NPDES PERMIT NO. NM0029629 RESPONSE TO COMMENTS

RECEIVED ON THE SUBJECT DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT IN ACCORDANCE WITH REGULATIONS LISTED AT 40CFR124.17

APPLICANT:	Anthony Water and Sanitation District P.O. Box 1751 Anthony, New Mexico 88021
ISSUING OFFICE:	U.S. Environmental Protection Agency Region 6 1201 Elm Street, Suite 500 Dallas, TX 75270
PREPARED BY:	Aron Korir Physical Scientist NPDES Permitting and Wetlands Section (6WDPE) Water Division Telephone: 214-665-6522 FAX: 214-665-2191 EMAIL: <u>korir.aron@epa.gov</u>
PERMIT ACTION:	Final permit decision and response to comments received on the proposed NPDES permit publicly noticed on January 28, 2023.

DATE PREPARED: July 7, 2023

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations, revised as of January 10, 2023.

SUBSTATIAL CHANGES FROM DRAFT PERMIT

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

- Natural Uranium, Total Nitrogen, Total Phosphorous and Dissolved Oxygen monitoring and reporting requirement has been added to the final permit.
- Monitoring and reporting requirement has been added to the final Permit.
- Footnote *3 in Part I.A.1 has been revised to include chlorinated reuse water.
- A footnote on adjusted gross alpha calculation has been added.
- A footnote on Total Nitrogen monitoring has been added.
- Part I.C.2 Monitoring, and Reporting has been updated to correct a typographical error and notification requirement will be to Texas Commission of Environmental Quality (TCEQ).
- Part I and Part II page numbering has been corrected.
- A schedule of compliance has been added for an implementation plan for monitoring Total Dissolved Solids (TDS) and Sulphate.

STATE CERTIFICATION

In a letter from Shelly Lemon, Bureau Chief, Surface Water Quality Bureau, to Troy C. Hill, Acting Director, Water Division (EPA) dated April 18, 2023, the NMED certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law upon inclusion of the specific conditions in the permit.

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

Condition 1. Adjusted Gross Alpha Monitoring Requirements: It states in part: *in order to protect and maintain existing and downstream water quality, EPA shall revise the proposed monitoring requirement for gross alpha. The Rio Grande in water quality standards segment* 20.6.4.101 NMAC has the following designated uses: irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and primary contact. The New Mexico water quality criterion to protect livestock watering is "adjusted gross alpha" (15 pCi/L; see 20.6.4.900.J)

NMAC). For NMED and EPA to determine the adjusted gross alpha value and evaluate against the water quality criterion, the permittee must monitor for gross alpha and natural uranium.

Response to Condition 1: As required by 40 CFR 124.55 (a) (2), The condition has been incorporated in Part I.A.1 of the final permit to include both Uranium gross alpha monitoring requirements.

The Rio Grande in water quality standards segment 20.6.4.101 NMAC has the following designated uses: irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and primary contact. The New Mexico water quality criterion to protect livestock watering is "adjusted gross alpha" (15 pCi/L; see 20.6.4.900.J NMAC). For NMED and EPA to determine the adjusted gross alpha value and evaluate directly against the water quality criterion, the permittee must monitor for gross alpha and natural uranium. ...

Adjusted Gross Alpha Monitoring Requirement *Regulatory Citations and Guidance*. *New Mexico Administrative Code (NMAC)*

20.6.4.7 NMAC DEFINITIONS

A. Terms beginning with the numerals or the letter "A," and abbreviations of units 6. "Adjusted gross alpha" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample, including radium- 226, but excluding radon- 222 and uranium. Also excluded are source, special nuclear and by-product material as defined by the Atomic Energy Act of 1954.

20.6.4.101 NMAC RIO GRANDE BASIN:

The main stem of the Rio Grande from the international boundary with Mexico upstream to one mile downstream of Percha dam.

