

NPDES PERMIT NO. NM0031231
RESPONSE TO COMMENTS

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

APPLICANT:

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ISSUING OFFICE:

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PERMIT ACTION: Final permit decision and response to comments received on the proposed
NPDES permit publicly noticed on May 24, 2025.

DATE PREPARED: August 26, 2025

Introduction. For brevity, Region 6 used acronyms and abbreviated terminology in this response to comments document whenever possible. The following acronyms were used frequently in this document: Act (Clean Water Act), EPA (Environmental Protection Agency), NMED (New Mexico Environment Department), NPDES (National Pollutant Discharge Elimination System), RP (Reasonable Potential), SWQB (Surface Water Quality Bureau), WQBELs (Water Quality-Based Effluent Limitations) and WQS (Water Quality Standards).

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations, revised as of August 18, 2025.

CHANGES FROM DRAFT PERMIT

EPA made the following change to the draft NPDES permit publicly noticed on May 24, 2025:

1. The unit of the pollutant, “PFAS Analytes for sludge” has been updated from ng/L to ng/g.
2. The EPA has included specific assessment unit for the receiving water to clarify the flow path in the final permit. The clarification of the specific assessment unit is noted per the statement of basis.
3. The EPA has updated the compliance schedule Section, Section B, Part I of the final permit to remove the pollutants: total selenium, chlordane, heptachlor, heptachlor epoxide, and toxaphene.
4. The EPA has included the SWQB’s reporting email address in the overflow reporting requirements in Section D. Overflow Reporting, Part I of the final permit.
5. The EPA has included a paragraph under Section D, Overflow Reporting, Part I of the final permit, the requirements for permittee to coordinate with downstream users and stakeholders to develop a communication procedure/plan to notify the public of any sewer overflows and bypass events. Permittees shall also provide a copy of the developed communication procedure/plan to NMED.
6. The EPA has revised Section B: Oral Reporting of Part II of the final permit to include only E. coli, total residual chlorine, and total dissolved solids.
7. The most recent version of Part III, Standard Conditions (revision date June 2025) in the final permit.

STATE CERTIFICATION

In a letter from Shelly Lemon, Bureau Chief, Surface Water Quality Bureau (NMED), to Troy Hill, Director, Water Quality Protection Division (EPA) dated August 15, 2025; the NMED certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the CWA and with appropriate requirements of State law.

CONDITION OF CERTIFICATION

None

COMMENTS THAT ARE NOT CONDITIONS OF CERTIFICATION

Comment No. 1: The NMED noted that in the Part I. Requirements for NPDES Permits, Section A. Limitations and Monitoring Requirements, Subsection 1. Final Effluent Limits – 0.050 MGD The pollutant “PFAS Analytes for Sludge” has a daily max reporting requirements with the units ng/L. NMED requested that the EPA update the reference for PFAS Analytes for Sludge from ng/L to ng/g.

Response No. 1: The unit of the pollutant, “PFAS Analytes for sludge” has been updated from ng/L to ng/g.

Comment No. 2: The NMED noted in the Statement of Basis, Receiving Water-Basin as well as in Part I. Requirements for NPDES Permits, Section A. Limitations and Monitoring Requirements, Subsection 1. Final Effluent Limits – 0.050 MGD that the applicable assessment units (AUs) and NMAC references are:

- South Fork Puerco River (Puerco River to headwaters – AU ID: NM-900.A_203), 20.6.4.98 NMAC,
- Puerco River (Gallup WWTP to South Fork Puerco River – AU ID: NM-900.A_201), 20.6.4.98 NMAC, and
- Puerco River (non-tribal Arizona border to Gallup WWTP – AU ID: NM-900.A_200), 20.6.4.99 NMAC.

NMED recommended including the specific assessment unit for the receiving water references to clarify the flow path in both the permit and the statement of basis, as follows:

“The facility discharges to the South Fork Puerco River (Puerco River to headwaters), an intermittent stream designated under 20.6.4.98 NMAC; thence to the Puerco River (South Fork Puerco River to the Gallup WWTP), designated under 20.6.4.98 NMAC; then to the Puerco River’s perennial reach (Gallup WWTP to the Arizona border), designated under 20.6.4.99 NMAC; and ultimately to the Little Colorado River Basin.”

Response No. 2: EPA concurs with the NMED and has included in the final permit the specific assessment unit for the receiving water references to clarify the flow path. The clarification of the specific assessment unit is noted per the statement of basis.

Comment No. 3: The NMED noted that the Statement of Basis indicated that these pollutants (i.e. total selenium, chlordane, heptachlor, heptachlor epoxide, and toxaphene) did not demonstrate reasonable potential to exceed New Mexico Water Quality Standards (NMWQS), and these pollutants were not assigned effluent limitations or monitoring requirements in Part I. Requirements for NPDES Permits, Section A. Limitations and Monitoring Requirements, Subsection 1. Final Effluent Limits – 0.050 MGD. NMED requested that EPA update the compliance schedule to remove the pollutants: total selenium, chlordane, heptachlor, heptachlor epoxide, and toxaphene.

