NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
PERMIT FACT SHEET

Permittee Name: Arizona Public Service Company

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Facility Address: Four Corners Power Plant
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NPDES Permit No.: NN0000019

I. STATUS OF PERMIT

The United States Environmental Protection Agency (hereinafter "EPA Region 9" or "EPA") re-issued the current National Pollutant Discharge Elimination System Program (NPDES) Permit (No. NN0000019) for the discharge of treated wastewater from the Arizona Public Service Company's (hereinafter "APS" or "the Permittee" or "the Applicant") Four Corners Power Plant (hereinafter "FCPP" or "the Plant") to No Name Wash in the Navajo Nation on January 24, 2001 with an expiration date of January 24, 2006. On October 5, 2005, APS as co-owner and operator of the FCPP applied to the United States Environmental Protection Agency, Region 9 (hereinafter "EPA Region 9" or "EPA") for renewal of APS' permit for discharge of wastewater to waters of the United States, and the permit was administratively extended. APS subsequently provided updates to their initial application, allowing the facility to operate under the administrative extension. Via a letter dated October 30, 2012, EPA Region 9 requested that APS submit a fully revised application that reflected current operations, as well as future plans for the next permit cycle. On or about February 15, 2013, APS submitted a revised application, which included a description of the planned shutdown of Units 1, 2, and 3, as well as likely impacts on surface water discharges to be regulated under a renewed NPDES permit. On December 30, 2013, APS shut down Units 1, 2, and 3. EPA Region 9 has developed this permit and fact sheet based on the latest information regarding operations and pursuant to Section 402 of the Clean Water Act, which requires point source dischargers to control the amount of pollutants that are discharged to waters of the United States through obtaining a NPDES permit.

II. GENERAL DESCRIPTION OF FACILITY

The APS FCPP is located in San Juan County about 20 miles southwest of Farmington, New Mexico. The Plant is located on Navajo Nation and is partially owned and operated by APS on behalf of itself as well as the Salt River Project Agricultural Improvement and Power District, El

Paso Electric Company, Public Service Company of New Mexico, and Tucson Electric Power Company. The Permittee originally operated five generating units. Pursuant to EPA air pollution rules, the FCPP was provided the flexibility to choose between two compliance strategies for reducing NOx emissions: EPA's Best Available Retrofit Technology determination requiring new NOx controls on all five generating units by 2017, or APS' alternative to retire Units 1, 2, and 3 by 2014 and install new NOx controls on units 4 and 5 by mid-2018. The Plant's total generation capacity was originally 2100 megawatts, but following the shutdown of Units 1, 2, and 3 (which occurred on December 30, 2013) the capacity is now 1540 megawatts. The Plant burns low sulfur coal obtained from the adjacent Navajo Mine, owned by the Navajo Transitional Energy Company, LLC (NTEC) and operated by Bisti Fuels Company, LLC. The cooling water for the two remaining operational units, Units 4 and 5, comes from the man-made Morgan Lake, adjacent to the Plant. The 1,200 acre lake receives its water from the San Juan River at an average rate of about 24.5 million gallons per day. The Plant provides electrical power to utilities in Arizona, Texas, and New Mexico.

APS has applied for authorization to continue discharge from the following outfalls:

Outfall No. 001: Cooling Pond Discharge

Internal Outfall Nos:

01A: Condenser Cooling Water Discharge
01B: Chemical Waste Cleaning Wastewater
01E: Combined Waste Treatment Pond Discharge

III. DESCRIPTION OF RECEIVING WATER

Outfall No. 001 discharges from Morgan Lake to the No Name Wash which is tributary to the Chaco River, which in turn drains to Segment 2-401 of the San Juan River. The discharges according to the permit application submitted by APS from Outfall No. 001 are intermittent with an average of 2.5 days per week of discharge for about 6 months in a year. The average flow rate for the discharge is 4.2 million gallons a day. The length of the No Name Wash from Outfall 001 (Parshall flume) to the Chaco River is about 2.5 miles and the point where the No Name Wash meets the Chaco River is about 7 miles from where the Chaco eventually meets the San Juan River. APS mostly discharges in order to regulate total dissolved solids (TDS) build up in the lake which is used for once through cooling of the generating units.

