

NPDES PERMIT NO. NM0020150 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 Belen  
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Belen, NM 87002

ISSUING OFFICE: U.S. Environmental Protection Agency  
Region 6  
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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 July 26, 2025.

DATE PREPARED: September 29, 2025

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations, revised as of September 25, 2025.

SUBSTANTIAL CHANGES FROM DRAFT PERMIT: None

## STATE CERTIFICATION

On September 9, 2025, Shelly Lemon, Bureau Chief of the SWQB, sent a letter to Scott Mason IV, Regional Administrator of EPA Region 6, in which the New Mexico Environment Department (NMED) certified that the discharge will comply with the relevant provisions of the Clean Water Act, including Sections 208(e), 301, 302, 303, 306, and 307, as well as the applicable requirements of state law.

The NMED emphasized that to meet state law requirements-such as water quality standards and relevant basin plans, which the water quality management plan may amend-none of the conditions specified in the draft permit or the state certification shall be made less stringent.

Additionally, the state reserves the right to amend or revoke this certification if necessary to ensure compliance with the state's water quality standards and water quality management plan.

COMMENTS THAT ARE CONDITIONS OF CERTIFICATION: None

## OTHER COMMENTS RECEIVED ON DRAFT PERMIT:

### NMED Comment 1:

Part I. Requirements for NPDES Permits, Section A. Limitation and Monitoring Requirements, Footnote 1

The division symbol “/” is incorrectly listed as an “I.” Additionally, the brackets are not used consistently. NMED requests that EPA correct the footnote to read:

\*1. Percent removal =  $\{[(\text{Avg. Influent concentration} - \text{Avg. effluent concentration}) / \text{Avg. Influent concentration}] \times 100\}$

**Response 1:** Corrected

### NMED Comment 2:

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. There is no public notification requirement for overflows that reach a water body and endanger human health of downstream users. 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 to NMED at [swq.reporting@env.nm.gov](mailto:swq.reporting@env.nm.gov).

**Response 2:** Added

### NMED Comment 3:

Part II. Other Conditions

The header “Page x of Part II” does not consistently appear in the header area of the pages of Part II. NMED requests that EPA correct this formatting error.

**Response 3:** Corrected

**NMED Comment 4:**

Part II. Other Conditions, Section E. Whole Effluent Toxicity Limits, Subsection 2. Required Test Acceptability Criteria and Test Conditions, Paragraph c. Samples and Composites, Subparagraph 2.

The Samples shall be chilled to 6 degrees Centigrade during collection, shipping, and/or storage. A holding time up to 72 hours is allowed upon notification to EPA and NMED of the need for additional holding time.

The permit does not identify who at EPA and NMED the WET sample holding time notification(s) should be sent to. NMED requests that EPA include the EPA contact (address or email) for holding time notification(s). NMED requests that EPA include the NMED email address [swq.reporting@env.nm.gov](mailto:swq.reporting@env.nm.gov) for hold time notification(s).

**Response 4:**

The mail code for the NPDES Review Section (WET Coordinator) has been added, as well as the email address provided above by NMED.

**NMED Comment 5:**

Part II. Other Conditions, Section E. Whole Effluent Toxicity Limits, Subsection 3. Reporting, Paragraph a. For any test which fails, is considered invalid, or which is terminated early for any reason, the full report must be submitted for agency review.

The permit does not identify who at EPA and NMED the report should be sent to NMED requests that EPA include the EPA contact (address or email) for reports. NMED requests that EPA include the NMED email address [swq.reporting@env.nm.gov](mailto:swq.reporting@env.nm.gov) for the reports.

**Response 5:**

The mail code for the NPDES Review Section (WET Coordinator) has been added, as well as the email address provided above by NMED.

**NMED Comment 6:**

Part II. Other Conditions, Section E. Whole Effluent Toxicity Limits, Subsection 5. Persistent Toxicity, Paragraph b. Requirement to Initiate a Toxicity Reduction Evaluation

The permittee shall notify EPA and NMED in writing within 5 days of notification of the failure of any retest, and the TRE initiation date will be the test completion date of the first failed retest for lethal TREs or second failed retest for sub-lethal TREs.

The permit does not identify who at EPA and NMED the retest notification(s) should be sent to. NMED requests that EPA include the EPA contact (address or email) for retest notification(s). NMED requests that EPA include the NMED email address [swq.reporting@env.nm.gov](mailto:swq.reporting@env.nm.gov) for the retest notification(s).

**Response 6:**

The mail code for the NPDES Review Section (WET Coordinator) has been added, as well as the email address provided above by NMED.

**NMED Comment 7:**

Part II. Other Conditions, Section E. Whole Effluent Toxicity Limits, Subsection 6. Toxicity Reduction Evaluation (TRE), Paragraph a.

Within ninety (90) days of confirming lethality and/or sub-lethality in the retests, the permittee shall submit a TRE Action Plan and Schedule for conducting a TRE to the EPA WET Coordinator at 6WQ-PO. The TRE Action Plan shall specify the approach and methodology to be used in performing the TRE. NMED requests that a copy of the TRE Action Plan and Schedule for conducting a TRE be submitted to NMED at [swq.reporting@env.nm.gov](mailto:swq.reporting@env.nm.gov).

**Response 7:**

The mail code for the NPDES Review Section (WET Coordinator) has been added, as well as the email address provided above by NMED.

**NMED Comment 8:**

Persistent Toxicity, Paragraph b. Requirement to Initiate a Toxicity Reduction Evaluation, Paragraph c.

The permittee shall submit a quarterly TRE Activities Report to the EPA WET Coordinator (6WQPO) in the months of January, April, July and October, containing information on toxicity reduction evaluation activities including: NMED requests that a copy of the quarterly TRE Activities Report be submitted to NMED at [swq.reporting@env.nm.gov](mailto:swq.reporting@env.nm.gov).

**Response 8:**

The mail code for the NPDES Review Section (WET Coordinator) has been added, as well as the email address provided above by NMED.

**NMED Comment 9:**

Persistent Toxicity, Paragraph b. Requirement to Initiate a Toxicity Reduction Evaluation, Paragraph d.

The permittee shall submit (to EPA 6WQ-PO) a final report on TRE activities no later than twenty-eight (28) months from confirming toxicity in the retests, which provides information pertaining to the specific control mechanism selected that will, when implemented, result in reduction of effluent toxicity to no significant toxicity at the critical dilution. NMED requests that a copy of the final report on TRE Activities to NMED at [swq.reporting@env.nm.gov](mailto:swq.reporting@env.nm.gov).

**Response 9:**

The mail code for the NPDES Review Section (WET Coordinator) has been added, as well as the email address provided above by NMED.

**NMED Comment 10:**

Fact Sheet, Section VI. Draft Permit Rationale and Proposed Permit Conditions, Section 2. Technology-based Effluent Limitations/Conditions, the table does not have units for the 7-Day average (concentration) column. NMED requests EPA to add the appropriate units.

**Response 10:** Added