Response No. 3: EPA notes that these pollutants did not demonstrate reasonable potential to

exceed NMWQS and was mistakenly left on the Compliance schedule Section of the permit after it recalculated the permittee’s reasonable potential to exceed NMWQS. These pollutants have been removed from the compliance Schedule Section of the final permit

Comment No. 4: The NMED requested that EPA include the SWQB's reporting email address in the overflow reporting requirements. The first sentence of the second paragraph should read:

"Sewer overflow and bypass events that endanger health or the environment shall be reported via email to R6_NPDES_Reporting@epa.gov, and NMED Surface Water Quality Bureau at (505) 827-0187 or swq.reporting@env.nm.gov (email preferred) as soon as possible, but within 24 hours from the time the permittee becomes aware of the sewer overflow or bypass event."

Response No. 4: The EPA has included in the final permit the SWQB reporting email address in the overflow reporting requirements in Section D. Overflow Reporting of Part I. Requirements for NPDES Permits. The first sentence of the second paragraph has been revised to read: "Sewer overflow and bypass events that endanger health or the environment shall be reported via email to R6_NPDES_Reporting@epa.gov, and NMED Surface Water Quality Bureau at (505) 827-0187 or swq.reporting@env.nm.gov (email preferred) as soon as possible, but within 24 hours from the time the permittee becomes aware of the sewer overflow or bypass event."

Comment No. 5: Part I. Requirements for NPDES Permits, Section D. Overflow Reporting Overflows that endanger health or the environment are required to be reported to EPA and NMED.

NMED noted that there is no public notification requirement for overflows that reach a water body and endanger human health of downstream users. NMED requested that EPA add a paragraph that requires permittees to coordinate with downstream users and stakeholders to develop a communications procedure or communication plan to notify the public of any overflows that reach a water body. Specifically, the Iyanbito Chapter of the Navajo Nation is adjacent to the receiving stream South Fork Puerco River. NMED requests that the Navajo Nation and Navajo Nation Environmental Protection Agency be notified of any sanitary sewer overflows that reach the South Fork Puerco River. Permittees should provide a copy of the public notification to NMED.

Response No. 5: The EPA concurs and has included the following paragraph to the Part I (Requirements for NPDES Permits, Section D. Overflow Reporting) of the final permit.

The permittee shall coordinate with downstream users and stakeholders to develop a communication procedure/plan to notify the public of any sewer overflows and bypass events. Permittees shall provide a copy of the developed communication procedure/plan to NMED.

Comment No. 6: Under Part II. Other Conditions, Section B. 24-Hour Oral Reporting: Daily Maximum Limitation Violations, the NMED noted that several pollutants, including total selenium, chlordane, heptachlor, heptachlor epoxide, and toxaphene, are subject to 24-hour reporting requirements. However, the Statement of Basis indicated that these pollutants did not demonstrate reasonable potential to exceed New Mexico Water Quality Standards (NMWQS), and these pollutants were not assigned effluent limitations or monitoring requirements. The NMED requested that EPA revise Part II, Section B of the permit to include only those pollutants for which are identified in the permit for having an effluent limitation or monitoring requirement. The list should include E. coli bacteria, total residual chlorine, and total dissolved solids.

Response No. 6: The EPA has revised Section B: Oral Reporting of Part II of the final permit to include only E. coli, total residual chlorine, and total dissolved solids.

Comment No. 7: NMED requested that EPA use the most recent version of Part III. Standard Conditions for NPDES. Permits for New Mexico (revision date May 2025).

Response No. 7: EPA notes that it used the May 2025 version of Part III but omitted to state the May 2025 version in the header section of Part III. EPA notes that Part III was recently updated in June 2025. As a result, the June 2025 version has been included in the final permit.

Comment No. 8: Statement of Basis, Part V. Draft Permit Rationale and Proposed Permit Conditions, Section C. Water Quality Based Effluent Limitations, Section A. Overview of Technology-Based versus Water Quality Standards-Based Effluent Limitations and Conditions.

It is stated that WQBELs are being established for PFAS. However, while monitoring requirements for PFAS have been included for influent, effluent, and sludge, the State of New Mexico has not adopted water quality criteria for PFAS, and no WQBELs have been developed. As noted in the Statement of Basis, Part V. Draft Permit Rationale and Proposed Permit Conditions, Section C. Water Quality-Based Limitations, Subsection 5. Permit Action – Water Quality-Based Limit, Paragraph f. Per- and Polyfluoroalkyl Substances (PFAS), the purpose of this monitoring and reporting requirement is to better understand potential PFAS discharges from the facility and to inform future permitting decisions, including the possible development of water quality-based effluent limitations on a facility-specific basis.

NMED recommended revising the language in the Statement of Basis, Part V. Paragraph A. Overview of Technology-Based versus Water Quality Standards-Based Effluent Limitations and Conditions to clearly distinguish PFAS monitoring requirements from enforceable water quality-based effluent limitations. NMED noted that the second sentence of the second paragraph should read:

“Water quality-based effluent limitations are established in the proposed draft permit for pH, TRC, E. coli bacteria, and TDS. Monitoring and reporting requirements are established in the draft permit for PFAS.”

Response No. 8: EPA concurs with the fact that the State of New Mexico has not adopted water quality criteria for PFAS, and no WQBELs have been developed. EPA agrees with the fact that the purpose of PFAS monitoring and reporting requirement is to better understand potential PFAS discharges from the facility and to inform future permitting decisions, including the possible development of water quality-based effluent limitations on a facility-specific basis. The suggested language of “Water quality-based effluent limitations are established in the proposed draft permit for pH, TRC, E. coli bacteria, and TDS. Monitoring and reporting requirements are established in the draft permit for PFAS” is noted for the record.