A. Designated uses: irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and primary contact.

20.6.4.900 NMAC CRITERIA APPLICABLE TO EXISTING, DESIGNATED OR ATTAINABLE USES UNLESS OTHERWISE SPECIFIED IN 20.6.4.97 THROUGH 20.6.4.899 NMAC:

J. Use- specific numeric criteria

1. Table of numeric criteria

Pollutant	CAS	DWS	Irr/Irr	LW	WH	Aquatic Life			Туре
	Number		Storage			Acute	Chronic	HH-OO	
Adjusted		15pCi/L		15pCi/L					
gross									
alpha									

NOTES: DWS = domestic water supply; Irr/Irr Storage = Irrigation/Irrigation storage; **LW** = **Livestock Watering**; WH = Wildlife Habitat; HH-OO = Human Health-Organism Only

State of New Mexico Environment Department Comprehensive Assessment and Listing Methodology

(Part 3.0 Individual Designated Use Support Determinations (including Livestock Watering)

When radionuclides are analyzed using SM7110 B or EPA Method 900.0 (recommended, and

equivalent to SM7110 B according to SLD), gross alpha and gross beta results generated using an Am-241 reference and a Sr/Y-90 reference, respectively, are preferred for purposes of assessing WQS attainment because these references are prescribed in the method description. If the reference type information is not available and multiple reported values are provided, the highest reported value available will be used for assessment. Also, the water quality criterion in 20.6.4.900.J NMAC is for "adjusted gross alpha." Therefore, gross alpha data should be adjusted by subtracting contributions from natural uranium, as well as any measured special nuclear and by-product material, as called for in 20.6.4.7 NMAC, prior to assessment. To convert uranium concentrations reported in ug/L to pCi/L prior to subtraction, a conversion factor of 0.67 is used. In the absence of uranium data to subtract in order to adjusted gross alpha, U-238 data can be used because this is the most common form of uranium in the natural environment. In the event that negative values are reported for special nuclear materials, zero will be substituted as the subtraction value used to adjust gross alpha.

Adjusted gross alpha is a calculation that subtracts contributions from natural uranium and is referenced in the NMED Comprehensive Assessment and Listing Methodology (CALM). Adjusted gross alpha is calculated using the equation below:

[Adjusted Gross Alpha] (pCi/L) = [Gross Alpha] (pCi/L) – {[Uranium] ug/L) * 0.67}

A conversion factor of 0.67 (pCi/L) µg is used to convert uranium concentrations (in µg/L) to uranium activity (in pCi/L) prior to subtraction.

Condition 2: Total Nitrogen, Total Phosphorus and Dissolved Oxygen Monitoring: To protect and maintain existing and downstream water quality and to prevent further degradation of water quality in the Rio Grande, EPA shall include the following total nitrogen (TN), total phosphorus (TP), and dissolved oxygen (DO) effluent discharge monitoring requirements in Part I-Requirements for NPDES Permits, Section A- Limitations and Monitoring Requirements. NMED will utilize the effluent monitoring data to assess effluent water quality and determine if effluent limits will be required in future permits.

Response to Condition 2. As required by 40 CFR 124.55(a)(2) the limitations and monitoring requirements for Total Nitrogen (TN), Total Phosphorous (TP) and Dissolved oxygen (DO) contained in the contained in the condition of certification have been incorporated in Part I.A.1 of the permit.

COMMENTS THAT ARE NOT CONDITIONS OF CERTIFICATION

Comment 1. NMED requests an update to Part I.A.1 final Effluent Limits footnote *3 to include chlorinated reuse water. Anthony Water and Sanitation District (AWSD) has not started to reuse the water and is currently not chlorinating wastewater effluent. NMED requests that EPA update the footnote to state, "Daily when chlorine is used as backup bacteria control, when disinfection of plant treatment equipment is required, or when chlorinated reuse water is being used.

NPDES Permit No. NM0029629

Response 1. Footnote *3 has been updated to "Daily when chlorine is used as backup bacteria control, when disinfection of plant treatment equipment is required, or when chlorinated reuse water is being used".

Comment 2. NMED requests the addition of the footnote *9 for determination of Adjusted gross alpha which is calculated by subtracting natural uranium from gross alpha.

