



MICHELLE LUJAN GRISHAM  
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CABINET SECRETARY

Original via Electronic Mail - Copy via Electronic Mail

August 22, 2025

Mr. Troy Hill, Director  
Water Quality Protection Division (6WD)  
U. S. Environmental Protection Agency  
1201 Elm Street, Suite 500  
Dallas, Texas 75202  
[Hill.Troy@epa.gov](mailto:Hill.Troy@epa.gov)

**Re: State Certification Albuquerque Bernalillo County Water Utility Authority Wastewater Treatment Plant, NPDES Permit No. NM0022250**

Dear Director Hill:

Enclosed, please find the state certification for the following proposed National Pollutant Discharge Elimination System (NPDES) permit NM0022250, Albuquerque Bernalillo County Water Utility Authority (ABCWUA) Wastewater Treatment Plant (WWTP). If any, comments and conditions are enclosed on separate sheets.

The U.S. Environmental Protection Agency (EPA) proposes to regulate discharges under the above referenced NPDES individual permit. A state Water Quality Certification is required by Section 401 of the federal Clean Water Act (CWA) to ensure that the action is consistent with state law (New Mexico Water Quality Act, New Mexico Statutes Annotated (NMSA) 1978, §§ 74-6-1 to -17) and complies with State of New Mexico Water Quality Standards and Water Quality Management Plan and Continuing Planning Process, including Total Maximum Daily Loads (TMDLs), and the State's Antidegradation Policy.

Pursuant to State regulations for permit certification (Section 20.6.2.2001 New Mexico Administrative Code (NMAC)), EPA jointly with the New Mexico Environment Department (NMED) issued a public notice of the draft permit and announced a public comment period posted on the NMED web site at <https://www.env.nm.gov/public-notices/> on May 24, 2025. The NMED public comment period ended on August 7, 2025. NMED received comments from the Albuquerque Bernalillo County Water Utility Authority, Amigos Bravos, and Augusta Riley, which were considered in this certification.

Sincerely,

Shelly Lemon, Bureau Chief  
Surface Water Quality Bureau

cc: (w/ enclosures)  
Curry Jones, USEPA (6WDPE), via email [Jones.Curry@epa.gov](mailto:Jones.Curry@epa.gov)  
LaShundra Brown, USEPA, via email [Brown.Lashunda@epa.gov](mailto:Brown.Lashunda@epa.gov)  
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Scott Mason IV, Regional Administrator  
U.S. Environmental Protection Agency  
1201 Elm Street, Suite 500  
Dallas, TX 75202

August 22, 2025

**STATE CERTIFICATION**

**RE: Albuquerque Bernalillo County Water Utility Authority Wastewater Treatment Plant;  
NPDES Permit No. NM0022250**

Dear Regional Administrator Scott Mason IV:

The Cabinet Secretary of the New Mexico Environment Department (NMED) delegated signatory authority for state certifications of federal Clean Water Act permits to the Surface Water Quality Bureau Chief on June 23, 2025. NMED examined the proposed National Pollutant Discharge Elimination System (NPDES) permit referenced above. The following conditions are necessary to ensure compliance with the applicable provisions of the Clean Water Act Sections 208(e), 301, 302, 303, 306, and 307, and with appropriate requirements of State law. Compliance with the terms and conditions of the permit and this certification will provide reasonable assurance that the permitted activities will be conducted in a manner which will not violate applicable State water quality standards and water quality management plan and will comply with the State's antidegradation policy.

The State of New Mexico

- 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.
- 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 following conditions in the permit (see attachment).
- denies certification for the reasons stated in the attachment.
- waives its right to certify.

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 unless changes are in response to formal comments received by EPA, the changes are discussed with NMED, and NMED concurs with the changes prior to the finalization of the proposed permit.

The Department 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.

Please contact Jason Martinez at (505) 372-8376 if you have any questions concerning this certification.

Sincerely,

Shelly Lemon, Bureau Chief  
Surface Water Quality Bureau

**State of New Mexico CWA Section 401 Comments and Conditions**  
**Albuquerque Bernalillo County Water Utility Authority Wastewater Treatment Plant**  
**NPDES Permit No. NM0022250**  
**August 22, 2025**

**Federal and State Citations**

National Pollutant Discharge Elimination System (NPDES) regulations at 40 Code of Federal Regulations (C.F.R.) 122.44(d)(1)(i) require that permit "limitations must control all pollutants or pollutant parameters...which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality."

