sensitive scores were a high proportion of minority and low-income population and population with less than high school education.

USEPA also considers the characteristics of pipeline flushing, hydrotesting and disinfection operation and discharges, and whether those discharges, in combination with discharges from local ozone sources, pose exposure risks that the NPDES permit needs to further address. The NNMPP operation is unlikely to result in any noticeable ozone. USEPA finds no evidence to indicate the NNMPP discharge poses a significant risk to local residents. USEPA concludes that the facility is unlikely to contribute to any EJ issues. Furthermore, USEPA believes that by implementing and requiring compliance with the provisions of the Clean Water Act, which are designed to ensure full protection of human health, the permit is sufficient to ensure the NNMPP discharge will not cause or contribute to human health risk in the vicinity of the discharge locations.

B. Threatened and Endangered Species and Critical Habitat

Background:

Section 7 of the Endangered Species Act ("ESA") of 1973 requires Federal agencies such as USEPA to ensure, in consultation with the U.S. Fish and Wildlife Service ("FWS"), that any actions authorized, funded or carried out by the Agency are not likely to jeopardize the continued existence of any federally-listed endangered (E) or threatened (T) species or adversely modify or destroy critical habitat of such species.

Since the issuance of NPDES permits by USEPA is a Federal action, consideration of a permitted discharge and its effect on any listed species is appropriate. The proposed NPDES permit authorizes the discharge of pipeline flushing and hydrostatic testing into the Hogback Irrigation Canal, a tributary to the San Juan River, a water of the United States. The FWS has deferred all of its survey and information collection in the Navajo Nation to Navajo Department of Fish & Wildlife, Natural Heritage Program ("NHP"). From its database https://www.nndfw.org/, the NHP had identified the following listed species that are known to occur within three miles of the facility boundary or on the 7.5-minute quadrangle(s) of the respective facility boundary at Hogback North, New Mexico (Outfall 001) and Shiprock, New Mexico (Outfall 002):

Names (common and scientific)	Status	Outfall(s)
Mancos Milk-vetch (*Astragalus humillimus)*	E	001
Southwestern Willow Flycatcher (*Empidonax traillii extimus*)	E	001
Mesa Verde Cactus, (*Sclerocactus mesae-verdae)*	T	001 and 002

The NHP had also identified five (5) federally-listed threatened or endangered species of concern with potential to occur on the 7.5-minute quadrangle containing the respective project boundary's Outfalls 001 and 002, as follows:

Names (common and scientific)	Status	Outfall(s)
Southwestern Willow Flycatcher (*Empidonax traillii extimus*)	E	001
Roundtail Chub *(Gila robusta)*	Candidate	001 and 002
Colorado Pikeminnow *(Ptychocheilus lucius)*	E	001 and 002
Mesa Verde Cactus, (*Sclerocactus mesae-verdae)*	T	001 and 002
Razorback Sucker *(Xyrauchen texanus)*	E	001 and 002

In addition, the NHP noted in a letter dated March 21, 1994 (Federal Register, Vol. 59, No. 54) that FWS had designated portions of the San Juan River (SJR) as critical habitat for Colorado Squawfish *(Ptychocheilus lucius)* and Razorback Sucker *(Xyrauchen texanus)*. The Colorado squawfish critical habitat includes the SJR and its 100-year floodplain from the State Route 371 Bridge in T29N, R13W, Sec. 17 (New Mexico Meridian) to Neskahai Canyon in the San Juan arm of Lake Powell in T41S, R11E, Sec. 26 (Salt Lake Meridian) up to the full pool elevation. The razorback sucker critical habitat includes the SJR and its 100-year floodplain from the Hogback Diversion in T29N, R16W, Sec. 9 (New Mexico Meridian) to the full pool elevation at the mouth of Neskahai Canyon on the San Juan arm of Lake Powell in T41S, R11E, Sec. 26 (Salt Lake Meridian.) All actions carried out, funded or authorized by a federal agency which may alter the constituent elements of critical habitat must undergo Section 7 consultation under the ESA, as amended. Constituent elements are those physical and biological attributes essential to a species conservation and include, but are not limited to, water, physical habitat, and biological environment as required for each particular life stage of the species.