Internal Outfall No. 01A discharges condenser cooling water from Units 4 and 5 into an effluent channel to be recirculated through and cooled off in Morgan Lake. In addition, effluent from Outfall No. 01E is mixed with the cooling water before entering Morgan Lake.

Internal Outfall No. 01B is not in use. The Plant currently disposes chemical metal cleaning wastewater to its lined ash pond pursuant to the Dietrich exemption under the Resource Conservation and Recovery Act, but APS wishes to retain Outfall No. 01B for potential future use.

Internal Outfall No. 01E discharges from the combined waste treatment pond (CWTP). The CWTP is a treatment lagoon that treats about 8-13 million gallons per day (MGD) of various

waste streams, including in plant storm water runoff. Effluent from the CWTP enters a culvert leading to the cooling water discharge canal and Outfall No. 01E. Water from Outfall No. 01E is then blended with condenser cooling water discharges prior to discharge from Outfall No. 01A into Morgan Lake.

The facility has its own domestic treatment package plant with capacity of 30,000 gallons per day (GPD). Chemical metal cleaning and flue gas desulfurization (FGD) wastewater is sent to a series of two lined ash ponds. Underflow from Units 4 and 5, metal cleaning wastes, and sanitary wastewater effluent from the package plant are combined before being sent to the ash ponds. Two ash ponds operate in series. The first is a single-lined pond where solids settle and floatables are removed and sold for revenue. The effluent from the single-lined pond is sent through a siphon drain system downhill to the double-lined pond. The double-lined pond serves as retention basin holding the effluent before it is pumped for desulfurization reuse. Sanitary waste and FGD blowdown wastewater is not regulated in the NPDES permit.

For a schematic representation of the various outfalls and flows see the Flow Diagram attached to the permit in Appendix D.

IV. DESCRIPTION OF DISCHARGE

A. Application Discharge Data

As part of the application for permit renewal, the Permittee provided data from an analysis of the facility's treated wastewater discharge, shown in Appendix B. The Permittee also provided data from a priority pollutant scan on the effluent sample collected 20-24 August 2012 and reported in September 2012, which is also shown in Appendix B. The data meet existing permit effluent limits.

B. Recent Discharge Monitoring Report (DMR) Data

The last inspection of the APS facility was conducted in May 2012. The inspection report indicated that there were no DMR violations at the facility since the previous inspection. DMR data for the last 2 years, between May 2012 and May 2014 was reviewed and the facility has not reported any instances of violations in their Discharge Monitoring Reports.

V. DETERMINATION OF NUMERICAL EFFLUENT LIMITATIONS

The discharge limitations are based on 40 CFR Part 423 – Effluent Limitation Guidelines (ELGs). EPA has established national standards based on the performance of treatment and control technologies for wastewater discharges to surface waters for certain industrial categories. ELGs 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). These

requirements are described below. The current ELGs for Steam Electric regulations, were last updated in 1982, and EPA proposed revisions to the regulations to strengthen controls by revising effluent limitations guidelines and standards for the steam electric power generating point source category in 2013. In 2015, EPA adopted a final rule entitled "Effluent Limitation Guidelines and Standards for the Steam Electric Power Generating Point Source Category". The effective dates of the provisions of that rule have recently been extended to November 1, 2018, and November 1, 2020, depending on the particular provision. The guidelines in the 2015 rule are therefore not effective as to this permit, and the existing regulations are still applicable.

In addition to technology-based effluent limitations, the Clean Water Act (CWA) Sections 402 and 301(b)(1)(C) require that an NPDES permit contain effluent limitations that, among other things, are necessary to meet water quality standards. An NPDES permit must contain effluent limits for pollutants that are determined to be discharged at a level which has "the reasonable potential to cause or contribute to an excursion above any State [or Tribal] water quality standard, including State [or Tribal] narrative criteria for water quality." 40 CFR 122.44(3)(1)(i).