Response 2. Adjusted gross alpha footnote *9 has been incorporated in Part I.A.1 of the final permit.

Comment 3. NMED requests the addition footnote *10 to Part 1.A.1 Final Effluent Limits. The footnote should read "Total Nitrogen (TN) is the sum of Total Kjeldahl Nitrogen (TKN) and nitrite plus nitrate (NO2 + NO3)."

Response 3. Total Nitrogen Footnote *10 has been incorporated in in Part I.A.1of the final permit.

Comment 4. The Rio Grande is classified under 20.6.4.101 NMAC and has flow-dependent criteria for total dissolved solids (TDS) and sulfate. The criteria are applied when the mean monthly streamflow in the Rio Grande is above 350 cubic feet per second (cfs). NMED supports a compliance schedule for AWSD to develop an implementation plan for monitoring TDS and sulfate when the flow in the Rio Grande is above 350 cfs, or during the irrigation season (April – October). Since TDS and sulfate are sampled similarly to total suspended solids (TSS), NMED supports a monitoring frequency of 1/week.

Response 4. EPA agrees with NMED on the flow dependent criteria for TDS, Sulphate and Choride for Rio Grande water segment 20.6.4.101. A schedule of compliance has been added to Part I.B of the final permit for AWSD to develop an implementation plan for monitoring TDS and Sulphate when the mean monthly flows in the Rio Grande is above 350 cfs.

Comment 5. NMED supports the use of the E. coli wasteload allocation (WLA) calculated in the *Total Maximum Daily Load (TMDL) for the Main Stem of the Lower Rio Grande (from the International Boundary with Mexico to Elephant Butte Dam)*, approved by the New Mexico Water Quality Control Commission (WQCC) on May 8, 2007 and approved by EPA on June 11, 2007. The TMDL used a design flow of 0.9 MGD to calculate the WLA, which is more stringent than using the proposed increase in design flow (1.3 MGD).

Response 5. Comment noted for the record. No change to the final permit required.

Comment 6. The page numbering for the initial pages of the permit referring to Part I and Part II appears to be incorrect (pages 5-7 of 53 of the draft permit, pages 1-3 of Part 2 in the header of the draft permit). Please correct to avoid confusion in referencing permit conditions.

Response 6. Page numbering has been updated on the final permit.

NPDES Permit No. NM0029629

Comment 7. In Part I.C.2 Monitoring and Reporting of the draft permit, the monitoring and reporting (major dischargers) requires notification to the Pueblo of Santa Clara and the Pueblo of San Ildefonso, which are located upstream of the facility. NMED requests removing the Pueblos because they are not downstream users. The appropriate downstream notification is to the Texas Commission on Environmental Quality (TCEQ).

David Ramirez, TCEQ Border and Permian Area Director david.ramirez@tceq.texas.gov 956-245-1921 (cell) or 956-430-6048 (office)

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Eddie Moderow, TCEQ Border Affair eddie.moderow@tceq.texas.gov 512-739-4751 (cell) or 512-239-0218 (office)

Response 7. EPA has revised downstream users requiring copies of the discharge monitoring reports (DMRs) and Biosolids/Sewage Sludge, Sewer Overflow/Bypass Event Pretreatment Program paper notification. Texas Commission on Environmental quality (TCEQ) is the appropriate downstream users to be notified.

Comment 8. NMED supports DMR reporting on a monthly basis, as stated in Part I.C.2 Monitoring and Reporting of the draft permit. The fact sheet states quarterly reporting and should be corrected

Response 8. Major discharges shall submit discharge monitoring reports (DMRs) monthly. AWSD is a major discharger (1.3 MGD) hence required to report monthly as provided in Part I.C. of the permit. Comment is noted for the record, no change to the final permit was required in response to this comment.