40 C.F.R. 124.53(e)(1) states that State certification shall be in writing and shall include "conditions which are necessary to assure compliance with the applicable provisions of Clean Water Act (CWA) Sections 208(e), 301, 302, 303, 306 and 307 and with appropriate requirements of State law."

40 C.F.R. 124.53(e)(2) states that for each condition more stringent than those in the draft permit, "... the certifying State agency shall cite the CWA or State law references upon which that condition is based. Failure to provide such a citation waives the right to certify with respect to that condition."

40 C.F.R. 124.53(e)(3) states that for each condition less stringent than those in the draft permit, "a statement of the extent to which each condition of the draft permit can be made less stringent without violating the requirements of State law, including water quality standards. Failure to provide this statement for any condition waives the right to certify or object to any less stringent condition which may be established during the EPA permit issuance process."

New Mexico adopted surface water quality standards (WQS) in accordance with CWA Section 303 and the New Mexico Water Quality Act, New Mexico Statutes Annotated (NMSA) 1978, §§ 74-6-1 to -17. State WQS are published in Title 20, Chapter 6, Part 4 of the New Mexico Administrative Code (20.6.4 NMAC), *Standards for Interstate and Intrastate Surface Waters*, as amended by the New Mexico Water Quality Control Commission (WQCC) on March 15, 2025, and approved by the U.S. Environmental Protection Agency (EPA) on April 10, 2025. The regulations at 20.6.4.8 NMAC outline the State's antidegradation policy and implementation plan. Appendix A of the Water Quality Management Plan and Continuing Planning Process (WQMP/CPP) details the antidegradation policy implementation procedures related to and in concurrence with 20.6.4.8 NMAC. The WQCC approved the revised WQMP/CPP on September 21, 2020, and EPA approved the revised WQMP/CPP on October 23, 2020. The WQMP/CPP also includes Appendix B, New Mexico's list of approved Total Maximum Daily Loads (TMDLs), which was last updated on May 16, 2025. Additional State regulations and standards are published in Title 20, Chapter 6, Part 2 of the New Mexico Administrative Code (20.6.2 NMAC), *Ground and Surface Water Protection*, as amended by the WQCC on December 21, 2018, and in Title 20, Chapter 6, Part 8 of the New Mexico Administrative Code (20.6.8 NMAC), *Supplemental Requirements for Water Reuse*, as approved by the WQCC on July 12, 2025.

The following conditions of certification are necessary to assure compliance with the applicable provisions of the Federal Clean Water Act (CWA) Sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law, including the antidegradation policy and the statewide water quality management plan.

### Conditions of Certification

#### **Condition # 1: Nutrient Effluent Limitations**

*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 phosphorus (TP) and total nitrogen (TN) discharge limitations in Part I. Requirements for NPDES Permits, Section A. Limitations and Monitoring Requirements, 1. OUTFALL 001 - Final Effluent Limits – 76 MGD Design Flow.*

EFFLUENT CHARACTERISTICS		DISCHARGE LIMITATIONS					
POLLUTANT	STORET CODE	lbs/day, unless noted			mg/l, unless noted (*)		
		30-DAY AVG	DAILY MAX	7-DAY AVG	30-DAY AVG	DAILY MAX	7-DAY AVG
Total Nitrogen (TN)	00600	4,266	Report	N/A	10.2	Report	N/A
Total Phosphorous (TP)	00665	1,699	Report	N/A	4.05	Report	N/A

[20.6.4.8(A) NMAC – State of New Mexico Antidegradation Policy; 20.6.4.105 NMAC – Rio Grande Basin; State of New Mexico Water Quality Management Plan and Continuing Planning Process (WQMP/CPP), including Appendix A; EPA Region VI Procedures for Implementing National Pollutant Discharge Elimination System Permits in New Mexico – NMIP, 2012]

