

NPDES PERMIT NO. NM0031224 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: Pueblo of Tesuque
7 Tesuque Rd
Santa Fe, NM 87506

ISSUING OFFICE: U.S. Environmental Protection Agency, Region 6
1201 Elm Street, Suite 500
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PERMIT ACTION: Final permit decision and response to comments received on the proposed
NPDES permit publicly noticed on November 16, 2024

DATE PREPARED: June 17, 2025

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40,
Code of Federal Regulations, revised as of June 17, 2025.

CHANGES FROM THE DRAFT PERMIT

- Typographical errors have been corrected in the final permit.
- Pueblo of Pojoaque and the Pueblo of San Ildefonso notification contact information has been added to Part III.D.7 and Part III.D.4 of the permit.

STATE CERTIFICATION

In a letter from Earl Samuel, Governor, Pueblo of Tesuque, to Nichole Young (EPA), dated February 4, 2025, Pueblo of Tesuque, certified that the discharge will comply with water quality requirements, as defined at 40 CFR 121.1(n).

In a letter from Shelly Lemon, Bureau Chief, Surface Water Quality Bureau, to Troy C. Hill, P.E., Director, Water Division (EPA) dated December 30, 2024, 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.

Following the receipt of the State Certification, the EPA exercised its discretionary authority under CWA § 401(a)(2) and notified the Pueblo of Pojoaque, on April 14, 2025, that discharges associated with this permit “may affect” the water quality of waters within its’ jurisdiction. In accordance with 40 CFR 121.14(a), if the Pueblo of Pojoaque determined that a discharge from the project will violate any of its water quality requirements, it would have needed to notify the EPA within 60 days after receiving the “may affect” notice. The 60-day period ended June 14, 2025, and the EPA received no notification from the Pueblo of Pojoaque.

CONDITIONS OF CERTIFICATION

None.

RESPONSE TO COMMENTS

EPA received comments from two individual/entities:

1. NMED

NMED Comment 1: The Fact Sheet, Part C. Water Quality Based Limitations, Section 5. State Water Quality Standards states: “The receiving water is Rio Tesuque in Waterbody Segment Code No. 20.6.4.98, intermittent waters. The stream designated uses are livestock watering, wildlife habitat, marginal warmwater aquatic life and primary contact.” The receiving water is classified as a perennial. NMED requests that EPA update the Fact Sheet to state: “The receiving water is Rio Tesuque in Waterbody Segment Code No. 20.6.4.114 Rio Grande Basin. The stream designated uses are irrigation, livestock watering, wildlife habitat, marginal coldwater aquatic life, primary contact and warmwater aquatic life; and public water supply on the main stem Rio Grande.”

EPA Response 1: Noted for the record. No changes have been made to the final permit.

NMED Comment 2: The Fact Sheet, Part C. Water Quality Based Limitations, Section 6. Permit Action - Water Quality-Based Limits, Subsection B Bacteria states:

NMWQS

Most stringent criterion	monthly geometric mean 206 cfu/100 ml; maximum of 940 cfu/100 ml
Water Designated Use(s)	Site specific criterion [20.6.4.98 NMAC]

The NMWQS most stringent criteria is the designated use of primary contact, 20.6.4.900 NMAC. NMED requests that EPA update the table to state:

NMWQS

Most stringent criterion	126 cfu/100 mL or MPN/100 ml, a single sample of E. coli bacteria of 410 cfu/100 mL or MPN/100 mL
Water Designated Use(s)	Primary contact [20.6.4.900.D NMAC]

EPA Response 2: Noted for the record. No changes have been made to the final permit.

NMED Comment 3: The Fact Sheet, Part C. Water Quality Based Limitations, Section 6. Permit Action - Water Quality-Based Limits, Subsection E DO states:

NMWQS

Most stringent criterion	5 mg/L (minimum)
Water Designated Use(s)	marginal warmwater aquatic life [20.6.4.900.H(6) NMAC]

The NMWQS most stringent criteria is the designated use of warmwater aquatic life, 20.6.4.900.H(5). NMED requests that EPA update the table to state: **NMWQS**

NMWQS

Most stringent criterion	5 mg/L (minimum)
Water Designated Use(s)	warmwater aquatic life [20.6.4.900.H(5) NMAC]

EPA Response 3: Noted for the record. No changes have been made to the final permit.

NMED Comment 4: In Part I. Requirements for NPDES Permits, Section D. Overflow Reporting, NMED requests EPA to correct the name from “Pueblo Pojoaque” to “Pueblo of Pojoaque”.

EPA Response 4: Corresponding change has been made to the final permit.

NMED Comment 5: In Part III. Standard Conditions for NPDES Permits, Section D. Reporting Requirements, Subsection 4. Discharge Monitoring Reports and Other Reports, NMED requests EPA to include the appropriate notification contact information for the Pueblo of Pojoaque and the Pueblo of San Ildefonso.

EPA Response 5: Pueblo of Pojoaque and the Pueblo of San Ildefonso notification contact information has been added to Part III.D.4 of the permit.

NMED Comment 6: In Part III. Standard Conditions for NPDES Permits, Section D. Reporting Requirements, Subsection 4. Discharge Monitoring Reports and Other Reports Subsection 7. Twenty-Four Hour Reporting, NMED requests EPA to include the appropriate notification contact information for the Pueblo of Pojoaque and the Pueblo of San Ildefonso.

EPA Response 6: Pueblo of Pojoaque and the Pueblo of San Ildefonso notification contact information has been added to Part III.D.7 of the permit.

NMED Comment 7: In Part III. Standard Conditions for NPDES Permits, Section D. Reporting Requirements, Subsection 4. Discharge Monitoring Reports and Other Reports, NMED requests EPA to correct the spacing format errors. In the second paragraph there is an unintentional spacing at the reference to Part III.D.

EPA Response 7: Typographical errors have been corrected in the final permit.