To determine whether the discharge causes, has the reasonable potential to cause or contributes to an excursion of a numeric or narrative water quality criterion for individual toxicants, the regulatory authority must consider a variety of factors. 40 CFR 122.44(d)(1)(ii). These factors include the following:

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

EPA, as the NPDES permit issuing authority, can use any combination of federal, state or tribal standards it deems most protective of the beneficial uses of the receiving water, pursuant to its Best Professional Judgment (BPJ) as provided by the Clean Water Act. Here EPA, pursuant to its BPJ authority, decided to use the numeric standards approved in the 2007 Navajo Nation Water Quality Standards both to assess "reasonable potential" for exceedances and to protect "downstream" beneficial uses in the Chaco River.

Pursuant to its BPJ authority and applying the factors listed above to the APS FCPP operations and wastewater quality monitoring data provided in the application, as well as ambient monitoring data from other sources, EPA concluded that the discharge does not present a "reasonable potential" to cause or contribute to an exceedance of water quality standards in the receiving water. EPA did not consider any dilution in imposing limits, thereby making the most conservative and protective assumption of no available dilution in its requirement that effluent limits must meet water quality standards at the end of pipe prior to discharge.

EPA concluded, consistent with the previous permit, that other than the effluent limitations for pH, TSS, Oil and Grease, which are promulgated under the Steam Electric Power Generation ELGs as described in 40 CFR Part 423, that there is no reasonable potential for other pollutants to cause or contribute to a violation of receiving water standards. However, EPA included monitoring in the permit for Mercury and Selenium, as well as a requirement for screening for

priority pollutants listed in 40 CFR 423, Appendix A at least twice during the permit term to verify these assumptions.

The permit also sets general conditions based on narrative water quality standards contained in Section 202 of the Navajo Nation Surface Water Quality Standards 2007. Again, EPA as the permitting authority decided to use the approved narrative standards of the downstream jurisdiction, i.e. the Navajo Nation, pursuant to its BPJ authority under the Clean Water Act. These narrative standards are set forth in the Section entitled General Discharge Specifications of the permit.

A. Outfall No. 001 – Cooling Pond Discharge

The permit sets flow (14.7 million gallons per day), temperature (32.2 degrees centigrade monthly average and 35 degrees daily maximum), and pH limits (no less than 6.0 or greater than 9.0 standard pH units). Temperature is to be monitored continuously and flow must be monitored on a weekly basis. Monitoring for pH and total dissolved solids (TDS) is required on a monthly basis. Total dissolved solids monitoring is required for discharges to tributaries of the San Juan River. These requirements are consistent with those of the previous permit.

In addition to the limits established for Outfall 001, the permit also establishes limits for several internal outfalls as listed below. Requirements for internal outfalls are authorized pursuant to 40 CFR 122.45 (h) when imposing such limits at the final discharge point would be impracticable because the wastes at the point of final discharge would be so diluted as to make monitoring and detection very difficult if not impossible.

B. Internal Outfall No. 01A – Condenser Cooling Water Discharge

This internal outfall meets the definition of 40 CFR 423.11(g) for "once-through cooling water," which is water passed through the main cooling condensers in or two passes for the purpose of removing waste heat. As once-through cooling water, Outfall No. 01A is subject to limitations outlined in 40 CFR 423.13(b) (1) and 423.13 (b) (2) for chlorine.

Intermittent chlorination is used as a system biocide in once-through cooling waters. The regulations at 40 CFR Part 423 limit chlorination duration and frequency (two hours/unit/day) to protect the receiving water from chlorine toxicity. The permit limits chlorine residual in the discharge based on the calculations described below.

