NPDES PERMIT NO. NM0020273
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: City of Raton Wastewater Treatment/Reclamation Facility
P.O. Box 99
Raton, NM 87740

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

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PERMIT ACTION: Final permit decision and response to comments received on the proposed NPDES permit publicly noticed on November 08, 2025.

DATE PREPARED: December 08, 2025

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations, revised as of September 28, 2015.

DOCUMENT ABBREVIATIONS

In the document that follows, various abbreviations are used. They are as follows:

4Q3	Lowest four-day average flow rate expected to occur once every three years
BAT	Best available technology economically achievable
BCT	Best conventional pollutant control technology
BPT	Best practicable control technology currently available
BMP	Best management plan
BOD	Biochemical oxygen demand (five-day unless noted otherwise)
BPJ	Best professional judgment
CBOD	Carbonaceous biochemical oxygen demand (five-day unless noted otherwise)
CD	Critical dilution
CFR	Code of Federal Regulations
Cfs	Cubic feet per second
COD	Chemical oxygen demand
COE	United States Corp of Engineers
CWA	Clean Water Act
DMR	Discharge monitoring report
ELG	Effluent limitations guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FCB	Fecal coliform bacteria
F&WS	United States Fish and Wildlife Service
mg/L	Milligrams per liter
µg/L	Micrograms per liter
MGD	million gallons per day
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMIP	New Mexico NPDES Permit Implementation Procedures
NMWQS	New Mexico State Standards for Interstate and Intrastate Surface Waters
NPDES	National Pollutant Discharge Elimination System
MQL	Minimum quantification level
O&G	Oil and grease
PCB	Polychlorinated Biphenyl
POTW	Public owned treatment works
RP	Reasonable potential
SIC	Standard industrial classification
s.u.	Standard units (for parameter pH)
SWQB	Surface Water Quality Bureau
TDS	Total dissolved solids
TMDL	Total maximum daily load
TRC	Total residual chlorine
TSS	Total suspended solids
UAA	Use attainability analysis
USGS	United States Geological Service
WLA	Wasteload allocation
WET	Whole effluent toxicity
WQCC	New Mexico Water Quality Control Commission
WQMP	Water Quality Management Plan
WWTP	Wastewater treatment plant

In this document, references to State WQS and/or rules shall collectively mean either or both the State of New Mexico and/or the Pueblo of Taos.

SUBSTANTIAL CHANGES FROM DRAFT PERMIT

STATE CERTIFICATION

In a letter from Ms. Shelly Lemon, Bureau Chief, SWQB, to Mr. Scott Mason IV, Regional Administrator dated December 19, 2025, the NMED certified that the discharge will comply with the applicable provisions of Section 208(e), 301, 301, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law.

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:

1. None

Comments that are not Conditions of Certification

Comment No. 1:
NPDES Permit cover page
The facility location/address is incorrectly listed as 1750 East Hereford Avenue. EPA should correct the address to 520 East Hereford Avenue.

Response: Comment is noted. The EPA made revisions in the permit.

Comment No. 2:
NPDES Permit, Part I. Requirements for NPDES Permits, Section B. Schedule of Compliance
NMED supports quarterly compliance schedule reporting requirements. The reporting requirement frequency for the total nitrogen and total phosphorus compliance schedule was not explicitly identified in the previous permit cycle.

Response: Comment is noted for the record. No change to the permit was required.

Comment No. 3:
Fact Sheet, Part II. Applicant Location and Activity

NMED supports the description of Doggett Creek as a perennial water. NMED identifies Doggett Creek as a perennial stream in the 2024-2026 State of New Mexico Clean Water Act 303(d)/305(b) Integrated List. The facility discharges into the assessment unit NM-2305.A_255, which represents the entirety of Doggett Creek from Raton Creek upstream to its headwaters.

Response: Comment is noted for the record. No change to the permit was required.

Comment No. 4:
Fact Sheet, Part II. Applicant Location and Activity The facility location/address is incorrectly listed as 1750 East Hereford Avenue. EPA should correct the address to 520 East Hereford Avenue.

Response: Comment is noted for the record. The EPA made revisions in the permit.

Comment No. 5:
Fact Sheet, Part V. Draft Permit Rationale and Proposed Permit Conditions, Section C. Water Quality Based Limitations, Subsection 4. Permit Action - Water Quality-Based Limits, Paragraph e. Toxics, Subparagraph ii - TRC There is a typographical error - the word "remain" is spelled remaine. NMED requests that EPA correct the error

Response: Comment is noted for the record. No change made to the permit.

