

Responses to Comments and Questions
April 19, 2017
Chevron McKinley Mine
NPDES Permit No. NN0029386

EPA received comments only from the discharger, Chevron Environmental Management Company ('Chevron'), dated March 6, 2017. These are EPA's responses to each of the comments submitted, including summaries of changes made to the permit and fact sheet in response to the comments where appropriate:

I. Background and Operational Status of the McKinley Mine

EPA thanks the commenter (Chevron) for the additional clarification and clear statement of discharge and reclamation status at the facility's outfalls. EPA notes that part of the basis for the draft permit were the 2016 facility inspection reports submitted by the Navajo Nation EPA and the New Mexico Environment Department, which classified outfalls 003 thru 005 as 'Coal Prep and Associated areas' equivalent to their status under the previous permit. It appears the change in status of these outfalls may not have been effectively communicated to on-site inspectors. EPA has made the requested corrections to outfall classification and associated applicable standards. As noted in the comment letter, later comments go into more detail on specific topics raised and responses to those issues are included in the specific responses below.

II. Technology Based Effluent Limitations ("TBELs") Should Reflect the Current Status of Operations at the Site

As noted in the response to comment I, EPA received conflicting information on the status of outfalls 003, 004, and 005 (indicating these were still in "coal prep and associated areas" status) from recent inspections by NM and NN. EPA has changed the permit to reflect the new information about the operational classification of areas served by these outfalls. Per section A.1 (lowercase L) .1 of the Standard Permit Conditions, please ensure that any future changes in operational status are submitted promptly for EPA for incorporation as a permit modification.

III. Reasonable Potential Analysis Does Not Support Application of Water Quality Based Effluent Limits

The proposed effluent limitations in the draft permit were based on the data that had been submitted to EPA pursuant to the permit application and DMRs. EPA has considered the additional 2013-2016 data submitted with the comment letter for outfall 003 on TSS, Iron, and Oil & Grease. Based on the additional data submitted, EPA finds that in each case, the pollutant parameters of concern no longer show Reasonable Potential. For this reason, the final permit does not include water quality based effluent limitations for these pollutants.

IV. The “Significantly Increased” Monitoring Frequency for All Outfalls is Unsubstantiated and Should be Corrected

Monitoring frequencies in the draft permit were based on the then-proposed effluent limitations. Based on clarifications provided by the commenter concerning facility operational status and effluent data as discussed above, the final permit contains revised monitoring requirements that greatly reduce required monitoring frequency and distribution among covered outfalls. EPA believes the correction of these issues based on new information submitted with the comment letter, and associated revision to Sediment Control Plan requirements, addresses concerns about the monitoring frequency.

V. Water Quality Standards Should be Applied Specific to the Jurisdiction Into Which the Outfalls Discharge

We agree. As discussed above, the final permit incorporates revisions that remove previously proposed water quality based effluent limitations based on consideration of information provided by the commenter, including changes in the operational status of different areas of the facility, updated effluent data, and information concerning applicable water quality standards. Therefore, the permit now requires monitoring rather than setting Water Quality Standard-based permit limits for the applicable parameters.

VI. Additional Specific Comments:

1. All outfalls now fall under the “Western Alkaline Coal Mine Reclamation Areas” designation and discharge “Stormwater”
As noted in the response to comments I and II, EPA has made the requested revisions to outfall status.
2. Use the term “reclamation” instead of “remediation”
EPA has made the requested language change to the permit and fact sheet.
3. Clarify Sediment Control Plan Quarterly Reporting
Reporting dates have been added to the permit. The Draft Permit specified that sediment reporting was to take place "as changes occur", defaulting to requirements in the Standard Permit Conditions that the discharger notify EPA at the time a specific change is clearly anticipated. The revised language provides further clarity and flexibility.
4. Correct SCP Annual Report Due Date
Sediment Control Plan submission date has been revised.
5. Puerco River not Rio Puerco
The permit application document, and subsequent revisions, submitted by the discharger specified the name of the receiving water for the affected outfalls as the “Rio Puerco” and did not identify a separate

“Puerco River”. EPA has incorporated the receiving water name clarification provided in the discharger’s comments.

6. Correct SCMRA to SMCRA

EPA thanks the commenter for identifying the misspelling and has corrected the language.

7. Reference General Permits in Draft NPDES Permit and Proposed Fact Sheet

In order to ensure that coverage under separate permits remains independent, given the differing reissuance schedules for individual and general permits, EPA does not generally reference general permit coverage in individual permits.

8. Draft NPDES Permit Title Page Correction

EPA thanks Chevron for updating its mailing address.

9. Clarify NetDMR Quarterly Reporting

DMR submission frequencies for parameters in the draft permit were insufficiently clear. While sample collection was listed on a daily basis *during rainfall events*, that was not meant to imply the “Once/Day” line of Table 2 applied to the DMR submission requirements. The quarterly submission requirement for NetDMR reports was intended to be definitive. EPA notes that in the revised permit, monitoring frequencies, and thus DMR submission requirements, will be dependent on the design of the Sediment Control Plan. Language in section E of the permit has also been clarified.

10. Description of Discharge (pp. 2-4) [in] Fact Sheet

EPA has revised the breakdown of outfall counts in the fact sheet in response to the additional information provided with this comment.

11. Fact Sheet (p. 9) Update Reference to the US EPA NPDES Permit Writer’s Manual

EPA has updated the text citation in the body of the document. EPA notes that the list of citations at the end of the permit already referenced the correct (most recent) Permit Writers’ Manual.