#### Background for Condition #1: Nutrient Effluent Limitations

#### **Regulatory Citations and Guidance**

*New Mexico Administrative Code (NMAC)*

20.6.4.8 NMAC ANTIDEGRADATION POLICY AND IMPLEMENTATION PLAN:

- A. Antidegradation Policy: This antidegradation policy applies to all surface waters of the state.
  - (1) Existing uses, as defined in Paragraph (4) of Subsection E of 20.6.4.7 NMAC, and the level of water quality necessary to protect the existing uses shall be maintained and protected in all surface waters of the state.
  - (2) Where the quality of a surface water of the state exceeds levels necessary to support the propagation of fish, shellfish, and wildlife, and recreation in and on the water, that quality shall be maintained and protected unless the commission finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the state's continuing planning process, that allowing lower water quality is necessary to accommodate important economic and social development in the area in which the water is located. In allowing such degradation or lower water quality, the state shall assure water quality adequate to protect existing uses fully. Further, the state shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable BMPs for nonpoint source control. Additionally, the state shall encourage the use of watershed planning as a further means to protect surface waters of the state.

20.6.4.13(E). PLANT NUTRIENTS: Plant nutrients from other than natural causes shall not be present in concentrations that will produce undesirable aquatic life or result in a dominance of nuisance species in surface waters of the state.

20.6.4.105 NMAC RIO GRANDE BASIN: The main stem of the Rio Grande from the headwaters of Elephant Butte reservoir upstream to Alameda bridge (Corrales bridge), excluding waters on Isleta pueblo.

- A. Designated uses: irrigation, marginal warmwater aquatic life, livestock watering, public water supply, wildlife habitat and primary contact.
- B. Criteria:
  - 1) The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses.
  - 2) At mean monthly flows above 100 cfs, the monthly average concentration for: TDS 1,500 mg/L or less, sulfate 500 mg/L or less and chloride 250 mg/L or less.

*Statewide Water Quality Management Plan and Continuing Planning Process (2020 WQMP/CPP)  
Appendix A - Antidegradation Policy Implementation Procedure for Regulated Activities*

## 1 OVERVIEW OF NEW MEXICO'S ANTIDEGRADATION APPROACH

### 1.3 Coordination with Assessment and Impairment Listing

Section 305(b) of the CWA requires each state to prepare and submit to the U.S. Environmental Protection Agency (EPA) a biennial report describing water quality of all surface waters in the state. Each state must monitor water quality and review available data to determine if water quality standards are being met. From the assessment, the CWA Section 303(d) List ("303(d) list") is created which identifies surface waters that do not meet water quality standards. These waters are known as water quality limited waters or impaired waters. Identification of a surface water as impaired may be based on a violation of a numeric or narrative water quality criterion. NMED's antidegradation policy implementation procedure (i.e., this appendix) assigns a protection category for the receiving water based on whether water quality standards are being met.

To coordinate antidegradation reviews with the 305(b) reporting and 303(d) listing activities, NMED will implement the following protections:

- Tier 1 Protection (applicable to all waters): No further degradation is permitted in a surface water where the most current water quality for that criterion does not meet, or meets but is not better than, the applicable water quality standards. Impaired waters are identified on New Mexico's 303(d) list and targeted for future water quality management planning (e.g., TMDLs, Watershed Based Plans (WBPs), etc.) to improve water quality and attain WQS.

## 2 TIERED PROTECTION LEVELS

### 2.1 Tier Definitions

Federal law requires that surface waters be protected from discharges that might degrade water quality. To implement this requirement, it is necessary to identify antidegradation protection levels, or tiers, appropriate to each surface water. The state antidegradation rule at 20.6.4.8 NMAC delineates three tiers of protection for New Mexico surface waters. These tiers are applied on a pollutant-by-pollutant basis. Although Tiers are defined on a pollutant-by-pollutant basis, ONRWs are identified on a waterbody basis as described further below in this section and in NMAC 20.6.4.9(D) NMAC. Under this approach, surface water quality might degrade for one or more pollutants of concern but be unaffected for other pollutants. Degradation may be further described as de minimis (consumption of less than 10% of the assimilative capacity for a pollutant of concern) or significant (consumption of 10% or more of the assimilative capacity for a pollutant). Minimal (de minimis) degradation is permitted under the antidegradation rule and does not trigger comprehensive Tier 2 antidegradation review requirements. Significant degradation triggers the comprehensive Tier 2

antidegradation implementation procedures described below. The tiered protection levels are applied as follows:

Tier 1 – Applies as the default protection level for all surface waters, including intermittent waters, ephemeral waters, effluent dependent waters, and other surface waters and requires that water quality be maintained such that the existing and designated uses of the water are supported.