Comment No. 6:
Fact Sheet, Part V. Draft Permit Rationale and Proposed Permit Conditions, Section C. Water Quality Based Limitations, Subsection 4. Permit Action - Water Quality-Based Limits, Paragraph e. Toxics, Subparagraph iii – PFAS NMED supports the inclusion of PFAS monitoring to meet the requirements of 20.6.4.7(E)(2) NMAC and 20.6.4.7(T)(2) NMAC, as detailed in the Fact Sheet.

Response: Comment is noted for the record. No change made to the permit.

Comment No. 7:
Fact Sheet, Part V. Draft Permit Rationale and Proposed Permit Conditions, Section E. Whole Effluent Toxicology Limitations NMED requests that EPA include the Whole Effluent Toxicology Limitation reasonable potential analysis in the Fact Sheet and Response to Comments.

Response: Comment is noted for the record. The EPA included the WET reasonable potential analysis results, which show excursions occurred, and also reasonable potential exists for future WET impacts for Ceriodaphnia dubia, in Appendix 1.

OTHER COMMENTS RECEIVED ON DRAFT PERMIT .

An email from Kristin Arnold of Plummer Associates, Inc. to the U.S Environmental Protection Agency on December 5, 2025.

RESPONSE TO COMMENTS

Comment No. 1:
State Public Notice, Fact Sheet (Page 3 of 20), Draft Permit (Cover Letter). The facility address is incorrectly listed as 1750 East Hereford Avenue. Please correct to 520 East Hereford Avenue. Please see the below image showing the correct address on Google Street View:

Response: Comment is noted for the record. The EPA made revisions in the final permit.

Comment No. 2:
State Public Notice, Fact Sheet Section II (Page 4 of 20). Doggett Creek is incorrectly described as "an unclassified perennial water below the discharge point." Doggett Creek is an effluent-dominated intermittent stream and should be classified as intermittent in the notice and fact sheet.

Response: The EPA disagrees. Doggett Creek is identified as a perennial stream in the 2024-2026 State of New Mexico Clean Water Act 303(d)/305(b) Integrated List. The facility discharges into the assessment unit NM-2305.A_255, which represents the entirety of Doggett Creek from Raton Creek upstream to its headwaters. The EPA made no change to the permit.

Comment No. 3:
Fact Sheet Section V.C(4)(e)(ii) (Page 10 of 20). Correct the spelling of "remain."

Response: Comment is noted for the record. No change to the permit was required.

Comment No. 4:

Fact Sheet Section V.C(4)(e)(iii) (Page 10 of 20), Draft Permit Part I.A(1) (Page 4 of 21). We respectfully request that EPA Region 6 reduce the PFAS monitoring requirement to limit sampling of PFAS in effluent only and not require influent or biosolids monitoring. Monitoring PFAS in effluent will provide sufficient information on whether PFAS is present. Influent monitoring is unnecessary because the City is a passive receiver of wastewater and does not generate PFAS.

At present, our WTP has not detected PFAS, there are no known or suspected PFAS sources in our area, nor are there industrial users that handle, manufacture, or discharge PFAS-containing materials. Therefore, requiring influent and biosolids sampling at this stage would require the City to use resources for a potentially unnecessary sampling requirement that will not provide additional information. As a small, disadvantaged community with limited ratepayer funding, reducing the one-time monitoring to effluent only will provide the necessary data while avoiding undue financial burden on our population. Should PFAS be detected in the effluent, future sampling on biosolids or influent may be considered in future permit terms.

Response: The EPA December 5, 2022, memorandum titled "Addressing PFAS Discharges in NPDES Permits and Through the Pretreatment Program and Monitoring Programs" indicates EPA wants to obtain comprehensive information on the sources and quantities of PFAS discharges. These gathered data will be used for developing water quality criteria to support technology-based and water quality-based effluent limits for PFAS in NPDES permits. For Publicly Owned Treatment Works, the memo recommends effluent, influent, and biosolids monitoring should be conducted. For consistency, EPA cannot grant the request of monitoring PFAS in effluent only. However, EPA will revisit the need for any follow-up monitoring in future permit terms if all results are non-detect or very low. The EPA made no change to the permit.

Comment No. 5:

Draft Permit Part I.B(2)(a) (Page 8 of 21). We respectfully request that quarterly reporting be modified to annual reporting. The progress report frequency has been increased from once per term in the last permit to quarterly in the draft permit. The activities requiring reporting are design and construction to meet the nutrient temporary standard. Annual reporting is more suitable to the timeline and achieves the same goal without imposing additional administrative burden.

