

NPDES PERMIT NO. NM0022306

FACT SHEET

FOR THE DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
PERMIT TO DISCHARGE TO WATERS OF THE UNITED STATES

APPLICANT

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ISSUING OFFICE

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DATE PREPARED

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PERMIT ACTION

Proposed re-issuance of the current permit issued on September 30, 2013 and modified on May 31, 2016, with an effective date of July 1, 2016, and an expiration date of October 31, 2018.

RECEIVING WATER – BASIN

Red River – Segment No. 20.6.4.122 NMAC of the Rio Grande Basin

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
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
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
DO	Dissolved oxygen
ELG	Effluent limitation guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FWS	United States Fish and Wildlife Service
mg/l	Milligrams per liter
ug/l	Micrograms per liter
lbs	Pounds
MG	Million gallons
MGD	Million gallons per day
ML	Method minimum level
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
NOEC	No observable effect concentration
NPDES	National Pollutant Discharge Elimination System
ML	Minimum quantification level
O&G	Oil and grease
POTW	Publicly owned treatment works
RP	Reasonable potential
SS	Settleable solids
SSM	Sufficiently Sensitive Method
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	Waste Load allocation
WET	Whole effluent toxicity
WQCC	New Mexico Water Quality Control Commission
WQMP	Water Quality Management Plan
WWTP	Wastewater treatment plant

I. CHANGES FROM THE PREVIOUS PERMIT

The changes from the current permit issued on September 30, 2013 and modified on May 31, 2016, with an effective date of July 1, 2016, and an expiration date of October 31, 2018., include:

- New limits/monitoring for some pollutants have been established at Outfalls 004; refer to summary on page 10 of 16.
 - The addition of total cobalt, dissolved manganese, total nickel, total recoverable selenium, total recoverable iron, and adjusted gross alpha
 - Changes in effluent limitations for total zinc, total arsenic, total cadmium, total copper, total lead, total mercury, total recoverable aluminum, total silver, and chlordane
- Limits for some pollutants at Outfalls 001, 002 and 004 have been removed; monitoring condition is required instead (from limited to reported; refer to pages 9 & 10 of 16).
- Monitoring requirement for some pollutants at Outfall 002 has been removed (from reported to removed; refer to page 10 of 16).
- Monitoring frequency for pH at Outfalls 001 and 002 has been reduced to 3 times per week from daily.
- Outfall 101 has been removed.
- Many loading and average limits have been removed at all outfalls.
- Visual inspection frequency at Springs 13 and 39 has been reduced to quarterly from monthly. More detailed information on the inspection is required.
- Monitoring requirement for tailing spill has been removed.
- WET limit for one test species has been established at Outfall 001. Critical dilutions have been changed at all outfalls.

II. APPLICANT LOCATION and ACTIVITY

As described in the application, the facility (mine site and tailings facility) is located at 3.5 miles east of Questa on State Road 38 (NM 38), Taos County, New Mexico.

Under the SIC code 1061, the applicant operated, intermittently from 1920 until 2014, a mine and mill producing molybdenum disulfide. Facilities include underground molybdenum mine, mill area, tailing disposal impoundments (tailing facility), historic open pit and massive waste rock piles. USEPA placed the Molycorp, Inc. site to the National Priorities List (NPL) of Superfund Sites on September 16, 2011. Delivery of process water and tailing from the mill at the mine to the tailing facility stopped in October 2012. CMI announced the cessation of mining operations at the Questa Mine on June 2, 2014. Open pit mining was initiated at the site in 1965 and was discontinued in 1983. During operation of the open pit mine, an estimated 328 million tons of waste rock were removed and deposited in piles, known as waste rock dumps, located on mine property. Closeout activities continue with phased decommissioning and demolition of selected surface facilities at the Mill Area, Mine Area, and Tailing Facility. Mine reclamation activities have not been completed. A map (submitted by CMI), showing all outfall locations, is attached.

Water treatment plant (WTP): it had been constructed and began discharge on July 6, 2017 via Outfall 001. The WTP is located adjacent to State Highway 38. The WTP treats the collected waters from two natural springs adjacent to mine property (Spring 13 and Spring 39 collection systems), underground mine dewatering, groundwater withdrawal wells (GWWs) below rock piles (GWW-1, GWW-2, and GWW-3), groundwater at the base of the lower sulfur gulch waste rock pile (LSG EX-01 and EX-02),

and stormwater runoff. Water is pumped from the former underground mine via a surface-based dewatering system consisting of three wells that extend into the haulage level of the former underground mine. Water from the surface-based dewatering system is pumped to an equalization tank that feeds into the water treatment plant. GWWs and collected waters are directed into a second equalization tank that feeds the water treatment plant. Stormwater from the watershed above the plant, when present, is routed to an adjacent stormwater catchment and then pumped to the water treatment building as a third influent source.