Comment 9. The fact sheet Part V.E - Whole Effluent Toxicity Limitations has several typographical errors. The reference to *Section V.C.4.c.ii* is incorrect and should be corrected to *Section V.C.4.d.ii*. There is mention of the species *Daphnia pulex*, which should be corrected to *Ceriodaphnia dubia*. And there is a misspelling of the *Pimephales promelas* in the last sentence of the first paragraph

Response 9. The correct species for chronic WET test are *Ceriodaphnia dubia* and *Pimephales promelas*. Comment is noted for the record, no change to the final permit required in response to this comment.

Comment 10. NMED requests the following clarification be added to the Fact Sheet, Part VIII - Antidegradation and to the administrative record:

The antidegradation review conducted by NMED utilizes different data than EPA's reasonable potential analysis because each analysis has a different question that it is trying to answer. NMED's antidegradation review determines whether *significant degradation* will occur as a result of the discharge. Significant degradation in New Mexico is defined as, "the consumption of 10% or more of the available assimilative capacity for any pollutant of concern at critical flow conditions." Through the antidegradation review, NMED evaluates whether 10% or more of the stream's assimilative capacity is consumed as a result of the discharge. Water quality standards are not automatically violated, or exceeded, when there is significant degradation because the stream may still have some remaining assimilative capacity to "absorb" more pollutants.

EPA's reasonable potential analysis evaluates whether the discharge will violate (or has the potential to violate) state water quality standards. Through the reasonable potential analysis, EPA evaluates whether the discharge will cause or contribute to an exceedance of New Mexico's water quality criteria.

Response 10. Comment is noted for record, no change to the final permit was required.

Comment 11. NMED requests that EPA include the reasonable potential analysis for the Anthony Water and Sanitation District (AWSD) Wastewater Treatment Plant in the NPDES permit NM0029629 Response to Comments. For future draft NPDES permits, NMED requests EPA post the reasonable potential analysis with the draft NPDES permit during the public comment period.

Response 11. While the reasonable potential analysis is part of the administrative record for this permit, EPA agrees with NMED incorporation of reasonable analysis document in the Fact sheet or Statement of Basis for draft permit available for public comment is a best practice and makes public review and comment easier. No change to the final permit was required.

Comment 12. For future draft NPDES permits, NMED requests EPA post any associated State of New Mexico antidegradation analysis with the draft NPDES permit during the public comment period.

Response 12. Comment is noted for future reference, no change to the final permit required.

COMMENTS FROM ANTHONY WATER AND SANITATION DISTRICT

Comment 13. Permit Part I, Section A.1 Table of Effluent Limitations: EPA proposes to add monitoring for Gross Alpha. In the Fact Sheet (V.C.4.d.i General Comments (p. 10 of 17)) EPA wrote: "Attached Appendix A shows RPs still exist for Gross Alpha (pCi/L). The EPA proposes monitoring for these parameters at once/six months in this permit draft." USEPA provided the

Appendix A spreadsheet. The spreadsheet did not clearly identify a reasonable potential for Gross Alpha. The AWSD requests that additional clarification be provided.

Response 13. The Anthony Water and Sanitation District discharges treated effluent into the Rio Grande Basin in water quality standards segment 20.6.4.101 NMAC. The designated uses for the Rio Grande in this reach are irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and primary contact. The designated livestock watering use has a numeric criterion for adjusted gross alpha of 15 pCi/L. EPA assigned a monitoring requirement for gross alpha on a reasonable potential analysis which used the average effluent concentration of 8.02 pCi/L reported by Anthony Water and Sanitation District in form 2A Table D of the permit renewal application. Note that consistent with certification Condition No. 1, monitoring requirements to allow for calculation of Adjusted Gross Alpha have been added so that direct comparison to the NMED WQS will be possible and provide more accurate reasonable potential assessment .

Comment 14. Gross Alpha instead of Adjusted Gross Alpha. The New Mexico Water Quality Standards (20.6.4.900.J New Mexico Administrative Code) specify criteria for Adjusted Gross Alpha. The reasonable potential analysis was based on data for "Gross Alpha" only. The proposed permit contains a monitoring requirement for "Gross Alpha." If the Gross Alpha monitoring requirement is retained, the AWSD requests additional explanation for how the USEPA and NMED will evaluate the data for future reasonable potential analyses since the NM WQS do not contain a criterion for Gross Alpha.

