

**NPDES PERMIT NO. NM0023477**  
**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: Village of Fort Sumner WWTP  
173 East Avenue C  
Fort Sumner, NM 88119

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

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PERMIT ACTION: Final permit decision and response to comments received on the proposed NPDES permit publicly noticed on March 24, 2023.

DATE PREPARED: May 17, 2023

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations, revised as of May 17, 2023.



## STATE CERTIFICATION

In a letter from Shelly Lemon, Bureau Chief, SWQB, to Troy Hill – Deputy Director, Water Division (EPA) dated May 9, 2023, the NMED certified that the discharge will comply with the applicable provisions of Section 208(e), 301, 301, 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 plan 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.

## CONDITIONS OF CERTIFICATION

There are no conditions of State Certification.

## COMMENTS THAT ARE NOT CONDITIONS OF CERTIFICATION

### Comments from New Mexico Environment Department (NMED):

**Comment No. 1:** In *Part I- Requirements for NPDES Permits, A. Limitations and Monitoring Requirements for Each Outfall* NMED requests that the footnote \*6 be cited in the Effluent Characteristics titled *Whole Effluent Toxicity Limits (7-Day Chronic NOEC)* \*. Footnote \*6 corresponds to the effluent table regarding whole effluent toxicity testing.

**Response No. 1:** EPA has modified the NPDES permit to reflect the correct footnote \*6.

**Comment No. 2:** NMED requests the clarification of the discharge monitoring report (DMR) frequency. In *Part I- Requirements for NPDES Permits, A. Limitations and Monitoring Requirements for Each Outfall* on the *Whole Effluent Toxicity Limits*, the effluent characteristics table requires DMR reporting to be submitted monthly. In *Part I- Requirements for NPDES Permits, C. Mentoring and E-Reporting Requirements (Minor Dischargers)*, the reporting requirements table requires DMR reporting to be submitted quarterly.

**Response No. 2:** The testing frequency for Whole Effluent Toxicity limits may fluctuate during the permit cycle. Although it is set at a quarterly testing frequency, if any test exhibits toxicity, then the frequency changes to monthly until compliance is determined for three months. The frequency then reverts to quarterly. Net-DMRs cannot keep up with the fluctuating frequency and populate enough reporting slots when needed. Therefore, the reporting frequency has been set to monthly from the start of the permit effective date, to ensure there is a slot to report every month if needed. No changes to the final permit are necessary.

**Comment No. 3:** In *Part II- Other Conditions, C. Permit Modification and Reopener* there is a reference error for the 40 Code of Federal Regulations Part 122.44(d), this needs to be corrected to 40 Code of Federal Regulations Part 122.44(c) for the reopener clause.



**Response No. 3:** EPA has corrected the reopener clause reference in Part II.C in the final permit.

**Comment No. 4:** In *Part II- Other Conditions, C. Permit Modification and Reopener* in the second paragraph the 40 Code of Federal Regulations Part 122(s)(2) needs to be corrected to 40 Code of Federal Regulations Part 122.62(a)(2) for the causes of modification clause.

**Response No. 4:** EPA has corrected the modification clause reference in Part II.C in the final permit.