Tailing Facility: A seepage interception system has operated near the base of Dam No.1 and eastern flank of Dam No. 4 since the mid-1970s to collect tailing seepage. The seepage interception system includes seepage barriers, toe drains, rock-fill drains, and extraction wells. The collected water is discharged to the Red River at Outfall 002. All discharge/conveying of process wastewater to the tailing facility was ceased in May 2017; CMI has removed tailing pipeline. As part of CERCLA remedial actions, the 002 and 003 seepage interceptions have been upgraded. Six new extraction wells were installed in 2019 to improve the interception system south of Dam No. 1 and on the eastern flank of Dam No. 4, and an existing seepage barrier was refurbished and brought back online. A new Southeast Groundwater Extraction System (SEGWES) south of the former Dry Maintenance was constructed to control a molybdenum plume in that area. The SEGWES started operating on July 15, 2022 and its collected water is discharged to the 002 seepage interception system. The pumpback system that formerly pumped a portion of the collected water back to Dam No. 4 impoundment was shut down. Water entering the pumpback was plumbed to the existing Outfall 002 collection manhole and then discharged via Outfall 002.

Outfalls 004 & 005 (potential stormwater discharges): Due to a significant storm event, Outfall 004 discharged on August 5, 2022 (data in table below). Outfall 004 discharged again on October 20, 2024. Outfall 004 is located below a series of catchments in Goathill Gulch below the subsidence area. Outfall 005 is located in the former mill site area, now location of the WTP. CMI has made changes to the Outfall 005 discharge location as recommended by EPA. The Enhanced 005 Catchment is a concrete lined stormwater storage facility. Should collected stormwater exceed the storage capacity of the catchment (100-year 24-hour event) water will discharge over the spillway. The spillway was designed to function as a broad-crested weir. Flow over the weir is estimated based on the depth of flow upstream of the spillway. A staff gage has been installed as part of the Enhanced 005 Catchment that can be used to measure the depth of water flowing over the spillway and thereby estimate the discharge from the spillway. Discharge from the spillway enters the Red River at the previous Outfall 005 location. The Outfall 005 sampling location is located at the east end of the Enhanced 005 Catchment Spillway at the catchment crest.

III. EFFLUENT CHARACTERISTICS

Selected data (from Tables A&B, Form 2C) for Outfalls 001, 002 and 004 (Tables A, B, C&D, Form 2F) are as below. Data for other parameters are provided in the forms.

Parameter	Outfall 001; Max (mg/l, unless noted)	Outfall 002; Max (mg/l, unless noted)	Outfall 004 (8/5/22); Max. (mg/l, unless noted)
BOD ₅	< 2	<2.0	<4
COD	< 10	<10	31
TOC	1.82	0.89	NA

Parameter	Outfall 001; Max (mg/l, unless noted)	Outfall 002; Max (mg/l, unless noted)	Outfall 004 (8/5/22); Max. (mg/l, unless noted)
TSS	<6.9	<4	629
Ammonia (as N)	<0.2	<1.0	
Flow (MGD)	4.74	0.510	0.159 (est.)
Temperature (C), winter	NA	NA	NA
Temperature (C), summer	NA	NA	NA
pH, minimum, standard units (s.u)	6.79	6.67	3.79
pH, maximum, standard units (s.u.)	8.40	8.72	3.79
Antimony, total	<0.0003	<0.00011	0.00012
Arsenic, total	<0.0005	0.0038	0.0038
Beryllium, total	<0.000052	<0.000071	0.015
Cadmium, total	0.000093	0.00012	0.025
Chromium, total	0.003	<0.001	0.044
Copper, total	0.00111	0.0018	1.3
Lead, total	0.00023	0.0001	0.012
Mercury, total	1.4	0.075	<0.000006
Nickel, total	0.002	0.00072	0.7
Selenium, total	0.003	<0.0021	0.012
Silver, total	<0.00005	<0.000055	<0.00007
Thallium, total	0.00003	<0.000065	0.00032
Zinc, total	0.016	0.004	2.8

From January 1, 2021 to May 31, 2025, there have been limit exceedances in DMR as follows:

Pollutant	Outfall Number	Value
pH	004	3.79 s.u. (8/31/22) 4.97 s.u. (10/31/24)
TSS	004	629 mg/L (8/31/22)
Cadmium, total	004	25 ug/L (8/31/22)
Copper, total	004	1.3 mg/L (8/31/22) 0.36 mg/L (10/31/24)
Zinc, total	004	2.8 mg/L (8/31/22) 0.75 mg/L (10/31/24)
Aluminum, total	004	26 mg/L (8/31/22) 7.9 mg/L (10/31/24)
TRC	004	<0.1 mg/L (8/31/22) 0.39 mg/L (10/31/24)
Manganese, total	101 (combined load of Outfalls 001 and 002)	74.1 lbs./day (30-day average); 96.9 lbs./day (daily max) (6/30/21)

IV. REGULATORY AUTHORITY/PERMIT ACTION

In November 1972, Congress passed the Federal Water Pollution Control Act establishing the NPDES permit program to control water pollution. These amendments established technology-based or end-of-pipe control mechanisms and an interim goal to achieve “water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water”; more commonly known as the “swimmable, fishable” goal. Further amendments in 1977 of the CWA gave

EPA the authority to implement pollution control programs such as setting wastewater standards for industry and established the basic structure for regulating pollutants discharges into the waters of the United States. In addition, it made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions. Regulations governing the NPDES permit program are generally found at 40 CFR §122 (program requirements & permit conditions), §124 (procedures for decision making), §125 (technology-based standards) and §136 (analytical procedures). Other parts of 40 CFR provide guidance for specific activities and may be used in this document as required.

It is proposed that the permit be reissued for a 5-year term following regulations promulgated at 40 CFR §122.46(a).

V. DRAFT PERMIT RATIONALE AND CONDITIONS

A. OVERVIEW of TECHNOLOGY-BASED VERSUS WATER QUALITY STANDARDS-BASED EFFLUENT LIMITATIONS AND CONDITIONS

Regulations contained in 40 CFR §122.44 NPDES permit limits are developed that meet the more stringent of either technology-based effluent limitation guidelines, numerical and/or narrative water quality standard-based effluent limits, or the previous permit.

B. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

1. General Comments

Regulations promulgated at 40 CFR §122.44(a) require technology-based effluent limitations to be placed in NPDES permits based on ELGs where applicable, on BPJ in the absence of guidelines, or on a combination of the two. In the absence of promulgated guidelines for the discharge, permit conditions may be established using BPJ procedures. EPA establishes limitations based on the following technology-based controls: BPT, BCT, and BAT. These levels of treatment are:

BPT - The first level of technology-based standards generally based on the average of the best existing performance facilities within an industrial category or subcategory.

BCT - Technology-based standard for the discharge from existing industrial point sources of conventional pollutants, including BOD, TSS, *E. coli* bacteria, pH, and O&G.

BAT - The most appropriate means available on a national basis for controlling the direct discharge of toxic and non-conventional pollutants to navigable waters. BAT effluent limits represent the best existing performance of treatment technologies that are economically achievable within an industrial point source category or subcategory.

2. Effluent Limitation Guidelines

Because the mining operation has been ceased, ELGs are not applicable to the discharges now. Permit limits and conditions at Outfalls 001, 002, and 004 (potential storm water discharge) are established/retained in term of the applicable state WQS, including the Anti-degradation Policy Implementation Procedure for Regulated Activities.

Outfall 005 has been designated for potential storm water discharge at mine site; BPJ-based limitations at this outfall were retained from the previous permit. These BPJ-based limitations are retained in the draft permit due to the Anti-backsliding provisions at section 402(o) of the CWA.

3. Pretreatment Regulation

Not applicable

C. WATER QUALITY BASED LIMITATIONS

1. General Comments

Water quality-based requirements are necessary where effluent limits more stringent than technology-based limits are necessary to maintain or achieve federal or state water quality limits. Under Section 301(b)(1)(C) of the CWA, discharges are subject to effluent limitations based on Federal or State/Tribe WQS. Effluent limitations and/or conditions established in the draft permit are in compliance with applicable State/Tribe WQS and applicable State/Tribe water quality management plans to assure that surface WQS of the receiving waters are protected and maintained or attained.

2. Implementation

The NPDES permits contain technology-based effluent limitations reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional water quality-based effluent limitations and/or conditions are included in the NPDES permits. State/Tribe narrative and numerical water quality standards are used in conjunction with EPA criterion and other available toxicity information to determine the adequacy of technology-based permit limits and the need for additional water quality-based controls.