Response 14. See response to NMED condition of certification No.1. Conditions of certification must be included in the final NPDES permits as required by 40 CFR 124.55 (a)(2).

Comment 15. The permittee noted that Permit Part I, Section A.1measurement frequency footnote *3 for TRC where it is required to be sampled daily when chlorine is used as either backup bacteria control or when disinfection of plant treatment equipment. The Permittee also noted that the Fact Sheet (V.C.4.iii) states that the facility chlorinates their reuse water hence TRC limitation and monitoring requirement will be continued in the draft permit, however, AWSD has not begun to re-use the water and thus not chlorinating wastewater. The Permittee requests that TRC footnote be revised as "*3 Daily when chlorine is used as backup bacteria control, when disinfection of plant treatment is required or if chlorinated reuse water is being used.

Response 15. Response No.1 above.

Comment 16. The permittee noted that Permit- Part I, Section C.2 paper reporting required to be submitted to Pueblo of Santa Clara and the Pueblo of San Ildefonso along with NMED. The Permittee requires this provision updated since the pueblos are located upstream of the facility.

Response 16. See response to comment No.7 above.

Comment 17. The permittee notes that Fact Sheet – Section VI.D, provision requires monthly reporting for DMRs while Operational and e-reporting section of the Fact Sheet specifies quarterly reporting.

Response 17. See response to comment No.8 above.

Comment 18. The permittee noted that on Section V.C.4.c.ii of the Fact Sheet, the critical dilution is 100% (zero percent low flow) instead of 75%.

Response 18. The critical 4Q3 Low flow for the receiving water which is the minimum average four consecutive day flow which occurs with a frequency of one every three years is Zero (4Q3 = 0.0 MGD) was provided by NMED. The critical dilution based on the low flow and the facility design flow is determined according to NMIP as follows:

CD = Qe/(FQa + Qe), where:

Qe = facility flow (1.3 MGD) Qa = critical low flow of the receiving waters (0.0 MGD/0.0 cfs) F = fraction of stream allowed for mixing (1.0) Critical Dilution = 1.3 MGD/ [(1.0) (0) + 1.3] = 1.0

= 100%

Critical dilution is 100%. No change to the final permit required.

Comment 19. The permittee notes that Section V.C.\$.c.ii of the Fact Sheet contains WET toxicity limitations established a requirement to conduct acute biomonitoring using *Daphnia pulex* and *Pimephales promelas*. The Permittee suggests that *Dalpnia Pulex* be replaced with *Ceriodaphnia dubia*. The Permittee also noted a typographical error on the last sentence of the paragraph where "*Pimpephales promelas*." Is used instead of "*Pimephales promelas*."

Response 19. The correct species are *Ceriodaphnia dubia* and *Pimephales promelas* as provided in the proposed permit. The Species *Dalpnia Pulex* is an error and "*Pimpephales promelas*." typographical error in the proposed Fact Sheet has been noted for the record. No change to the final permit required in response to this comment.

Comment 20. The permittee noted that the Permit page numbering for the initial pages of the permit appears to be incorrect and requests correcting page numbering to avoid confusions.

Response 20. Page numbering has been updated on the final permit.

COMMENTS FROM AMIGOS BRAVOS

Comment 21. Changes from Last Permit: The Permit Fact Sheet fails to identify the biggest proposed change to the permit – the increase of flow from .9 million gallons per day (MGD) to 1.3 MGD and that loading limits for TSS and BOD5 were increased. It is these changes that has triggered the antidegradation review. These changes, and the fact that they triggered an antidegradation review, should be added to the fact sheet.

Response 21. Comment is noted for the record. Sections V.(B), C.(d)(ii) and VIII. of the Fact Sheet discusses increase on the design flow. No change to the final permit required in response to this comment.