Response: The 2024-2026 State of New Mexico CWA Section 303(D)/305(B) Integrated list of Assessed Surface Waters listed Doggett Creek impaired due to nutrients and E. coli bacteria. A summary of the last 36 months of available pollutant data (i.e., June 2022 through June 2025) taken from DMRs shows that the facility experienced several exceedances of permit limit (shown in parenthesis) for Total Phosphorous (5). Due to the need for timely data to monitor

compliance and address potential noncompliance issues, if any, EPA cannot grant a request that quarterly reporting be modified to annual reporting. The EPA made no change to the permit.

Comment No. 6:

Fact Sheet Section V.E, Page 12 of 20, Draft Permit Part I.A(1) (Page 5 of 21). We respectfully request removal of the proposed whole effluent toxicity (WET) limits for the chronic *Ceriodaphnia dubia* (C. dubia) test and request requiring only WET monitoring and reporting. The proposed WET limit is inconsistent with the provisions in the existing permit, which provides for a Toxicity Reduction Evaluation (TRE), and, as needed, Toxicity Identification Evaluation (TIE) in response to persistent toxicity. A WET limit is premature given the permit's existing framework and a strong indication that the observed WET test effect is driven by ionic matrix effects (high TDS/hardness) rather than a controllable toxic discharge. Consistent with the Environmental Protection Agency's (EPA's) guidance document *Clarifications Regarding Toxicity Reduction and Identification Evaluations in the National Pollutant Discharge Elimination System Program* (EPA, 2001), a WET limit should be considered only after completion of a TRE/TIE demonstrates persistent toxicity attributable to controllable effluent toxicants rather than test-matrix effects.

Elevated total dissolved solids (TDS) concentrations in the effluent appear to have resulted in WET test effects. The effluent is characterized as very hard water (generally greater than 280 mg/L). The sensitivity of the C. dubia to elevated TDS and high hardness is well documented. Furthermore, the permittee's WET reports demonstrate frequent WET test effects in the laboratory-prepared receiving water control. This control consists of a laboratory-prepared water to mimic the ionic composition of the receiving water. Because this control contains no effluent or site-related contaminants, observed effects in the control indicate sensitivity to ionic composition (matrix stress) rather than exposure to pollutants. Additional evidence that elevated TDS are the cause of the observed WET test failures is provided in TIE treatments conducted by the laboratory in October 2025. The observed data are not conclusive, which is not unusual when a TIE is initiated and is one reason why TIEs can take significant time to complete.

Two treatments were used to characterize the observed WET test effects, a C18 treatment and EDTA treatment. The C18 and EDTA treatments were applied to both the effluent sample and lab water. The C18 treatment removes organic toxicants, such as pesticides, while the EDTA treatment chelates metals, which make metals unavailable to the organisms. The purpose of these treatments is to assist with identifying a toxicity source.

The results of the treatments are inconclusive; however, the observed pattern is also consistent with ionic matrix effects associated with high TDS/hardness. The C18 treatment, which only removes organic substances from the water, caused a WET test effect in the control sample and increased the effects observed in the effluent sample.

The second treatment, EDTA, like the C18 treatment, also caused a WET test effect in the control, however, it eliminated the WET test effects in the effluent sample. The observed effects are consistent with ionic stress causing the initial effect in the effluent sample and EDTA changing the bioavailability by complexation, especially reducing bioavailable hardness constituents, and thus eliminating ionic stress in the effluent sample. In the control, however,

reducing bioavailable hardness constituents resulted in such low hardness that it caused ionic stress.

These results strongly indicate that the observed WET test effect is driven by ionic matrix effects (high TDS/hardness) rather than a controllable toxic discharge, which are consistent with the following:

- The C18 treatment altered the sample by removing organic materials from the water, which can reduce complexation and other buffering effects that mitigate stress to C. dubia. This change in water quality resulted in the control exhibiting a WET test effect that was not present prior to treatment and increased WET test effect in the effluent sample. The observed responses are consistent with ionic stress because removal of organic material can reduce complexation and buffering capacity, potentially increasing sensitivity to ionic stress and causing WET test effects.
- EDTA chelates metals, including calcium, in the control and the sample reducing their bioavailability. Chelation of calcium will change the hardness and impact the test organisms. Test organisms are reared in moderately hard water. The observed effects are consistent with EDTA reducing bioavailable hardness constituents of the moderately hard control sample to soft water to which the organisms are not acclimated and can cause ionic stress that results in WET test effects. Similarly, reduced bioavailable hardness constituents in the effluent sample reduced the hardness to levels closer to moderately hard water and therefore reducing or eliminating the ionic stress of high hardness.
- The reference toxicity test data provided in each WET test laboratory report demonstrate the widely changing sensitivity of the organisms to sodium chloride, which is used as reference toxicant because it causes WET test effects through ionic stress. This ever-changing sensitivity to the ionic stress is observed by all laboratories and is consistent with the changing sensitivity of the C. dubia to the ionic composition of the effluent during the permit cycle.
- The laboratory prepared receiving water control is very hard water with high TDS levels. The laboratory routinely reports that this synthetic water exhibits WET test effects. These effects can be attributed to the ionic stress to organisms because no other parameters, other than minerals, are added to this control.
- As documented in the fact sheet, the City has no industrial users and there is no evidence of a toxic discharger in the service area.