3. State Water Quality Standards

The general and specific stream standards are provided in NMWQS (20.6.4 NMAC approved on August 14, 2025) The facility discharges into Red River in Segment No. 20.6.4.122 of the Rio Grande Basin. The designated uses of the receiving water are coldwater aquatic life, fish culture, irrigation, livestock watering, wildlife habitat and primary contact.

4. Permit Action - Water Quality-Based Limits

Regulations promulgated at 40 CFR §122.44(d) require limits in addition to, or more stringent than effluent limitation guidelines (technology based). State WQS that are more stringent than effluent limitation guidelines are as follows:

a. pH

For coldwater aquatic life, criterion for pH is between 6.6 and 8.8 s.u. pursuant to 20.6.4.900.H(2) NMAC. EPA retains the previous limit, which is the criterion. CMI's requested a reduction in monitoring frequency; EPA's reviewed the DMRs mentioned above for compliance and reduced the

frequency for pH to 3 times weekly at Outfalls 001 & 002. Daily monitoring frequency is required (when discharge occurs) at Outfalls 004 & 005, which are potential stormwater discharges.

b. Toxics

The CWA in Section 301 (b) requires that effluent limitations for point sources include any limitations necessary to meet water quality standards. Federal regulations found at 40 CFR §122.44 (d) state that if a discharge poses the RP to cause an in-stream excursion above a water quality criteria, the permit must contain an effluent limit for that pollutant.

NMED has provided ambient data as seen in attached Appendix A for Outfalls 001, 002 and 004; flow data at these outfalls, used for the RP analyses, are consistent with those in Antidegradation Review. There has been no discharge at Outfall 005 (stormwater) since the previous permit term. There were two discharge occurrences at Outfall 004 due to major storm events in August 2022 and October 2024. Ambient water quality data are obtained during 2009 - 2018; if available quantitatively they are accounted in the RP analyses. Effluent data with average values submitted in Form 2C and subsequent data are used to analyze the RP. Limited/monitored pollutants in the previous permit are also re-evaluated. Summaries of the RP analyses (Appendix As) for the discharged outfalls as below:

Outfall 001

Pollutant (others than pH, TSS)	RP analysis limitation	Antidegradation Allowable (Letter dated 12/4/2025)	Newly Established limit (more stringent between RP and Antidegradation)
None	None	Not specified	None

Outfall 002

Pollutant (other than pH, TSS, Fluoride)	RP analysis limitation	Antidegradation Allowable (Letter dated 12/4/2025)	Newly Established limit
None	None	Not specified	None

Outfall 004: Mass/average limitation is not appropriate due to potential stormwater discharge

Pollutant (other than pH, TSS, COD)	RP analysis limitation, daily max.	Antidegradation Allowable (Letter dated 12/4/2025)	Newly Established limit, daily max. (more stringent between RP and Antidegradation)
Aluminum, total recoverable	3.56 mg/L*	Not specified	3.56 mg/L
Cobalt, total	None	0.203 mg/L	0.203 mg/L
Cadmium, total	1.69 ug/L*	Not specified	1.69 ug/L
Copper, total	0.046 mg/L	0.095 mg/L	0.046 mg/L
Manganese, total	3.01 mg/L*	14.6 mg/L	3.01 mg/L
Nickel, total	0.48 mg/L*	Not specified	0.48 mg/L
Selenium, total recoverable	0.02 mg/L*	Not specified	0.02 mg/L
Zinc, total	0.69 mg/L*	Not specified	0.69 mg/L
Chlordane, total	0.17 ug/L	Not specified	0.17 ug/L
Iron, total recoverable**	40.56 mg/L	Not specified	40.56 mg/L
Alpha, total	RP excursion using gross alpha criterion	Not specified	Monitoring

*Driven by applicable acute criterion (met at discharge point): zero dilution; ambient water quality is not a factor. Limit is the same as the criterion; average limit is not appropriate.

**Not listed in Appendix A; limit is determined below.

Limitation for iron at Outfall 004 is determined using the same approach as seen in the RP analysis (Appendix A) as follows:

$$\text{Instream concentration} = ((FQa \times Ca) + (Qe \times Ce \times 2.13)) \div (FQa + Qe) = 2.51 \text{ mg/L}$$

Where:

Ce is the discharge concentration, 48 mg/L (application)

Ca is the geometric mean ambient concentration upstream of discharger, zero (no data available) mg/L

Qe is the discharge flow rate, 0.248 cfs (0.16 MGD)

Qa is 9.81 cfs (4Q3)