Comment 22. History of Noncompliance: Amigos Bravos Notes that the Fact Sheet on page 8 says: "A summary of the last 36 months of available pollutant data from March 1, 2018, through September 13, 2022, taken from DMRs shows no exceedances of permit limits for pH, TRC, and BOD₅." Yet according to facility report on EPA's Enforcement Compliance History Online $(ECHO)^{1}$ and the November 17, 2015 inspection of the facility by NMED (included here as attachment A) there wasn't DMR data submitted for many years until July of 2022 when DMR data for the months of April-June 2022 was submitted. If DMRs hadn't been submitted what data was used to make this determination? In addition, digging further into the facility report on ECHO.it appears that there were substantial exceedances in the past 3-years especially for E.coli during all 4 quarters of 2020, though, since it also says DMR data was not submitted until spring of 2022 except for one quarter in 2020 it is not clear how these effluent exceedances were determined. The facility report shows that the facility was in noncompliance for 9 out the last 12 quarters. We have included a screen shot of that facility report here because previously when we referenced an ECHO facility report and provided the ECHO link to EPA as we have done here, in the response to comments EPA said they couldn't get the link to work. The Fact Sheet is inaccurate when it states that for the last 36 months there haven't been exceedances for pH, TRC, and BOD₅. ECHO shows that there were exceedances for BOD₅ in the 3rd quarter of 2020. The Fact Sheet should be updated to reflect these permit exceedances.

Response 22. On July 14, 2021, the facility was issued an administrative compliance order for NPDES permit violations for DMR non-receipts which was reported back into compliance on March 23, 2020. and not submitting discharge monitoring reports (DMRs). There have been a total of nine reported effluent limit violations, this is for Total Suspended Solids on September 30 2020, Total Suspended Solids, % Removal on August 31, 2020, Biochemical Oxygen Demand (BOD₅) on August 31, 2020, E.coli Bacteria on 4/30/2018, 8/31/2018, 5/31/2019, 7/31/2019 and two failed toxicity tests on 2/11/2020 and 2/15/2020. For attainment of state water quality standards with the plan upgrades, a sampling and reporting schedule has been added to the final permit.

Comment 23. Impact to a Downstream State: Is unclear from the permit and fact sheet whether Texas as a downstream state has been consulted as required by 401(a)(2). The permit does indicate water quality across the state line is impacted, especially in terms of dissolved oxygen levels as indicated in the graph on the last page of the permit. In addition, the Rio Grande Compact also requires that Texas receive its equitable share of "quality water". If the discharge from the facility is negatively impacting the quality of water being delivered over state lines,

there may be Rio Grande Compact implications.

Response 23. CWA 401(a)(2) provides a process for neighboring jurisdictions to participate in the federal licensing or permitting process where EPA determines, after receiving a CWA Section 401certication, that a discharge "may affect" the water quality of another jurisdiction (e.g downstream state ot tribe). AWSD proposed design flow increase from 0.9 MGD to 1.3MGD, as a result, NMED-SWQB completed antidegradation analysis to determine if, when and how water quality may be degraded. After evaluating water quality data from AWSD's 2021 monitoring activities to determine baseline water quality and assimilative capacity of the receiving water including data provided in the NPDES Pre-applications to estimate proposed effluent discharge concentrations, NMED-SWQB concluded that the proposed discharge will not result in "significant degradation" as defined in New Mexico's Antidegradation Policy Implementation Procedure and characterized by the baseline water quality evaluation. Note that's the increased design flow would potentially add to the quality of water in the Rio Grande passing into Texas. NMED's conditional Certification of the proposed permit is dated April 18, 2023.

EPS ran RP against several pollutants of concern which includes but not limited to Total dissolved solids (TDS), Sulfate and Dissolved Oxygen. We have looked at TWQS criteria for DO by following the Texas Surface Water Quality Arcgis segment viewer/ mapper. https://tceq.maps.arcgis.com/apps/webappviewer/index.html?id=b0ab6bac411a49189106064b70 bbe778. The Texas segment of Rio Grande at the border between New Mexico and Texas is segment 2314 (Rio Grande above international boundary). Texas water quality standard for DO for this segment is 5.0 mg/L. The DO model using the receiving stream ambient data and effluent data from the facility did not show a sag below TWQS of 5.0 mg/l. We pulled the recent ambient water quality data for the receiving waters provided by NMED following HUC codes for the lower Rio Grande from the following water quality stations: NM0029629, 42RGrande052.2 and 42RGrande063.3. Dissolved Oxygen's ambient data recorded in all stations is above TWQS. None of the station recoded less than 5.0 mg/l required across the state line.