### 3 ANTIDGRADATION REVIEW REQUIREMENTS

#### 3.1 Antidegradation Review Requirements by EQUIREMENTS BY Tier

Tier 1: Reviews to Protect Existing Uses

Tier 1 reviews must ensure that the level of water quality necessary to protect existing uses is maintained and protected. In general, the “level of water quality necessary to protect existing uses” is defined by state-adopted surface water quality standards.

#### *EPA Region VI's Procedures for Implementing NPDES Permits in New Mexico (NMIP)*

#### III. ANTIDEGRADATION IMPLEMENTATION BETWEEN FEDERAL AND STATE POLICIES

##### A. General

The Antidegradation Policy and Implementation Plan section of the NMWQS sets forth the requirements to protect designated uses through implementation of the State water quality standards. Furthermore, the policy sets forth the intent to protect the existing quality of those waters, whose quality exceeds their designated use. The limitations and monitoring requirements set forth in a proposed permit must be protective of the State water quality standards and designated uses. Permit requirements must be protective of the assimilative capacity of the receiving waters, which are protective of the designated uses of that water.

#### ***Regulatory Rationale***

The Albuquerque Bernalillo County Water Utility Authority (ABCWUA) Wastewater Treatment Plant (WWTP) discharges treated effluent into the Rio Grande defined in Water Quality Segment 20.6.4.105 NMAC of the Rio Grande Basin, with designated uses of irrigation, marginal warmwater aquatic life, livestock watering, public water supply, wildlife habitat, and primary contact. The 2024-2026 State of New Mexico CWA §303(d) / §305(b) Integrated Report identifies the Rio Grande (Tijeras Arroyo to Alameda Bridge) as impaired due to dissolved oxygen, temperature, PCBs, mercury, and E. Coli.

State water quality standards consist of various components such as designated uses, water quality criteria, and the Statewide Water Quality Management Plan and Continuing Planning Process (WQMP/CPP) for the antidegradation policy. The primary purpose of the Antidegradation Policy is to promote the maintenance and protection of existing water quality by limiting discharges and other activities that will negatively impact water quality, impair or threaten to impair designated uses of surface waters. An antidegradation policy provides a baseline level of protection relative to established water quality criteria.

According to the approved New Mexico Antidegradation Policy Implementation Procedure for Regulated Activities, the Rio Grande is classified as Tier 1 for dissolved oxygen; therefore, any increase in pollutant load or other activity that would cause further degradation of water quality is not allowed. Each NPDES permit issued must contain requirements necessary to achieve water quality standards. Tier 1 – Applies as the default protection level for all surface waters, including intermittent waters, ephemeral waters, effluent dependent waters, and other surface waters and requires that water quality be maintained such that the existing and designated uses of the water are supported. Furthermore, where a surface water is impaired, there shall be no further degradation or lowering of the water quality.

Segment 20.6.4.105 NMAC of the Rio Grande Basin, assessment unit NM-2105\_51 is impaired due to dissolved oxygen (DO). Dissolved oxygen is a response variable indicative of nutrient enrichment. To prevent further dissolved oxygen degradation, an effluent limitation for total nitrogen and total phosphorus is needed to limit algal bloom effects on dissolved oxygen and prevent or mitigate nutrient pollution and excess nutrient loading.

Nutrient pollution can be described as excess amounts of nitrogen and phosphorus and the resultant high algal biomass. Nutrient impairment occurs when algae and other aquatic vegetation (macrophytes) interfere with designated uses such as domestic water supply or aquatic life. Eutrophication is the process by which a body of water becomes enriched with nutrients that stimulate the growth of aquatic plant life. During the day, aquatic vegetation produces oxygen, sometimes leading to supersaturation. At night, however, excessive algal growth can deplete dissolved oxygen (DO) in the waterbody through respiration and decay of dead algal cells and other organic matter. Low DO concentrations and increased diel fluctuations can cause shifts in community composition and, in severe cases, the death of organisms such as macroinvertebrates and fish. Eutrophication can be a natural incremental process for a water body, but human activities can greatly enhance the process to the detriment of aquatic life.