F is the fraction of stream allowed for mixing, 1.0

Since the instream concentration is greater than the criterion, 1000 ug/L (1.0 mg/L) for chronic aquatic life per 20.6.4.900.J.1 NMAC, RP exists, and the daily maxima is calculated as below:

$$\text{Daily Max. Conc.} = Cs + (Cs - Ca)(F*Qa/Qe) = 40.56 \text{ mg/L}$$

Where Cs is criterion, 1.0 mg/L

Limits/conditions are summarized in the draft permit and compared to the 2016 permit as follows:

Outfall 001

Pollutant	2016 Permit	Draft Permit	Rationale	Compliance Schedule
Flow (MGD)	Report	Report		
pH	6.6 – 8.8 s.u.	6.6 – 8.8 s.u.	NMWQS	
TSS	20 mg/L (monthly aveg.) 30 mg/L (daily max.) Proportional mass loadings	20 mg/L (monthly aveg.) 30 mg/L (daily max.) Proportional mass loadings	Water impairment	
Arsenic, total	0.101 mg/L (monthly aveg.) 0.362 mg/L (daily max.)	Report	No RP excursion	
Cadmium, total	0.6 ug/L (monthly aveg.) 0.9 ug/L (daily max.)	Report	No RP excursion	
Copper, total	0.029 mg/L (monthly aveg.) 0.044 mg/L (daily max.)	Report	No RP excursion	
Lead, total	0.016 mg/L (monthly aveg.) 0.024 mg/L (daily max.)	Report	No RP excursion	
Mercury, total	0.84 ug/L (monthly aveg.) 1.26 ug/L (daily max.)	Report	No RP excursion	
Zinc, total	0.484 mg/L (monthly aveg.) 0.640 mg/L (daily max.)	Report	No RP excursion	
Molybdenum, total	1.238 mg/L (monthly aveg.) 1.857 mg/L (daily max.)	Report	No RP excursion	

Outfall 002

Pollutant	2016 Permit	Draft Permit	Rationale	Compliance Schedule
Flow (MGD)	Report	Report		
pH	6.6 – 8.8 s.u.	6.6 – 8.8 s.u.	NMWQS	
Manganese, total	1.0 mg/L (monthly aveg.) 1.5 mg/L (daily max.)	Report	No RP excursion	
Fluoride	3.0 mg/L (monthly aveg. & daily max.) Proportional mass loading	3.0 mg/L daily max. Proportional mass loading	Groundwater concern	
TSS	20 mg/L (monthly aveg.)	20 mg/L (monthly aveg.)	Water impairment	

	30 mg/L (daily max.) Proportional mass loadings	30 mg/L (daily max.) Proportional mass loadings		
Arsenic, total	0.207 mg/L (monthly aveg.) 0.665 mg/L (daily max.)	Report	No RP excursion	
Cadmium, total	1.19 ug/L (monthly aveg.) 1.79 ug/L (daily max.)	Report	No RP excursion	
Copper, total	0.029 mg/L (monthly aveg.) 0.044 mg/L (daily max.)	Report	No RP excursion	
Lead, total	0.057 mg/L (monthly aveg.) 0.086 mg/L (daily max.)	Report	No RP excursion	
Mercury, total	1 ug/L (monthly aveg.) 2 ug/L (daily max.)	Report	No RP excursion	
Molybdenum, total	3.30 mg/L (monthly aveg.) 5.03 mg/L (daily max.)	Report	No RP excursion	
Zinc, total	0.485 mg/L (monthly aveg.) 0.640 mg/L (daily max.)	Report	No RP excursion	
Aluminum, total	Report	Removed	No RP excursion	
Cyanide, total	Report	Removed	No RP excursion	
Uranium, dissolved	Report	Removed	No RP excursion	