Total Residual Chlorine: In accordance with 40 CFR 423.13 (b) (1), for any plant with a total rated electric generating capacity of 25 or more megawatts, the quantity of pollutants discharged in once-through cooling water from each discharge point shall not exceed the quantity determined by multiplying the flow of the once-through cooling water from each discharge point times the daily maximum concentration of 0.2 milligrams per liter (mg/L). The total maximum flow from the two units during periods of chlorination (571.6 million gallons a day) is used in the following calculation:

$$\frac{571.6 \text{ million gal}}{\text{Day}} \times \frac{0.2 \text{ mg}}{\text{L}} \times \frac{8.345 \text{ lbs/million gal}}{1 \text{ mg/L}} = 954 \text{ lbs/day}$$

Oil and Grease: Daily maximum and 30-day average concentration limits for oil and grease are established at Outfall No. 01A at 20.0 and 15.0 mg/L respectively

Other requirements: The pH restricted range is 6.0 to 9.0 standard pH units. Chronic toxicity monitoring is required on a quarterly basis during the first year following issuance of this permit. APS may petition for a reduced measurement frequency after the first year provided there is no reasonable potential for chronic toxicity demonstrated. Flow rates must be calculated and reported.

Imposing these limits at Outfall No. 001 would be impracticable due to dilution in Morgan Lake and therefore pursuant to 40 CFR 122.45 (h) applying limits at internal Outfall No. 01A is appropriate.

C. Internal Outfall No. 01B Chemical metal cleaning

Outfall No. 01B meets the definition of chemical metal cleaning waste under 40 CFR 423.11 (c) and is regulated as such under 40 CFR 423.12 (b) (5) and 423.13 (e). The limits for total suspended solid (TSS) and oil and grease are as follows: The permit sets daily maximum concentration limits of 100.0 and 20.0 mg/L for TSS and oil and grease, respectively. Weekly average concentration limits are 30.0 and 15.0 mg/L for TSS and oil and grease respectively. Limits for copper and iron are each set at 1.0 mg/L for both the daily maximum and weekly average limits. Additionally, the permit restricts pH to a range of 6.0 to 9.0 standard pH units. These requirements are consistent with those of the previous permit.

Imposing these limits at Outfall No. 001 would be impracticable due to dilution in Morgan Lake and therefore pursuant to 40 CFR 122.45 (h) applying limits at internal Outfall No. 01B is appropriate.

D. Internal Outfall No. 01E Combined Waste Treatment Pond

A large component of the Outfall No. 01E discharge is bottom ash transport water, with low-volume wastewater constituting a smaller component of the discharge. (See 40 CFR 423.11(f) for definition of bottom ash.) As such, Outfall No. 01E is regulated under 40 CFR 423.12 (b) (4) for total suspended solids (TSS) and oil and grease. TSS and oil and grease are subject to the same limits as those for Outfall No. 01B above. The permit also restricts pH to a range of 6.0 to 9.0 standard pH units, and flows must be estimated and reported. These requirements are consistent with those of the previous permit.

Imposing these limits at Outfall No. 001 would be impracticable due to dilution in Morgan Lake and therefore pursuant to 40 CFR 122.45 (h) applying limits at internal Outfall No. 01A is appropriate.

VI. ANTI-BACKSLIDING/ANTIDEGRADATION

A. Anti-Backsliding

CWA Section 402(o) 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 permit does not establish any effluent limits less stringent than those in the previous permit and does not allow backsliding.

B. Antidegradation Policy

EPA's antidegradation policy at 40 CFR 131.12 and Navajo Nation Water Quality Standards 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. A priority pollutant scan has been conducted of the effluent, demonstrating that most pollutants will be discharged below detection levels. Although the permit allows loadings of oil and grease, receiving water monitoring data show that existing mass loadings of oil and grease have not resulted in a violation of the narrative standards which states that "the discharge shall be substantially free from visible floating materials, grease, oil, scum, foam, and other floating material attributable to sewage, industrial wastes, or other activities of man". Furthermore, the waterbody is not listed as an impaired waterbody for total suspended solids, turbidity or oil and grease under CWA Section 303(d). Therefore, the discharge is not expected to adversely affect receiving water bodies or result in any degradation of water quality.

