

**NPDES PERMIT NO. NM0030112
RESPONSE TO COMMENTS**

RECEIVED ON THE SUBJECT DRAFT NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMIT IN ACCORDANCE WITH REGULATIONS
LISTED AT 40 CFR 124.17

APPLICANT: State of New Mexico Department of Game & Fish
Seven Springs State Fish Hatchery
P.O. Box 25112
Santa Fe, NM 87504

ISSUING OFFICE: U.S. Environmental Protection Agency
Region 6
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Dallas, Texas 75270

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PERMIT ACTION: Final permit decision and response to comments received on the proposed
NPDES permit publicly noticed on November 24, 2018.

DATE PREPARED: January 6, 2021

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations
listed at Title 40, Code of Federal Regulations, revised as of January 4, 2021.

SUBSTANTIAL CHANGES FROM DRAFT PERMIT

Removal of limitations for aluminum at Outfall 001. This is based on a sampling study conducted by the New Mexico Department of Game and Fish at the source of each artesian spring in conjunction with effluent samples.

STATE CERTIFICATION

In a letter from Shelly Lemon, Bureau Chief, SWQB, to Charles Maguire, Director, Water Division (EPA) dated January 5, 2021, the NMED certified that the discharge will comply with the applicable provisions of Section 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law.

The NMED stated that in order to meet the requirements of State law, including water quality standards and appropriate basin plans as may be amended by the water quality management plan, each of the conditions cited in the draft permit and the State certification shall not be made less stringent.

The State also stated that it reserves the right to amend or revoke this certification if such action is necessary to ensure compliance with the State's water quality standards and water quality management plan.

COMMENTS THAT ARE CONDITIONS OF CERTIFICATION

None

COMMENTS THAT ARE NOT CONDITION OF CERTIFICATION**NMED Comment No. 1:**

1. The general prohibition against backsliding found in Section 402(o)(1) of the Act contains several exceptions. Specifically, under Section 402(o)(2), a permit may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if:

(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or (ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B) of this section;

NMED concurs with EPA on the removal of limitations for aluminum at Outfall 001. This is based on a sampling study conducted by the New Mexico Department of Game and Fish at the source of each artesian spring in conjunction with effluent samples. The study shows that aluminum concentrations in source water are consistently higher than the discharged wastewater. In accordance with 40 CFR 122.45(g), similar facilities around the state do not exhibit aluminum water quality exceedances because an aluminum source material is not present in their process.

Response No. 1:

Comment noted for the record. No changes to the final permit were necessary.