

NPDES PERMIT NO. NM0029581

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: Peabody Natural Resources Company
Lee Ranch Coal Mine
P.O. Box 757
Grants, NM 87020

ISSUING OFFICE: U.S. Environmental Protection Agency
Region 6
1201 Elms Street, Suite 500
Dallas, TX 75270

PREPARED BY: Tung Nguyen
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PERMIT ACTION: Final permit decision and response to comments received on the draft reissued NPDES permit publicly noticed on February 25, 2023.

DATE PREPARED: April 12, 2023

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations, revised as of July 1st, 2022.

DOCUMENT ABBREVIATIONS

In the document that follows, various abbreviations are used. They are as follows:

4Q3	Lowest four-day average flow rate expected to occur once every three-years
BAT	Best available technology economically achievable
BCT	Best conventional pollutant control technology
BPT	Best practicable control technology currently available
BMP	Best management plan
BOD	Biochemical oxygen demand (five-day unless noted otherwise)
BPJ	Best professional judgment
CBOD	Carbonaceous biochemical oxygen demand (five-day unless noted otherwise)
CD	Critical dilution
CFR	Code of Federal Regulations
cfs	Cubic feet per second
cfu	Colony forming unit
COD	Chemical oxygen demand
COE	United States Corp of Engineers
CWA	Clean Water Act
DMR	Discharge monitoring report
ELG	Effluent limitation guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FCB	Fecal coliform bacteria
F&WS	United States Fish and Wildlife Service
mg/l	Milligrams per liter
ug/l	Micrograms per liter
MGD	Million gallons per day
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMIP	New Mexico NPDES Permit Implementation Procedures
NMWQS	New Mexico State Standards for Interstate and Intrastate Surface Waters
NPDES	National Pollutant Discharge Elimination System
MQL	Minimum quantification level
O&G	Oil and grease
POTW	Publicly owned treatment works
RP	Reasonable potential
s.u.	Standard units (for parameter pH)
SWQB	Surface Water Quality Bureau
TDS	Total dissolved solids
TMDL	Total maximum daily load
TRC	Total residual chlorine
TSS	Total suspended solids
UAA	Use attainability analysis
USFWS	United States Fish & Wildlife Service
USGS	United States Geological Service
WLA	Wasteload allocation
WET	Whole effluent toxicity
WQCC	New Mexico Water Quality Control Commission
WQMP	Water Quality Management Plan

CHANGES FROM DRAFT PERMIT

There are changes from the draft NPDES permit publicly noticed on February 25, 2023:

- Language regarding discharges to Doctor Arroyo, including footnotes for description of Doctor Arroyo have been changed
- A footnote has been added to Outfall 044 in Attachment B.
- E-Reporting requirements for biosolid and pretreatment have been removed.
- Time to report sewer overflow/bypass is revised to five days instead of quarterly.

CONDITION RECEIVED ON THE DRAFT PERMIT

Letter from Shelly Lemon, New Mexico Environment Department (NMED) to Troy Hill, EPA dated April 11, 2023.

RESPONSE TO CONDITION

Condition: EPA must make changes in regarding description of Doctor Arroyo pursuant to 20.6.4.97(C)(1)(n) NMAC. Doctor Arroyo is ephemeral except for a short, saturated reach that receives inflow water from Doctor Springs. The following changes to the permit were conditions of certification:

A. Cover Page:

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et. seq; the "Act"),

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is authorized to discharge from a facility located at 35 miles north of Milan, City of Grants, in McKinley County, NM. Possible discharges from multiple outfalls are to receiving water named Mulatto Canyon, Arroyo Tinaja, Doctor Arroyo, San Miguel Canyon and San Isidro Arroyo and their unnamed tributaries identified as ephemeral streams subject to 20.6.4.97 NMAC; ~~unnamed tributaries of Doctor Arroyo subject to 20.6.4.98 NMAC if intermittent or 20.6.4.99 NMAC, if perennial;~~ and San Miguel Canyon subject to 20.6.4.98 NMAC, then to Arroyo Chico, thence to Rio Puerco, thence to Rio Grande (segment 20.6.4.105 of the Rio Grande Basin).

B. Page 2 of PART I, 2. Alkaline Mine Drainage Outfalls

Footnotes:

*6 Applicable to outfalls discharging to Mulatto Canyon, Arroyo Tinaja, Doctor Arroyo (except Outfall 097) and San Isidro Arroyo.

