

NPDES PERMIT NO. NM0030121 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: State of New Mexico Department of Game & Fish (NMDGF)
Lisboa Springs State Fish Hatchery
1 Wildlife Way
Santa Fe, NM 87507

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

PREPARED BY: Jim Afghani
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PERMIT ACTION: Final permit decision and response to comments received on the proposed
NPDES permit publicly noticed on October 28, 2023.

DATE PREPARED: February 6, 2024

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations
listed at Title 40, Code of Federal Regulations, revised as of February 6, 2024.

SUBSTANTIAL CHANGES FROM DRAFT PERMIT: None

STATE CERTIFICATION

In a letter from Shelly Lemon, Bureau Chief, SWQB, to Charles W. Maguire, Director, Water Division (EPA) dated January 11, 2024, the 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 upon inclusion of the following conditions in the permit.

The NMED stated that to meet the requirements of State law, including water quality standards and appropriate basin plans 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 certification.

COMMENTS THAT ARE NOT CONDITIONS OF CERTIFICATION

New Mexico Department of Game & Fish (NMDGF) Comment No. 1

Page 1 of Part I of Permit- Pollutants

The Department has already sampled the following pollutants during the priority pollutant scan in January 2023, and they were not detected. We ask that the following be removed from the permit for Outfall 002, 003.

- Dichlorodiphenyltrichloroethane (DDT)
- Dichlorodiphenyldichloroethylene (DDE)
- Dichlorodiphenyldichloroethane (DDD)
- Gamma-BHC (Lindane)

Response No. 1

The Pace Analytical Laboratory used EPA-approved Method 608.3 to test for Gamma-BHC and 4,4-DDT and derivatives in the discharge. The results showed that these pollutants were not present at Outfall 002. However, the Laboratory must still provide the Method MDL with the effluent test results. Instead, we assume that the Laboratory compared the outcomes of test results with the RDL values given in their report to the applicant for each of the four analytes. This observation suggests that the Method may need to be more sensitive when compared with each analyte's EPA MQL value and the lower NMWQSs for DDT (e.g., 0.001 ug/L for Wildlife Habitat and for Aquatic Life, Chronic Toxicity). Based on this information, Gamma-BHC and 4,4-DDT and derivatives are recommended to remain in the final permit with a sampling frequency of one per permit term. The results collected during the permit term may also be used for the pollutant scan for permit renewal provided the results are no older than 4.5 years at the time of reapplication submittal.

Pollutants	Method 608.3 MDL (ug/L)	EPA MQL (ug/L)	Outfall 002 Laboratory RDL (ug/L)
4,4-DDD	0.011	0.02	0.05
4,4-DDE	0.004	0.02	0.05
4,4-DDT	0.012	0.02	0.05
Gamma-BHC	0.004	0.05	0.05

MDL: Method Detection Limit; **MQL:** Minimum Quantification Level; **RDL:** Reported Detection Limit

New Mexico Department of Game & Fish (NMDGF) Comment No. 2

Page 2 of Part I of Permit- Pollutants

The Department asks that the requirement to conduct a Whole Effluent Toxicity Test be reduced from every six months to once per term. The hatchery has been conducting the test every six months for the last 10 years with no failed test. Moving to once per term will put all hatcheries on a similar schedule.

Response No. 2

The procedures for implementing WET (Whole Effluent Toxicity) terms and conditions in NPDES (National Pollutant Discharge Elimination System) permits can be found in the NMIP (Procedures for Implementing National Pollutant Discharge Elimination System Permits in New Mexico). Table 11 on page 42 of the NMIP outlines the type of WET testing that should be conducted for different discharges. Based on the nature of the discharge, fish hatchery, and perennial receiving water with the critical dilution of 4% currently, the NMIP recommends conducting acute tests (48-hrs) using *Daphnia pulex* and *Pimephales promelas* once every six months.

The following procedures, consistent with those in other permits, for reducing the WET monitoring frequency during the term of the permit have been added to the permit.

MONITORING FREQUENCY REDUCTION:

- a. The permittee may apply for a testing frequency reduction upon the successful completion of the first four tests for *Pimephales promelas*, with no lethal effects demonstrated at or below the critical dilution. If granted, the monitoring frequency may be reduced to not less than once per year for *Pimephales promelas*.
- b. Certification - The permittee must certify in writing that no test failures have occurred and that all tests meet all test acceptability criteria above. In addition, the permittee must provide a list with each test performed including test initiation date, species, and NOECs. Upon review and acceptance of this information, the agency will issue a letter of confirmation of the monitoring frequency reduction. A copy of the letter will be forwarded to the agency's compliance section to update the permit reporting requirements.
- c. This monitoring frequency reduction applies only until the expiration date of this permit, at which time the monitoring frequency for both test species reverts to once per quarter until the permit is re-issued.

New Mexico Department of Game & Fish (NMDGF) Comment No. 3

Page 4 of Part I B. Chlorine Usage as Treatment

Chlorine is not currently used at the hatchery; however, that hatchery would like the ability to use Chlorine as a disinfectant. Chlorine is one of the most effective ways to kill various pathogens that could occur within the hatchery. If we were to use Chlorine, the hatchery would take all necessary precautions to ensure that no residual is discharged into the receiving water.

Chloramine-T will continue to be used to treat Bacterial Gill Disease.

* Language would also need to be updated in the footnotes on Page I of Part I to reflect TRC monitoring if chlorine is used as a disinfectant.

Response No. 3

Final permit has been updated as requested.

