

the existing 185.5-megawatt (MW) Facility, North Umpqua River, Douglas County, OR.

**Summary:** No formal comment letter was sent to the preparing agency.

**ERP No. F-FRC-L05228-ID** Bear River Hydroelectric Project, Application for a New License for Three Existing Hydroelectric Projects: Soda (FERC No. 20-019), Grace-Cove (FERC No. 2401-007) and, Oneida (FERC No. 472-017) Bear River Basin, Caribou and Franklin Counties, ID.

**Summary:** No formal comment letter was sent to the preparing agency.

**ERP No. F-SFW-K64021-CA** Natomas Basin Habitat Conservation Plan, Issuance of Incidental Take Permit and the Adoption of an Implementing Agreement or Agreements, Natomas Basin, Sacramento and Sutter Counties, CA.

**Summary:** EPA expressed continuing environmental concerns regarding the mitigation ratio and cumulative effects analysis. EPA recommended the ROD summarize the scientific basis for the 0.5:1 mitigation ratio, include a table demonstrating that the habitat values of habitats lost and conserved are equivalent, include a commitment to and list of all other mitigation requirements, and summarize cumulative impacts. EPA also recommended that the ROD address triggers for new effects analysis or revisions to the Natomas Basin HCP and ITPs, and possible suspension of applicable ITPs.

Dated: June 10, 2003.

**Joseph C. Montgomery,**  
*Director, NEPA Compliance Division, Office of Federal Activities.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7512-6]

### Public Notice of Final National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Federal Facility Small Municipal Separate Storm Sewer Systems (MS4s) in Colorado

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of issuance of NPDES general permit.

**SUMMARY:** Region VIII of EPA is hereby giving notice of its issuance of the NPDES general permit for storm water discharges from regulated small municipal separate storm sewer systems (MS4s). This general permit will apply to federal facilities in urbanized areas (as defined by the 2000 U.S. Census) in the State of Colorado that apply for coverage under this permit. The federal facilities that EPA currently knows to exist in urbanized areas in Colorado, all of which have applied for coverage under this permit, include: Fort Carson; the General Services Administration's Denver Federal Center; Peterson Air Force Base; the U.S. Air Force Academy; the U.S. Department of Commerce—National Institute of Standards and Technology, Boulder Campus; the U.S.

Bureau of Prisons Federal Correctional Institution, Englewood; and the Veterans Affairs Medical Center, Denver. Additional federal facilities may need to apply for permit coverage at a later date if justified by subsequent Census data.

NPDES permit coverage is required for small MS4s in accordance with final EPA regulations for Phase II storm water discharges (64 FR 68722, December 8, 1999). Operators of Phase II-designated small MS4s (regulated small MS4s) are required to submit a Notice of Intent (NOI) to EPA Region VIII to be covered under the general permit. In accordance with the general permit, each regulated small MS4 operator must develop, implement, and enforce a program designed to reduce the discharge of pollutants from its MS4 to the maximum extent practicable (MEP) to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act. The small MS4 program must include the following six minimum control measures: Public education and outreach; public involvement and participation; illicit discharge detection and elimination; construction site runoff control; post-construction runoff control; and pollution prevention/good housekeeping. The permit assumes the use of narrative, rather than numeric, effluent limitations achieved through the implementation of best management practices (BMPs). Operators must establish BMPs and measurable goals for each minimum measure in the permit application. However, applicants will have up to five years to fully develop and implement their storm water management programs.

| State          | Permit No.      | Areas covered by the general permit                                                 |
|----------------|-----------------|-------------------------------------------------------------------------------------|
| Colorado ..... | COR042000 ..... | Federal Facilities in the State of Colorado, except those located in Indian Country |

**DATES:** The general permit becomes effective on June 13, 2003, and will expire five years from that date. For appeal purposes, the 120 day time period for appeal to the U.S. Federal Courts will begin on June 13, 2003.

**ADDRESSES:** The general permit and other related documents in the administrative record are on file in the EPA Region VIII NPDES file room and may be inspected upon request any time between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays. Requests to view these files in the Region VIII NPDES file room should be made to Greg Davis (8EPR-EP); U.S. EPA, Region VIII; 999 18th Street, Suite

300; Denver, CO 80202-2466, by phone at 303-312-6082, or by E-mail at [davis.gregory@epa.gov](mailto:davis.gregory@epa.gov). Copies of the general permit and fact sheet may also be downloaded from the EPA Region VIII Web site at <http://www.epa.gov/region8/water/stormwater/downloads.html>.