1. According to EPA's guidance document *Clarifications Regarding Toxicity Reduction and Identification Evaluations in the National Pollutant Discharge Elimination System Program* (EPA, 2001), WET limits should generally not be imposed until a TRE and/or TIE has been conducted. Imposing WET limits before completing a TRE/TIE can be premature and may not address the underlying source of toxicity. EPA recommends a stepwise approach: first confirm toxicity through monitoring, then perform TRE/TIE to diagnose and mitigate the issue before establishing enforceable limits. This approach ensures that permit requirements are technically justified and achievable. Based on the TIE work conducted in October 2025, there is a strong indication that the observed WET test effect is driven by ionic matrix effects (high TDS/hardness) rather than a controllable toxic discharge. In lieu of

a WET limit, the permittee should have the opportunity to conduct a complete TRE consistent with EPA guidance. If necessitated by the findings of the TRE, the permittee should have the opportunity to explore alternative WET test procedures to better characterize an effluent with high TDS. Alternatives to explore may include the following: other invertebrate organisms like Daphnia magna, which are less sensitive to elevated TDS, using acclimated C. dubia that are reared in hard water, or using a different control. This control could match the mineral composition of the effluent, which would be characterized as very hard water.

Response: Per regulations under 40 CFR 122.44(d)(1)(v), a WET limit must be included in the permit. The EPA conducted an analysis of WET data from the previous permit cycle. The test results show excursions occurred, and also reasonable potential exists for future WET impacts for Ceriodaphnia dubia (see Appendix 1). Therefore, EPA cannot grant the request of removing the proposed whole effluent toxicity (WET) limits for the chronic Ceriodaphnia dubia (C. dubia) test in the final permit. However, EPA added a 3-year compliance schedule to the final permit to allow the permittee time to carry out and complete the ongoing Toxicity Reduction Evaluation. The WET limit for Ceriodaphnia dubia will go into effect three years after the effective date of the permit. The WET monitoring and reporting requirement for Pimephales promelas in the previous permit will be continued in the draft permit.

Appendix 1

Facility Name	City of Raton WWTP							
NPDES Permit Number	NM0020273					Outfall Number	001	
Proposed Critical Dilution*	98							
	*Critical Dilution in draft permit, do not use % sign.							
	Enter data in yellow shaded cells only. Fifty percent should be entered as 50, not 50%.							
Test Data								
	VERTEBRATE				INVERTEBRATE			
Date (mm/yyyy)	Lethal NOEC	Sublethal NOEC	Lethal TU	Sublethal TU	Lethal NOEC	Sublethal NOEC	Lethal TU	Sublethal TU
6/30/22					98	98	1.02	1.02
9/30/22					90	98	1.11	1.02
12/31/22	98	98	1.02	1.02	90	31	1.11	3.23
3/31/23					100	100	1.00	1.00
6/30/23					100	100	1.00	1.00
9/30/23					31	31	3.23	3.23
12/31/23	100	100	1.00	1.00	100	98	1.00	1.02
3/31/24					98	98	1.02	1.02
6/30/24					100	98	1.00	1.02
9/30/24					100	98	1.00	1.02
12/31/24	95	98	1.05	1.02	100	98	1.00	1.02
3/31/25					100	98	1.00	1.02
6/30/25					100	98	1.00	1.02
	95	98	1.05	1.02	31	31	3.23	3.23
Count			3	3			13	13
Mean			1.024	1.014			1.191	1.357
Std. Dev.			0.027	0.012			0.613	0.830
CV			0.6	0.6			0.5	0.6
RPMF			3	3			1.5	1.6
		1.02	Reasonable Potential Acceptance Criteria					
Vertebrate Lethal		3.095	Reasonable Potential exists, Permit requires WET monitoring and WET limit.					
Vertebrate Sublethal		3.000	Reasonable Potential exists, Permit requires WET monitoring and WET limit.					
Invertebrate Lethal		4.742	Reasonable Potential exists, Permit requires WET monitoring and WET limit.					
Invertebrate Sublethal		5.058064516	Reasonable Potential exists, Permit requires WET monitoring and WET limit.					