Outfall 004

Pollutant	2016 Permit	Draft Permit	Rationale	Compliance Schedule
Flow (MGD)	Report	Report		
pH	6.6 – 8.8 s.u.	6.6 – 8.8 s.u.	NMWQS	
Chemical Oxygen Demand (COD)	125 mg/L (monthly aveg. & daily max.)	125 mg/L (daily max.)	Antibacksliding requirement	
TSS	20 mg/L (monthly aveg.) 30 mg/L (daily max.)	20 mg/L (monthly aveg.) 30 mg/L (daily max.)	Water impairment	
Zinc, total	0.2 mg/L (monthly aveg. & daily max.)	0.690 mg/L daily max.	RP excursion	
Arsenic, total	0.665 mg/L (monthly aveg. & daily max.)	Report	No RP excursion	
Cadmium, total	1.78 ug/L (monthly aveg. & daily max.)	1.69 ug/L daily max.	RP excursion	Yes; more stringent
Copper, total	0.044 mg/L (monthly aveg. & daily max.)	0.046 mg/L daily max.	RP excursion	
Lead, total	0.403 mg/L (monthly aveg. & daily max.)	Report	No RP excursion	
Mercury, total	1.4 ug/L (monthly aveg. & daily max.)	Report	No RP excursion	
Aluminum, total recoverable	3.87 mg/L (monthly aveg. & daily max.)	3.56 mg/L daily max.	RP excursion	Yes; more stringent
Silver, total	0.012 mg/L (monthly aveg. & daily max.)	Report	No RP excursion	
Chlordane, total	2.4 ug/L (monthly aveg. & daily max.)	0.17 ug/L daily max.	RP excursion	Yes; more stringent
TRC	0.019 mg/L (monthly aveg. & daily max.)	0.019 mg/L daily max.	NMWQS	
Cobalt, total	None	0.203 mg/L daily max.	New Antidegradation	Yes; newly established
Manganese, total	None	3.01 mg/L daily max.	RP excursion	Yes; newly established
Nickel, total	None	0.48 mg/L daily max.	RP excursion	Yes; newly established

Selenium, total recoverable	None	0.02 mg/L daily max.	RP excursion	Yes; newly established
Iron, total recoverable	None	40.56 mg/L daily max.	RP excursion	Yes; newly established
Gross Alpha, adjusted	None	Report	RP excursion for total alpha	

Outfall 005: All previous limits are retained due to no discharge (i.e., no data available for evaluation) and Antidegradation requirement. Because the limitation on the monthly average and daily maxima values are the same, the monthly limits are not appropriate and therefore removed.

EPA and NMED have determined mass limitation on Outfalls 004 and 005 is not appropriate due to potential stormwater discharges. Mass limits for Outfalls 001 and 002 are determined by the Antidegradation Review or the following mathematical relationship, whichever is more stringent: Loading (lbs/day) = pollutant concentration (mg/l) * 8.345 (lbs/gal) * flow (MGD)

In the previous permit, mass limits for Outfalls 001 and 002 were combined as stated in Outfall 101. In conjunction with the 2025 Antidegradation Review, NMED decided the mass limits for Outfalls 001 and 002 were separately (i.e., each outfall has its own mass limitation for tracking purpose). Therefore, EPA removes Outfall 101 as a result. This outfall removal does not violate the Antidegradation regulation because the current information were not available previously pursuant to 40 CFR 122.44(1)(2)(i).

The limitation/monitoring removals or limitation relaxation for those pollutants in Outfalls 001, 002 and 004 are following the Antidegradation because the current data were not available previously. A 12-month compliance schedule per 40 CFR 122.47(a) is provided in the draft permit for those with new established or more stringent limits compared to the previous one because submitted data indicate they are not in compliance with the limits. Pollutants shown in Part I.A.5 of the draft permit, applicable to the State WQS that are not listed in Form 2C, will be tested once for each outfall if the permit will be reapplied during the permit term pursuant to 40 CFR 122.21(j)(4)(iv). In addition, pollutants in Form 2C will be tested at least once for each outfall (if discharge occurs).

c. Springs 13 and 39

In the submitted application, CMI requested the requirement for monthly inspections and annual reporting in the NPDES permit be eliminated because there have been monitoring plans placed under CERCLA. EPA has coordinated with NMED to address this request. Knowing that spring 13 collection system is stable and collecting higher flows since 2018, NMED has been concerned that the water collection system for spring 13 had poorly functioned when there was buildup of precipitates. This has the potential to affect the efficiency of the BMP function to collect spring water for the water treatment plant. Submitted visual inspection report sent to NMED have previously been a checklist; NMED requests to have more information on the visual inspections such as photographs and other supporting or supplemental documentation. The information can be summarized in an annual report or upon request by EPA. In consideration of NMED’s concern and CMI’s request, EPA proposes requiring more information on the visual inspection and reducing the inspection frequency to quarterly from monthly at these springs; annual report of the inspections is retained from the previous permit. This proposed quarterly inspections and annual report requirements are consistent with the plans under CERCLA.

d. Tailing Spill Monitoring Requirement

As described above, all discharge/conveying of process wastewater to the tailing facility was ceased in May 2017; CMI has removed tailing pipeline. This requirement in the previous permit is not applicable; therefore, EPA removes the requirement.

e. PFAS

According to EPA, PFAS are not currently recommended for monitoring due to nature of the current discharges.