VII. OTHER APPLICABLE WATER QUALITY EFFLUENT NT LIMITS

A. Narrative Limits

As discussed, EPA, as the permit writing authority, may use any combination of federal, state or tribal standards it deems most protective of the beneficial uses of the receiving water, pursuant to its BPJ. Here, EPA is relying on the Navajo Nation narrative water quality standards applicable to the receiving waters.

B. General Discharge Specifications

In the previous permit the discharge of polychlorinated biphenyl (PCB) fluids was prohibited. Based on best professional judgment and the requirements of the Clean Water Act, this prohibition continues to apply.

C. Surface Seepage

Based on best professional judgment and consistent with the requirements imposed in the previous permit cycle, surface seepage intercept systems are required to be constructed and operated for existing unlined ash ponds. Water collected by these intercept systems shall be returned to the double lined decant pond. Additionally, a Seepage Monitoring and Management Plan shall be established and implemented to determine the source of and pollutants in seepages below all ash ponds that receive or received coal combustion residue either currently or in the past. The Plan shall at a minimum do the following:

1. Identify all seeps within 650 meters down gradient of such impoundments;
2. Conduct sampling (or summary of current data if sufficient and valid) of seepages for boron, mercury, nickel, selenium, uranium, zinc and total dissolved solids (TDS). The details of the requirements of such a plan are provided in the relevant section of the permit.
3. Provide information about number of flows observed and range of flows observed
4. Provide information about exceedances of any human health, livestock, or chronic or acute aquatic life standards in the samples collected for analysis.

D. Cooling Water Regulation

APS operates a closed-cycle recirculating system, circulating from around 1,000 up to about 1,700 million gallons a day (MGD) through Morgan Lake, a man-made cooling water impoundment. The applicant withdraws up to a maximum of 48 MGD of water from the San Juan River as make-up water to replenish losses that have occurred due to blowdown, drift, and evaporation within Morgan Lake and the cooling system. Currently the San Juan River intake system is equipped with a weir and a channel with a gate. If the water in the river is too low at the intake screens to supply the pumps, the gate in the channel is lowered. The gate and the weir together increase the level at the intake screens to supply the pumps. The intake screens are periodically changed out for cleaning. Pursuant to "reasonable and prudent measures" described in the Final Biological Opinion issued by the United States Fish and Wildlife Service (April 8, 2015)(Final Biological Opinion), APS has implemented a plan to minimize entrapment and entrainment of fish, fish larvae, and fish eggs at the intake system, including removing the barrier between the two pump trains, to reduce intake flow velocity, as well as prohibiting intake during certain periods of the year, to minimize inadvertent intake of fish eggs and larvae.

Because the facility intakes greater than 2 MGD of cooling water, it must meet requirements under CWA Section 316(b), regulating the design and operations of intake structures for cooling water operations. A rule for existing facilities was adopted by EPA on May 19, 2014 and effective October 14, 2014. That rule requires facilities to minimize environmental impacts due to impingement and entrainment of aquatic organisms in the intake structure. In order to meet requirements for facilities withdrawing less than 125 MGD from a Water of the U.S., the applicant must submit applicable materials under 40 CFR

122.21(r) (1)-(8) along with the submission of their next renewal application. For the current permit cycle, the existing intake system on the San Juan River is equivalent to interim best technology available (BTA) under the regulations.

VIII. MONITORING AND REPORTING REQUIREMENTS

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

A. Effluent Monitoring and Reporting

The Permittee shall conduct effluent monitoring to evaluate compliance with the proposed permit conditions. The Permittee shall perform all monitoring, sampling and analyses in accordance with the methods described in the most recent edition of 40 CFR 136, unless otherwise specified in the proposed permit. All monitoring data shall be reported on monthly DMR forms and submitted quarterly as specified in the proposed permit.