This segment Rio Grande is classified under 20.6.4.101 NMAC and has flow-dependent criteria for total dissolved solids (TDS) and sulfate. The criteria are applied when the mean monthly streamflow in the Rio Grande is above 350 cubic feet per second (cfs). The monthly average concentration for: TDS 2,000 mg/L or less, Sulfate 500 mg/L. Water Quality Criterion for TDS is 2000mg/l and Sulfate is 500mg/l while the Texas Water Segment 2314 (Rio Grande) The criterion for TDS is 1800mg/l and 600 mg/l for Sulfate. EPA looked at the data from water quality stations downstream of the facility. TDS recorded an average of 659 mg/l and 148.03 mg/l Sulfate. The average monthly discharge from AWSD effluent discharge as reported on the application forms 2A are 177mg/l Sulfate and Daily TDS average of 482 mg/l respectfully. The minimum and Maximum pH for this segment is 6.6 and 9.0 s.u.

EPA with members of the Texas Commission on Environmental Quality (TCQE), Water Quality Assessment team which reviewed the proposed permit as would be modified to comply with NMED's CWA 401 Conditional Certification and on September 28, 2023, TCEQ agreed with EPAs conclusion that AWSD discharge will not have significant downstream impact. Based on information described above, EPA Region 6 has not made a "may effect" determination on

AWSD discharge's impact to the downstream state water quality. No change to the final permit required in response to this comment.

Comment 24. Toxicity Testing: The permit only requires toxicity testing once a year and only in winter. Increased toxicity testing during different times of the year is necessary to ensure compliance with NM's water quality standards.

Response 24. The final permit WET testing for species *Ceriodaphnia dubia and Pimephales promelas* to have quarterly measurement frequency. This is consistent with 2012 New Mexico Implementation Procedures (NMIP) whereby the WET testing for major discharges has minimum monitoring frequency for once per quarter for the 1St year of the permit. No change to the final permit in response to this comment.

Whole effluent toxicity testing			
(7-Day Chronic Static Renewal/NOEC) (*8)	Value	Measurement Frequency	Sample Type
Ceriodaphnia dubia	Report	Quarterly	24-Hr
-	_		Composite
Pimephales promelas	Report	Quarterly	24-Hr
	-		Composite

*8. Monitoring and reporting requirements begin on the effective date of this permit. See PART II, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.

Comment 25. Specific Pollutant Concerns: It appears that the facility did not sample or provide data for sulfate even though there is a segment specific sulfate standard in the receiving waterbody. In addition, the maximum total daily solids (TDS) reported by the facility is 6,440 which is above the water quality standard of 2,000 mg/L, which is problematic in a 0-flow stream which lacks dilution. It is also concerning that there isn't a boron effluent limit even though receiving waterbody is impaired and there is a TMDL written. Even if the TMDL does not set a loading limit for the facility the permit should nevertheless include a boron limit as any discharge of a pollutant for which the receiving water is impaired has the potential for causing or contributing to an impairment.

Response 25. The maximum daily Discharge and Average daily discharge as reported in for 2A for Total dissolved solids (TDS) is 6440mg/L and 1482mg/L respectfully. Average daily values are used for effluent parameters hence TDS is below 2000mg/L monthly concentration for TDS as provided in New Mexico Water quality standards. As described in Part C.4.c of the fact sheet, the receiving stream is listed impaired for Boron in New Mexico 303(d) list. There is no WLA for Boron hence a monitoring and reporting only requirement was established in the permit. No change to the final permit required in response to this comment.