The proposed permit requires discharge limits for total phosphorous and total nitrogen in Part I Requirements for NPDES Permits, Section A Limitations and Monitoring Requirements, 1 Final Effluent Limits – 76 MGD Design Flow.

#### ***Limitation Derivations***

The current NPDES permit for the ABCWUA WWTP requires quarterly monitoring and reporting for nutrients, which means that the 30-day “average” is a single-sample value and the same as the reported daily maximum. The concentration (mg/L) limitations were calculated using USEPA’s *Technical Support Document for Water Quality-Based Toxics Control* to set an average monthly effluent limitation (AML) based on the long-term average concentration from existing effluent monitoring data. The water quality-based effluent limit (WQBEL) calculations assume that effluent concentrations of total nitrogen and total phosphorus are lognormally distributed with a coefficient of variation (CV) of 0.6. The average monthly limit (AML), or 30-day average, is set at the 95<sup>th</sup> percentile of occurrence probability with a sampling frequency of n=10 per month, approximately biweekly. The sampling frequency may be adjusted down if the permittee requests, but the permit limits must not be recalculated as a result. The calculation of permit limits used the following formula:

$$AML = LTA \times e^{[LTA \text{ Multiplier}]}$$

Where,

AML = average monthly limit, or 30-day average

LTA = long-term average based on existing effluent data from 2020-2025

$e^{[LTA \text{ Multiplier}]}$  is based on a coefficient of variation of 0.6, the 95<sup>th</sup> percentile of occurrence probability, and a sampling frequency of n=10 times per month = 1.38.

This approach was used because it represents current treatment capabilities without being over or under protective of water quality and represents the intent of this condition, which is to maintain existing and downstream water quality and prevent further degradation of Rio Grande (Table 2). NMED evaluated the discharge monitoring reports (DMR) data against these effluent limits and found that these concentration limits for both total nitrogen (TN) and total phosphorus (TP) were only exceeded once in the past five years. The loading limit for TN was exceeded once in the past five years, and the loading limit for TP was exceeded two times in the past five years. Considering the DMR data are single samples and not averages, adjusting the monitoring frequency to ten (or eight or four) times per month

to calculate 30-day *averages* for the DMR reporting will likely reduce or eliminate the potential to exceed these numeric nutrient effluent limitations.

The loading limitations were calculated by multiplying the average monthly limit (AML), or 30-day average concentration by the maximum 30-day average flow from the last permit term (2019-present) from DMR data and a conversion factor (8.34) to get a loading limit in units of pounds per day (lbs/day). NMED reviewed other possible flow values to calculate the load limitations including the maximum 7-day average flow, the maximum 30-day average flow over longer time periods, and the design flow. The maximum 30-day average flow was chosen to calculate the loading limits because it best represents the intent of these nutrient limitations, which is to prevent further degradation or lowering of the water quality with respect to the pollutants causing the impairment (Table 3). These limits will ensure that nutrient loading to the stream is not increased, and current water quality is not further degraded (Table 4).