New Mexico Department of Game & Fish (NMDGF) Comment No. 4

Page 4 of Part I F. Monitoring and Reporting #2

The facility only completes DMRs. The other items in the table do not apply to the facility and should be removed.

Response No. 4

Final permit has been updated as requested.

New Mexico Department of Game & Fish (NMDGF) Comment No. 5

Page 5 of Part I F, Monitoring and Reporting #5

* This should be removed as it does not apply to this facility

Response No. 5

Final permit has been updated as requested.

New Mexico Department of Game & Fish (NMDGF) Comment No. 6

Page 5 of Part I I. Application, DMR, and Compliance Status Report

This section states that the Department shall submit monthly DMRs to NMED, which is unnecessary as NMED can view DMRs in the CDX system.

The Department asks that this section be updated to reflect the same language in other Department permits, "A duplicate copy of application for permit renewal and compliance status report, if there are any, shall be sent to NMED at the address listed in Part III of this permit. DMR data should be available to NMED upon their request."

Response No. 6

Final permit has been updated as requested.

New Mexico Department of Game & Fish (NMDGF) Comment No. 7

Page 9 of Part II. G. Best Management Practices

The hatchery has already developed a Best Management Practices Plan. We ask that the language be updated to the following:

"The permittee shall continue to maintain and update its Best Management Practices (BMP) Plan that achieves the objectives and the specific requirements listed below. The current plan provided previously shall remain in effect with this permit. The following are elements of the plan that must be maintained in updates as needed."

Response No. 7

Final permit has been updated as requested.

New Mexico Environment Department (NMED) Comment No. 1

The New Mexico Department of Game and Fish (NMDGF) conducted additional pollutant sampling in January 2023 based on the amended New Mexico water quality standards (NMWQS), including Dichlorodiphenyltrichloroethane (DDT), Dichlorodiphenyldichloroethylene (DDE), Dichlorodiphenyldichloroethane (DDD), and Gamma-BHC (Lindane). NMED requests that EPA confirm that the January 2023 monitoring was conducted using sufficiently sensitive methods (SSM) and that these pollutants were non-detects. If the pollutants were non-detects and met SSM parameters, NMED supports removing these pollutants from the Part 1 Requirements for NPDES Permits, Section A. Limitations and Monitoring Requirements, Paragraph 1. Final Effluent Limits Based on the Highest Monthly Average Flow of 0.607 MGD – Outfall 002, 003. Note: these pollutants will still be required as part of the pollutant scan required for permit renewal.

Response No. 1

See response to NMDGF Comment No. 1.

New Mexico Environment Department (NMED) Comment No. 2

Part 1 Requirements for NPDES Permits, Section A. Limitations and Monitoring Requirements, Paragraph 1. Final Effluent Limits Based on the Highest Monthly Average Flow of 0.607 MGD – Outfall 002, 003 includes a limit for total residual chlorine (TRC). NMDGF reports that chlorine may also be used as a disinfectant. Footnote 4 should be updated to read:

*4. TRC is sampled at Settling Pond. The effluent limitation for TRC is the instantaneous maximum and cannot be averaged for reporting purposes.

TRC sampling is required during the period when the FDA approved drug Chloramine-T is used as a treatment for the Bacterial Gill Disease. TRC sampling is also required during the period when chlorine is used as a disinfectant.

Response No. 2

Final permit has been updated as requested.

New Mexico Environment Department (NMED) Comment No. 3

Part 1 Requirements for NPDES Permits, Section A. Limitations and Monitoring Requirements, Paragraph 2. Outfall 01B (Special Testing) – Final Effluent Limits: Non-FDA Approved Drugs, Medications and/or Chemicals includes a limit for total residual chlorine (TRC). NMDGF reports that chlorine may also be used as a disinfectant. Footnote 3 should be updated to read:

*3. TRC is sampled at Settling Pond. The effluent limitation for TRC is the instantaneous maximum and cannot be averaged for reporting purposes. TRC sampling is required during the period when non-approved Food and Drug Administration (FDA) drugs, medications, or chemicals (DMC) are used in a manner not consistent with FDA approval. TRC sampling is also required during the period when chlorine is used as a disinfectant.

Response No. 3

Final permit has been updated as requested.

New Mexico Environment Department (NMED) Comment No. 4

Part 1 Requirements for NPDES Permits, Section B. Chlorine Used as Treatment includes a statement about chlorine use at the facility. NMDGF reports that chlorine may also be used as a disinfectant. Section B should be updated to read:

* Total residual chlorine (TRC) sampling is required during the period when chlorine is used as a disinfectant. TRC sampling is also required during the period when the FDA approved drug Chloramine-T is used as a treatment for the Bacterial Gill Disease. TRC sampling is required during the period when non-approved Food and Drug Administration (FDA) drugs, medications, or chemicals (DMC) are used in a manner not consistent with FDA approval.

Response No. 4

Final permit has been updated as requested.

New Mexico Environment Department (NMED) Comment No. 5

Part 1 Requirements for NPDES Permits, Section I. Application, DMR, and Compliance Status Report states “A duplicate copy of application for permit renewal, monthly DMR, and compliance status report, if there are any, shall be sent to NMED at the mailing address listed in Part III of this permit.” The monthly DMR data available to NMED through the EPA ECHO database meet the requirement for NMED to have access to DMR data. NMED requests that the requirement be updated to read:

“A duplicate copy of application for permit renewal and compliance status report, if there are any, shall be sent to NMED at the address listed in Part III of this permit. DMR data should be available to NMED upon their request.”

Response No. 5

Final permit has been updated as requested.