B. Priority Toxic Pollutants Scan

A Priority Toxic Pollutants scan shall be conducted during the fourth year of the five-year permit term to ensure that the discharge does not contain toxic pollutants in concentrations that may cause a violation of water quality standards. The Permittee shall perform all effluent sampling and analyses for the priority pollutants scan in accordance with the methods described in the most recent edition of 40 CFR 136, unless otherwise specified in the proposed permit or by EPA. 40 CFR 131.36 provides a complete list of Priority Toxic Pollutants. The Priority Toxic Pollutants scan shall be conducted on two samples: One from the discharge from Outfall No. 01E and the other from Outfall No. 001.

C. Whole Effluent Toxicity Testing

The permit establishes monitoring for chronic toxicity for discharge from internal Outfall 01A. The Permittee shall be required to conduct chronic toxicity testing if discharges from Internal Outfall 01A are known to occur during at least five (5) consecutive days. During the previous permit cycle the Permittee after demonstrating by monthly toxicity testing during the first year of permit term, that there was no chronic toxicity, requested a reduction in chronic toxicity testing in accordance with 40 CFR 122.62, by submitting a request for permit modification in writing to EPA Region 9. EPA Region 9 approved this reduced frequency of toxicity testing for the rest of the permit term. As the actual processes that contribute to discharges from Internal Outfall 01A are still basically the same as in the previous permit term, the renewed permit will require quarterly toxicity monitoring in the first year following the issuance of this permit, and then the Permittee may request a reduced frequency of toxicity

testing and limitation on testing using the most sensitive species upon demonstrating that there is no reasonable potential for chronic toxicity from Outfall 01A.

IX. OTHER CONSIDERATIONS UNDER FEDERAL LAW

A. Impact to Threatened and Endangered Species

Section 7 of the Endangered Species Act (ESA) of 1973 requires federal agencies to ensure that any action authorized, funded, or carried out by a 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. A federal agency must consult with the relevant Service, either U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service, if it determines that an endangered or threatened species is present in the area affected by the federal action and that the implementation of such action will likely affect the species. ESA Section 7(a)(3.).

To identify the endangered and threatened species that are present in the action area, EPA used the list generated for the Office of Surface Mining Reclamation and Enforcement (OSMRE) for the related but much broader proposed action related to the Four Corners Power Plant and Navajo Mine Energy project. This larger project includes the land and listed species relevant to EPA's permitting action. OSMRE obtained a list of species to be considered from FWS on January 23, 2014. A total of 39 species were identified as potentially occurring in the Action Area of the project which is much larger than, but overlaps the location of the Outfalls covered by this permit. A separate species list was obtained by EPA from FWS on September 2, 2014 for the limited area that is the subject of this EPA permitting action. Six threatened or endangered species were identified. These species are listed below:

Birds
- Southwestern willow flycatcher (*Empidonax traillii extimus*): Endangered
- Yellow-billed cuckoo (*Coccyzus americanus*): Proposed Threatened

Fish
- Colorado pikeminnow (*Ptychocheilus lucius*) Endangered,
- Razorback sucker (*Xyrauchen texanus*) Endangered

Plants
- Mancos milk-vetch (*Astragalus humillimus)* Endangered
- Mesa Verde cactus (*Sclerocactus mesae-verdae)* Threatened

Due to the overlap in the species and area affected by the OSMRE and EPA proposed actions, those agencies, the Permittee and the FWS agreed to consider all of the federal actions in a single ESA consultation. In analyzing the impacts of this federal action on listed species, OSMRE and EPA are relying on the Biological Assessment that the OSMRE prepared for the multiple proposed federal actions related to the Four Corners Power Plant and Navajo Mine Energy project. The project description for this Biological Assessment explicitly included EPA's action of renewing this permit. The Biological Assessment concludes, based on the cumulative impacts of the broader proposed project, that there will likely be adverse affects on the listed Colorado pikeminnow

(*Ptychocheilus lucius*) and Razorback sucker (*Xyrauchen texanus*). As a signatory to the Biological Assessment, EPA's action is covered by the Final Biological Opinion. EPA believes that appropriate implementation of that Biological Opinion, especially as to the impingment and entrainment impacts associated with EPA's NPDES permitting action, will allow EPA to attain compliance with its obligations under the ESA.