5. Monitoring Frequency for Limited Parameters

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity, 40 CFR §122.48(b), and to assure compliance with permit limitations, 40 CFR §122.44(i)(1). Monitoring frequencies are established and/or retained as follows:

Parameters	Frequency	Sample Type
At Outfall 001: existing ones, monitored ones and newly established one	Same frequency, monthly, as previous permit. pH monitoring frequency is reduced to 3/week.	Same as before, 24-hr. composite and Instantaneous Grab for pH
At Outfall 002: existing ones and monitored ones	Monthly, same as before. pH monitoring frequency is reduced to 3/week.	Same as before, 24-hr. composite and Instantaneous Grab for pH
At Outfall 004: existing ones, monitored ones and newly established one	Same as previous one, daily, when discharge occurs	Same as before, grab and Instantaneous Grab for pH, TRC
At Outfall 005	Same as previous one, daily, when discharge occurs	Same as before, grab and Instantaneous Grab for pH, TRC

In the renewal application, CMI requested reduction in monitoring frequencies for those pollutants at Outfalls 001 and 002. The previous monitoring frequency, one per month, at both outfalls is a lot less often than those suggested in the NMIP (Table 10 on page 35) at daily for an industrial facility. EPA retains the previous monitoring frequency, monthly, to the applicable pollutants at these outfalls to assure the samples are representative of the discharges and protect the state WQS adequately.

D. WHOLE EFFLUENT TOXICITY

Procedures for implementing WET terms and conditions in NPDES permits are contained in the NMIP. Table 11 (page 42) of the NMIP outlines the type of WET testing for different types of discharges. The type of test to be conducted at Outfall 001 and Outfall 002 is a chronic test using *Ceriodaphnia dubia* and *Pimephales promelas*. For Outfalls 004 and 005, an acute test using *Daphnia pulex* and *Pimephales promelas* is required. Data from the previous five years was analyzed (attached) for reasonable potential for WET, and only *C. dubia* at Outfall 001 showed it present. A limit is effective for this species only at Outfall 001. All other requirements remain a monitoring and reporting only condition as follow:

Outfall	Type of Test	Value	Frequency	Critical Dilution	Testing Series
001	Chronic Test <i>Ceriodaphnia dubia</i>	Limit 31% Report	Once/Quarter (Limit for <i>C.</i>	31%	

	<i>Pimephales promelas</i>		<i>dubia</i> ; monthly reporting)		13%, 17%, 23%, 31%, 41%
002	Chronic Test <i>Ceriodaphnia dubia</i> <i>Pimephales promelas</i>	Report Report	Once/Quarter	7%	3%, 4%, 5%, 7%, 9%
004	Acute Test <i>Ceriodaphnia dubia</i> <i>Pimephales promelas</i>	Report Report	Once/Quarter	2.5%	1%, 1.4%, 1.9%, 2.5%, 3.3%
005	Acute Test <i>Ceriodaphnia dubia</i> <i>Pimephales promelas</i>	Report Report	Once/Quarter	5%	2.1%, 2.8%, 3.8%, 5%, 6.7%

Monitoring and reporting requirements begin on the effective date of this permit. See Part II of the permit, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.

VI. TMDL REQUIREMENTS

The receiving water segment 20.6.4.122 NMAC, Red River (Rio Grande to Placer Creek) is listed as impaired in the 2024-2026 303(d) List. Coldwater aquatic life is not supported; fish culture is not assessed. Cause of the impairment is turbidity. TMDL for turbidity has not been established. EPA retains the existing limits for TSS to control the turbidity impairment.

The permit has a standard reopener clause that would allow the permit to be changed if at a later date additional requirements on new/revised TMDLs or temporary standards are completed.

VII. ANTIDegradation

The NMAC, Section 20.6.4.8 “Antidegradation Policy and Implementation Plan” sets forth the requirements to protect designated uses through implementation of the State water quality standards. The limitations and monitoring requirements set forth in the draft permit are developed from the Tribe/State water quality standards and are protective of those designated uses. Furthermore, the policy sets forth the intent to protect the existing quality of those waters, whose quality exceeds their designated use. The permit requirements and the limits are protective of the receiving water, which is protective of the designated uses of that water, NMAC Section 20.6.4.8.A.2. In a letter dated May 13, 2025, NMED concludes the discharge of certain metals may result in “significant degradation” as defined in New Mexico’s Antidegradation Policy Implementation Procedure.

VIII. ANTIBACKSLIDING

The proposed permit is consistent with the requirements to meet Antibacksliding provisions of the Clean Water Act, Section 402(o) and 40 CFR 122.44(l)(2)(i)(B), which state in part that interim or final effluent limitations must be as stringent as those in the previous permit, unless information is available which was not available at the time of permit issuance. No draft permit condition is less stringent than the previous one with applicable exceptions.