*7 Applicable to Outfall 097 discharging to Doctor Arroyo and outfalls discharging to San Miguel Canyon.

C. Pages 4 and 5 of PART I, 4. Discharge Resulting From Precipitation Events

- a. Discharges resulting from precipitation events *less than or equal to* a 10-year, 24-hour precipitation event to the receiving waters:

Footnotes:

*2 Applicable to outfalls discharging to Mulatto Canyon, Arroyo Tinaja, Doctor Arroyo (except Outfall 097) and San Isidro Arroyo.

*3 Applicable to Outfall 097 discharging to Doctor Arroyo and outfalls discharging to San Miguel Canyon.

- b. Discharges resulting from precipitation events *greater than* a 10-year, 24-hour precipitation event to the receiving waters:

Footnotes:

*3 Applicable to outfalls discharging to Mulatto Canyon, Arroyo Tinaja, Doctor Arroyo (except Outfall 097) and San Isidro Arroyo.

*4 Applicable to Outfall 097 discharging to Doctor Arroyo and outfalls discharging to San Miguel Canyon.

D. **Page 6 of PART I, 5. Discharges From Reclamation Areas, Brushing and Grubbing Areas, Topsoil Stockpiling Areas and Regraded Areas**

Footnotes:

*3 Applicable to areas discharging to Mulatto Canyon, Arroyo Tinaja, Doctor Arroyo from one-half mile downstream of the spring to its confluence with San Isidro Arroyo and San Isidro Arroyo.

*4 Applicable to areas discharging to Doctor Arroyo from its headwaters to one-half mile downstream of Doctor Spring and San Miguel Canyon.

Response: The conditioned changes have been made pursuant to 40 CFR 124.55(a) in the final permit.

COMMENTS RECEIVED ON THE DRAFT PERMIT

Letter from Jeffrey Olyphant, permittee to Evelyn Rosborough, EPA dated March 21, 2023.

RESPONSE TO COMMENTS

Comment 1: Doctor Arroyo is ephemeral except for a one-half mile stretch located immediately downstream of Doctor Arroyo. Unconstructed Outfall 097 would discharge to Doctor Arroyo upstream of the half-mile ephemeral exclusion area. Outfalls 080, 095 and unconstructed outfalls (098 and 099) are located downstream of the exclusion area; the permittee requests these outfalls to be excluded from the WQS applicable to designated uses associated with intermittent and perennial waters.

Response 1: The changes have been made in accordance with the State Certification above.

Comment 2: Internal Outfall EVAP-2 is missing from both permit Outfall List and the fact sheet.

Response 2: Outfall List includes permitted outfalls discharging directly to the specified waters. EPA does not authorize discharge from Internal Outfall EVAP-2 to Waters of the United States directly. Purpose of the internal outfall is described in the fact sheet. A footnote has been added to Outfall 044 in Attachment B indicating that flows from Internal Outfall EVAP-2 would discharge through Outfall 044.

Comment 3: The permittee requests e-Reporting requirements for biosolid, pretreatment and sewer overflow/bypass to be removed from the permit.

Response 3: EPA agrees that reporting requirements for biosolid generated minor facility and pretreatment are not applicable. Reporting requirement for sewer overflow/bypass, however, is applicable in case an overflow and/or bypass incident occurs at the sanitary treatment package plant. EPA removes reporting requirements for the biosolid and pretreatment in the permit. EPA revises language for reporting of sewer overflow/bypass to be consistent with Reporting Requirement stated in Part III.D.7 of the permit. Once sewer overflow/bypass occurs, it must be reported within five days of the time the permittee become aware of.

Comment 4: “Total Iron” was inadvertently left at the base of Part II.B.

Response 4: Iron (in total form) is limited with daily maxima in Part I.A of the permit. Part II.B states pollutant, which EPA and NMED are interested in (total iron in this case), must be orally reported for violation of its daily maximum limit.

Comment 5: The permittee recommends removing “our” before NMED Ground Permit Discharge Permit (DP-777) in the 7th sentence of 2nd paragraph in Fact Sheet Part II.

Response 5: Comment is noted for correction in the fact sheet for future permit renewals, if any.

Attachment:

State Certification letter dated April 11, 2023