#### FOR FURTHER INFORMATION CONTACT:

Questions regarding the specific permit requirements may be directed to Greg Davis, telephone (303) 312-6082, or E-mail at [davis.gregory@epa.gov](mailto:davis.gregory@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA Region VIII proposed and solicited comments on the general permit at 68

FR 8902 (February 26, 2003). In addition, EPA Region VIII sent notices and copies of the draft general permit and fact sheet to the seven Federal Facilities designated for permit coverage. EPA did not receive any comments on the draft general permit. Region VIII is not issuing NPDES General Permits for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) located in Indian country. No MS4s in Indian country have been determined to require small MS4 permit coverage at this time.

**Appeal of Permit:** Any interested person may appeal the "NPDES General

Permit for Storm Water Discharges from Federal Facility Small Municipal Separate Storm Sewer Systems (MS4s) in Colorado" in the appropriate federal Circuit Court of Appeals in accordance with section 509(b)(1) of the Clean Water Act. This appeal must be filed within 120 days of the effective date of the permit. Persons affected by a general NPDES permit may not challenge the conditions of the general permit in EPA administrative proceedings. Instead, they may either challenge the general permit in court or apply for an individual permit (under 40 CFR 122.21 as authorized in 40 CFR 122.28) and then petition the EPA's Environmental Appeals Board (as provided in 40 CFR 124.19).

**Paperwork Reduction Act:** This action does not impose any new information collection burden. This general permit does not impose any information collection requirements beyond those required by EPA regulations (40 CFR 122.26, 122.28, 122.30-.37, 122.41, and 122.48). However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in these regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040-0211, EPA ICR number 1820.03. A copy of each OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460, (202) 566-1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

**Executive Order 12866:** Under Executive Order 12866 (58 FR 51735, October 4, 1993) an agency must determine whether its regulatory action is "significant" and therefore subject to OMB review and the requirements of Executive Order 12866. This Order defines "significant regulatory action" as one that is likely to result in a rule that may have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. OMB has waived review of NPDES general permits under the terms of Executive Order 12866.

**Regulatory Flexibility Act (RFA):** Issuance of an NPDES general permit is not subject to rulemaking requirements, including the requirement for a general notice of proposed rulemaking, under 5 U.S.C. Section 553 (Administrative Procedure Act) or any other law, and is thus not subject to the RFA requirement to prepare a regulatory flexibility analysis. The APA defines two broad, mutually exclusive categories of agency action—"rules" and "orders." Its definition of "rule" encompasses "an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency \* \* \*." APA section 551(4). Its definition of "order" is residual: "a final disposition \* \* \* of an agency in a matter other than rule making but including licensing." APA section 551(6). The APA defines "license" to "include \* \* \* an agency permit \* \* \*." APA section 551(8). The APA thus categorizes a permit as an order, which by the APA's definition is not a rule. Section 553 of the APA establishes "rule making" requirements. The APA defines "rule making" as "the agency process for formulating, amending, or repealing a rule." APA section 551(5). By its terms, then, section 553 applies only to "rules" and not also to "orders," which include permits.

**Unfunded Mandates Reform Act:** Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104-4,

generally requires Federal agencies to assess the effects of their "regulatory actions" on State, local, and tribal governments and the private sector. UMRA uses the term "regulatory actions" to refer to regulations. (See, e.g., UMRA section 201, "Each agency shall \* \* \* assess the effects of Federal regulatory actions \* \* \* (other than to the extent that such regulations incorporate requirements specifically set forth in law).") UMRA section 102 defines "regulation" by reference to 2 U.S.C. 658 which in turn defines "regulation" and "rule" by reference to section 601(2) of the RFA. That section of the RFA defines "rule" as "any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of [the APA], or any other law. \* \* \*." As discussed in the RFA section of this notice, NPDES general permits are not "rules" under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide "an opportunity for a hearing." Thus, NPDES general permits are not "rules."

**Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: May 23, 2003.

**Stephen S. Tuber,**

*Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance.*

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## FEDERAL COMMUNICATIONS COMMISSION

[CC Docket 98-67; DA 03-1862]

### Notice to State Telecommunications Relay Service (TRS) Programs and Interstate TRS Providers to Notify the Commission of Any Change of Contact Person Information and Substantive Changes in TRS service

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** The purpose of this document is to notify state Telecommunications Relay Service (TRS) programs and interstate TRS Providers that they are required to submit to the Commission a contact person or office for TRS consumer information and complaints and to notify the Commission of any changes in this information. This