B. 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. EPA used the analysis conducted by the Office of Surface Mining Reclamation and Enforcement (OSMRE) for the related but broader Proposed Action related to the Four Corners Power Plant and Navajo Mine Energy project. EPA is a signatory agency for this analysis, which explicitly included EPA's permit renewal action in the Proposed Action description. Pursuant to the analysis conducted by OSMRE there are no projected disturbances related to construction activities from the reissuance of the NPDES permit. Therefore, pursuant to the NHPA and 36 CFR 800.3(a)(1), EPA is making a determination that issuing this proposed NPDES permit does not have the potential to affect any historic properties or cultural properties. As a result, Section 106 does not require EPA to undertake additional consulting on this permit issuance.

X. 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 9 Standard Federal NPDES Permit Conditions, dated July 27, 2011.

XI. 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. This permit was public noticed in November 2014.

B. Public Comment Period (40 CFR 124.10)

Notice of the draft permit was placed in a daily or weekly newspaper within the area affected by the facility or activity, with a minimum of 60 days provided for interested parties to respond in writing to EPA. The proposed permit was Public Noticed in the *Navajo Times* and the *Farmington Daily Times* on November 13, 2014. A public comment period of a minimum of 60 days was provided for interested parties to respond in writing to EPA.

After the closing of the public comment period, EPA responded to all significant comments in the Response to Comments (RTC) document provided along with the issuance of the final permit.

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

A public hearing was held on December 15 and 16, 2014 in the Navajo Nation and in Farmington, New Mexico as EPA anticipated that there may be a significant amount of interest during the 60-day public comment period. EPA provided outreach to the potentially interested community before and during the hearing, and included materials in both English and the Navajo language, as well as providing a Navajo language translator at the hearings.

EPA did not receive any oral comments from any attendees during the public comment and hearing period, except to inform EPA that written comments would be forthcoming. EPA responded to all written comments received during the comment period in the RTC as noted above.

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

For States, Territories, or Tribes with EPA approved water quality standards, EPA normally requests certification from the affected State, Territory, or Tribe that the proposed permit will meet all applicable water quality standards. The Four Corners Power Plant is entirely within the boundaries of the Navajo Nation. Although the Navajo Nation has received recognition for "treatment as a state" ("TAS") for both its water quality standards program and for Clean Water Act Section 401 certifications, EPA explicitly excluded the area leased for the Four Corners Power Plant site from the TAS recognition. Therefore, EPA is the CWA Section 401 certification authority for purposes of this permit. EPA has imposed appropriate effluent limitations, monitoring requirements and other terms and conditions in this NPDES permit so as to protect water quality. Therefore, EPA formally waived water quality certification pursuant to Section 401(a)(1) of the CWA.

XII. CONTACT INFORMATION

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

U.S. Environmental Protection Agency, Region 9
NPDES Permits Section, Water Division (WTR-2-3)
Attn: Gary Sheth
Hawthorne Street
San Francisco, CA 94105
Telephone: (415) 972-3516 or email to sheth.gary@epa.gov

XIII. REFERENCES

APS 2005 and 2013 *NPDES Permit Reapplication and Supporting Documents*.

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

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

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

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

EPA 2012. *Compliance Evaluation Inspection Report for APS Corners Power Plant*. Final, August 9, 2012.

NNEPA Water Quality Program. 2008. *Navajo Nation Surface Water Quality Standards 2007*

OSMRE 2014. *Four Corners Power Plant and Navajo Mine Energy Project Biological Assessment*

USFWS 2014. *List of threatened and endangered species for the APS Four Corners Power Plant*. Consultation Tracking Number 02ENNM00-2014-SLI-0511.