Table 1: ABCWUA WWTP reported Nutrient Data, DMRs February 2020 through May 2025

Date (mm/dd/yy)	Total Nitrogen 30 Day Avg (mg/L)	Total Nitrogen Load (lbs/day)*	Total Phosphorus 30 Day Avg (mg/L)	Total Phosphorus Load (lbs/day)*
2/29/20	7	2936.514	2.4	1006.805
5/31/20	7.9	3314.066	2.95	1237.531
8/31/20	6.22	2609.302	2.2	922.9044
11/30/20	6.57	2756.128	2.66	1115.875
2/28/21	6.87	2881.979	2.76	1157.826
5/31/21	7.1	2978.464	3.1	1300.456
8/31/21	6.7	2810.663	3	1258.506
11/30/21	6.73	2823.248	4.08	1711.568
2/28/22	9.86	4136.29	3.08	1292.066
5/31/22	6.22	2609.302	2.53	1061.34
8/31/22	7.51	3150.46	3.42	1434.697
11/30/22	6.84	2869.394	1.92	805.4438
2/28/23	8.37	3511.232	1.79	750.9086
5/31/23	10.26	4304.091	3.33	1396.942
8/31/23	7.15	2999.439	2.2	922.9044
11/30/23	5.76	2416.332	2.53	1061.34
2/29/24	9.94	4169.85	2.32	973.2446
5/31/24	8.7	3649.667	3.39	1422.112
8/31/24	7.08	2970.074	4.08	1711.568
11/30/24	6.38	2676.423	5.05	2118.485
2/28/25	6.93	2907.149	2.74	1149.435
5/28/25	6.02	2525.402	3.05	1279.481

\* Loading values are estimates based on maximum 30-day flow and NOT actual flow at time of sampling.

Table 2: ABCWUA WWTP, Total Nitrogen (TN) and Total Phosphorus (TP) DMR Data; Long-Term Average, Minimum, and Maximum; February 2020 through May 2025.

CURRENT PERFORMANCE	TN (mg/L)	TN (lbs/day)	TP (mg/L)	TP (lbs/day)
AVERAGE	7.37	3091	2.94	1,231
MINIMUM	5.76	2,146	1.79	750
MAXIMUM	10.26	4,304	5.05	2,118

Table 3. ABCWUA WWTP, Reported Flow Data, DMRs February 2020 through July 2025

FLOWS	30D AV (all)	30D AV (2yr)	7D AV (all)	7D AV (2yr)	Design Flow
Maximum flows (mgd)	50.3	48.3	52.6	49.1	76

Table 4: ABCWUA WWTP Nutrient Effluent Limits, calculated using Table 5-2 (Calculation of Permit Limits) from the USEPA *Technical Support Document for Water Quality-Based Toxics Control* and a maximum 30-Day Average Flow Rate (2020-2025) – expressed as 30-day Averages

	TN (mg/L)	TN (lbs/day)	TP (mg/L)	TP (lbs/day)
NUTRIENT LIMITS	10.2	4,266	4.05	1,699

#### Comments that are not Conditions of Certification

1. In the permit, **Part I.A. Limitations and Monitoring Requirements, 1. Outfall 001 Final Effluent Limits**, the CBOD5 30-day average effluent limitation is incorrect and should be 9,508 lbs/day. This was addressed in a letter to the permittee and was incorporated into the 2019 permit.
2. In the permit, **Part I.A. Limitations and Monitoring Requirements, 1. Outfall 001 Final Effluent Limits**, the CBOD5 7-day average effluent limitation is incorrect and should be 14,261 lbs/day. This was addressed in a letter to the permittee and was incorporated into the 2019 permit.
3. In the permit, **Part I.A. Limitations and Monitoring Requirements, 1. Outfall 001 Final Effluent Limits**, the Total Inorganic Nitrogen 30-day average effluent limitation is incorrect and should be 6,338 lbs/day. This was addressed in a letter to the permittee and was incorporated into the 2019 permit.
4. In the permit, **Part I.A. Limitations and Monitoring Requirements, 1. Outfall 001 Final Effluent Limits**, the Total Inorganic Nitrogen 7-day average (daily max.) effluent limitation is incorrect and should be 9,508 lbs/day. This was addressed in a letter to the permittee and was incorporated into the 2019 permit.
5. In the permit, **Part I.A. Limitations and Monitoring Requirements, 1. Outfall 001 Final Effluent Limits**, the Total Ammonia, as N does not have reasonable potential for either the acute or chronic criteria. The permittee has requested to remove the effluent limitation in lieu of parametric monitoring. NMED would support removing the effluent limitation since reasonable potential to exceed state water quality criteria does not exist and requiring monitoring for Total Ammonia, as N at a reduced frequency.
6. In the permit, **Part I.A. Limitations and Monitoring Requirements, 1. Outfall 001 Final Effluent Limits**, NMED requests EPA to update the 'Sample Type' for pH from 'Continuous' to 'Continuous or Instantaneous Grab'.