USEPA's finding:

This permit authorizes the discharge of pipeline flushing, hydrostatic testing and disinfection water in conformance with the federal regulations and the NNSWQS. These standards are applied in the permit both as numeric and narrative limits. The standards are designed to protect aquatic species, including threatened and endangered species, and any discharge in compliance with these standards should not adversely impact any threatened and endangered species.

USEPA believes that effluent discharge released in compliance with this permit will have no effect on any federally-listed threatened or endangered species or its critical habitat that may be present in the vicinity of the discharge because the limits included in the permit are designed to be protective of all designated uses of the immediate receiving water, the Hogback Irrigation Canal, a tributary to the San Juan River. Additionally, the earthen plugs constructed at two locations within the canal will create temporary ponding, and the ponded water is likely to be either used for irrigation (one of the designated uses protected) or evaporated. Thus, there is likely to be minimal effluent discharge reaching the San Juan River itself. Therefore, no requirements specific to the protection of endangered species are proposed in the permit. USEPA may decide that changes to the permit may be warranted based on receipt of new information. A re-opener clause has 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 (or Territory) Coastal Zone Management program, and the State (or Territory) or its designated agency concurs with the certification.

The proposed permit does not affect land or water use in the coastal zone, thus CZMA does not apply to this federally issued permit.

D. Impact to Essential Fish Habitat

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

The proposed permit contains technology-based effluent limits and numerical and narrative water quality-based effluent limits as necessary for the protection of applicable aquatic life uses. The proposed permit does not directly discharge to areas of essential fish habitat. Therefore, USEPA has determined that the proposed permit will not adversely affect essential fish habitat.

E. Impact to National Historic Properties

Section 106 of the National Historic Preservation Act ("NHPA") requires federal agencies to consider the effect of their undertakings on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places. Pursuant to activity authorized by this NPDES permit, no new construction or disturbance of land is anticipated. Therefore, pursuant to the NHPA and 36 CFR § 800.3(a)(1), USEPA is making a determination that issuing this proposed NPDES permit does not have the potential to affect any historic properties or cultural properties. As a result, Section 106 does not require USEPA to undertake additional consulting on this permit issuance.

XI. STANDARD CONDITIONS

A. Reopener Provision

In accordance with 40 CFR § 122 and § 124, this proposed permit may be modified by USEPA to include effluent limits, monitoring, or other conditions to implement new regulations, including USEPA-approved Tribal 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 proposed permit requires the permittee to comply with USEPA Region 9's *Standard Federal NPDES Permit Conditions* found at Attachment A.

XII. ADMINISTRATIVE INFORMATION

A. Public Notice (40 CFR § 124.10)

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

B. Public Comment Period (40 CFR § 124.10)

Notice of the draft permit will be placed on USEPA Region 9 website at: https://www.epa.gov/aboutepa/public-notices-meetings-and-events-pacific-southwest on July 12, 2019, with a minimum of 30 days provided for interested parties to respond in writing to USEPA. After the closing of the public comment period, USEPA is required to respond to all significant comments at the time a final permit decision is reached or at the same time a final permit is actually issued.

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

A public hearing may be requested in writing by any interested party. The request should state the nature of the issues proposed to be raised during the hearing. A public hearing will be held if USEPA determines there is a significant amount of interest expressed during the 30-day public comment period or when it is necessary to clarify the issues involved in the permit decision.

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

As the Navajo Nation has approved water quality standards, USEPA is requesting certification from NNEPA that the proposed permit will meet all applicable water quality standards. USEPA is forwarding the draft permit and fact sheet to NNEPA and requesting certification under Section 401 of the Clean Water Act. Such certification shall be in writing and include the conditions necessary to assure compliance with referenced applicable provisions of Sections 208(e), 301, 302, 303, 306, and 307 of the CWA and appropriate requirements of Territory law.

XIII. CONTACT INFORMATION

Comments, submittals, and additional information relating to this proposal may be directed to Linh Tran, NPDES Permits Office at:

Phone: (415) 972-3511
Email: Tran.Linh@epa.gov

Or Mail:

Linh Tran
EPA Region 9
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.

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