IX. ENDANGERED SPECIES CONSIDERATIONS

According to a report updated as of May 12, 2025 for discharge flowpath, from the facility to Rio Grande River, obtained from <http://ecos.fws.gov/ipac>, there are four endangered (E)/threatened (T) species: New Mexico Meadow Jumping Mouse (E), Mexican Spotted Owl (T), Southwestern Willow Flycatcher (E) and Yellow-Billed Cuckoo (T). Mexican Spotted Owl and Southwestern Willow Flycatcher were determined with “no effect” in the previous permit. There are no critical habitats at this discharge flowpath.

There has been no recovery plan for the cuckoo based on the list. Per the Federal Register on 8/15/2014 (79 FR 48547 48652) the primary constituent elements specific to the western yellow-billed cuckoo (bird) are: riparian woodlands with mixed willow-cottonwood vegetation, mesquite-thorn-forest vegetation, presence of a prey base consisting of large insect fauna, and river systems that are dynamic and provide hydrologic processes that encourage sediment movement and deposits that allow seedling germination and promote plant growth, maintenance, health, and vigor. Major factors affecting the cuckoo are (a) manmade features that alter watercourse hydrology, livestock overgrazing and encroachment from agriculture, climate change, (b) disease (West Nile virus) or predation (by hawk), (c) inadequacy of existing regulations and (d) others including pesticide chemical per the Federal Register on 10/03/2014 (79 FR 59991 60038).

A recovery plan for the jumping mouse was drafted in October 2021. For the mouse occupancy, it’s required dense riparian herbaceous vegetation with a minimum height of 24 inches associated with seasonally available or perennial (persistent) flowing water, moist soils, and adjacent uplands that can support the vegetation characteristics needed for foraging, breeding, and hibernating. EPA believes the mouse habitat does not exist in flow path of the discharge along the river.

In accordance with requirements under section 7(a)(2) of the Endangered Species Act, EPA has reviewed this permit for its effect on listed threatened and endangered species and designated critical habitat. After review, EPA has no information determining that the reissuance of this permit will have “effect” on the listed threatened and endangered species nor will adversely modify designated critical habitat. EPA makes this determination based on the following:

1. EPA has received no additional information since the previous permit issuance which would lead to revision of its determinations.
2. There is currently no information determining that the reissuance of this permit will have an “effect” beyond the environmental baseline on the additional listed threatened and endangered species.

X. HISTORICAL and ARCHEOLOGICAL PRESERVATION CONSIDERATIONS

The reissuance of the permit should have no impact on historical and/or archeological sites since no new construction activities are planned in the reissuance.

XI. PERMIT REOPENER

The permit may be reopened and modified during the life of the permit if NMWQS are promulgated or revised. In addition, if the State develops a TMDL, this permit may be reopened to establish effluent limitations for the parameter(s) to be consistent with that TMDL. Modification of the permit is subject to the provisions of 40 CFR §124.5.

XII. VARIANCE REQUESTS

None

XIII. CERTIFICATION

The permit is in the process of certification by the State Agency following regulations promulgated at 40 CFR 124.53. A draft permit and draft public notice will be sent to the District Engineer of COE, to the Regional Director of FWS and to the National Marine Fisheries Service prior to the publication of that notice.

XIV. FINAL DETERMINATION

The public notice describes the procedures for the formulation of final determinations.

XV. ADMINISTRATIVE RECORD

The following information was used to develop the draft permit:

A. APPLICATION(S)

EPA Application Forms 1 and 2C dated October 11, 2022

B. 40 CFR CITATIONS

Sections 122, 124, 125, 133, 136, 434

C. STATE OF NEW MEXICO REFERENCES

New Mexico State Standards for Interstate and Intrastate Surface Water, 20.6.4 NMAC, effective August 14, 2025

State of New Mexico CWA 303(d)/305(b) Integrated Report, 2024-2026

Antidegradation Review: Letter dated December 4, 2025; Outfall 001 Antidegradation Analysis updated November 13, 2025; Outfall 002 Antidegradation Analysis updated May 6, 2025; Outfall 004 Antidegradation Analysis updated November 13, 2025

D. MISCELLANEOUS

Procedures for Implementing National Pollutant Discharge Elimination System Permits in New Mexico
– NMIP, March 15, 2012

NMED: email dated June 3, 2026

Permittee: letter dated January 16, 2025