This will allow the permittee flexibility to implement and address pH monitoring. Per a comment received by the permittee, there is an operational shift away from continuous monitoring in response to maintenance needs. Allowing both continuous and instantaneous grab sampling types would give the permittee time to implement and augment operations as needed.

7. The Albuquerque Bernalillo County Water Utility Authority is required by EPA to fulfil reporting requirements of the NPDES permit. In the draft NPDES permit **Part I.D. Overflow Reporting**, the permittee has requested to incorporate the Pueblo of Isleta reporting requirements that were in the 2019 permit which outline category 1 and category 2 overflow events. NMED supports the language in Part I.D requiring immediate notification to the Pueblo of Isleta and notification to NMED and EPA within 24- hours. The requirement in conjunction with the updated Pueblo of Isleta Tribal Environmental Emergency Response Contact Information allows the permittee to implement an overflow response plan with flexibility.
8. In **Part I. Requirements for NPDES Permits, Section D. Overflow Reporting Overflows** that endanger human health or the environment are required to be reported to EPA and NMED. There is no public notification requirement for overflows that reach a water body and endanger human health of downstream users. Nongovernmental organizations and community groups downstream of the Albuquerque Bernalillo County Water Utility Authority Southside Reclamation Plant (wastewater treatment plant) have expressed interest in receiving notifications regarding overflow and bypass events. NMED requests 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. Permittees should provide a copy of the public notification plan to NMED.
9. NMED supports the permittee's request regarding **Part II. E. Whole Effluent Toxicity Testing (7-Day Chronic NOEC Freshwater), 2. Required Test Acceptability Criteria and Test Conditions** to maintain the 2019 permit holding time of 72-hours.
10. NMED determined the critical low flow and harmonic means of the Rio Grande upstream of the facilities outfall by using flow data from USGS gauge 08330000 (Rio Grande at Albuquerque). NMED utilizes this USGS to provide flow characterization data to EPA because the gauge is upstream of the facilities outfall and in the jurisdiction of the State of New Mexico. NMED recommends EPA remain consistent with using USGS gauge 08330000 due to the reasons above and the historic use.
11. NMED supports the changes in the fact sheet for monitoring of new parameters, continued implementation of the mercury minimization plan, and other corrections to the permit.
12. In the fact sheet, **Part I.F. Pollutant Scan, 6. Monitoring Frequency for Limited Parameters**, the table has a typographical error the PFAS sampling type as '24-hr Composite' which needs to be corrected to grab per Method 1633.
13. In the fact sheet, **Part V.B. Technology-Based Effluent Limitations/Conditions, 2. Effluent Limitation Guidelines In Part I.A. Limitations and Monitoring Requirements, 1. Outfall 001 Final Effluent Limits**, NMED requests EPA to note for the next permit renewal cycle the parameter table should reflect the following updates:

- a. The parameter CBOD5 the 30-day average (lbs/day, unless noted) is listed as 709 lbs/day and needs to be corrected to 9,508 lbs/day.
- b. The parameter CBOD5 the 7-day average (lbs/day, unless noted) is listed as “report” and needs to be corrected to 14,261 lbs/day.

14. In the fact sheet, page 1 has a typographical error for the expiration date of the 2019 permit as October 30, 2024. The expiration for the 2019 permit is November 30, 2024.

15. In the 2019 NPDES permit EPA required monitoring for total dissolved solids, chloride, and sulfates at a frequency of once per month. This was to develop a baseline to compare for reasonable potential against the Pueblo of Isleta water quality criteria. From the monitoring data EPA determined there is reasonable potential to exceed the Pueblo of Isleta water quality criteria. NMED requests EPA evaluate the characterization of the effluent for TDS, chloride, and sulfates to determine if a water quality-based effluent limitation is needed.

In the event EPA determines an effluent limitation will be required then NMED requests a compliance schedule to allow the permittee to address the additional effluent limitations. Such as a 3-year compliance schedule would allow the permittee time to determine operational changes that would need to be implemented to meet the additional limitations.

16. NMED recommends a compliance schedule to allow the permittee to address the new nutrient effluent limitations for total nitrogen and total phosphorus. A compliance schedule would allow the permittee time to determine operational changes that would need to be implemented to meet these new monitoring requirements and limitations.