

NPDES PERMIT NO. NM0029149

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: Village of Maxwell
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Maxwell, NM 87728

ISSUING OFFICE: U.S. Environmental Protection Agency
Region 6
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PERMIT ACTION: Final permit decision and response to comments received on the draft reissued NPDES permit publicly noticed on March 7, 2026.

DATE PREPARED: May 27, 2026

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations, revised as of March 4, 2026.

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
cfu	Colony forming unit
COD	Chemical oxygen demand
COE	United States Corp of Engineers
CWA	Clean Water Act
DMR	Discharge monitoring report
ELG	Effluent limitation 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
ug/l	Micrograms per liter
MGD	Million gallons per day
ML	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
NPDES	National Pollutant Discharge Elimination System
SQL	Minimum quantification level
O&G	Oil and grease
POTW	Publicly owned treatment works
PFAS	Per- and Polyfluoroalkyl Substances
RP	Reasonable potential
SSM	Sufficiently Sensitive Analytical Method
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
USFWS	United States Fish & Wildlife Service
USGS	United States Geological Service
WLA	Wasteload allocation
WET	Whole effluent toxicity
WQCC	New Mexico Water Quality Control Commission
WQMP	Water Quality Management Plan

CHANGES FROM DRAFT PERMIT

There are changes from the draft NPDES permit publicly noticed on March 7, 2026:

- Per-and Polyfluoroalkyl Substances (PFAS) pollutant scan requirements have been moved to to Part I.F if the final permit.
- Monitoring frequencies and sampling type for TRC, TP and TN have been updated based on existing NMIP.
- Typographical error on WET critical condition has been updated in the final permit.

STATE CERTIFICATION

In a letter from Shelly Lemon, Bureau Chief, Surface Water Quality Bureau, to Troy Hill, Director, Water Division (EPA) dated March 11, 2026, the NMED 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 specific conditions in the permit.

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

None.

COMMENTS THAT ARE NOT CONDITIONS OF CERTIFICATION

Letter from Shelly Lemon, Bureau Chief, Surface Water Quality Bureau (NMED) to Troy Hill (EPA) dated April 21, 2026.

RESPONSE TO COMMENTS

Comment No. 1 (NMED): NMED notes that in Part I of the permit, Technology-based Effluent Limits (TBELS) for *Total Suspended Solids, TSS* and *Biochemical Oxygen Demand, 5-day, BOD5* require that both influent and effluent concentrations be measured. For clarity and to differentiate between influent and effluent measurements, NMED requests that the pollutant *Total Suspended Solids, TSS* be updated to *Total Suspended Solids, TSS Effluent*, and that the pollutant *Biochemical Oxygen Demand, 5-day, BOD5* be updated to *Biochemical Oxygen Demand, 5-day, BOD5 Effluent*.

The effluent limitation table in draft permit Part I. Requirements for NPDES Permits, Section A. Limitations and Monitoring Requirements, Subsection 1. Effluent Limits – 0.02 MGD identifies a monitoring frequency of 1/month for the pollutants *Biochemical Oxygen Demand (BOD5)* and *Total Suspended Solids (TSS)*. Page 11 of the Fact Sheet states: "Frequency of twice (2) per month is established for BOD5 and TSS." The previous permit had a monitoring frequency for BOD5 and TSS of

2/month. NMED requests that EPA correct the monitoring frequency for BOD₅ and TSS to 2/month in the effluent limitation table.

The effluent limitation table in Permit Part I. Requirements for NPDES Permits, Section A. Limitations and Monitoring Requirements, Subsection 1. Effluent Limits – 0.02 MGD identifies a monitoring frequency of 1/month for the pollutant *E. coli*. The Fact Sheet states that “Water quality-based pollutant monitoring frequency for *E. coli* shall be twice per month by grab sample.” The previous permit had a monitoring frequency for *E. coli* of 2/month. NMED requests that EPA correct the monitoring frequency for *E. coli* to 2/month in the effluent limitation table.

The effluent limitation table in draft permit Part I. Requirements for NPDES Permits, Section A. Limitations and Monitoring Requirements, Subsection 1. Effluent Limits – 0.02 MGD identifies a sample type of 24-hour Composite for Total Nitrogen and Total Phosphorus. The previous permit had an “Instantaneous Grab” sample type for TN and TP. The NMIP Table 7: Recommended sample types for Municipal Wastewater Permits – Discharging Lagoons (Design Capacity $0 \leq 0.1$ MGD) states either grab or instantaneous grab sample types depending on the pollutant. NMED requests that EPA correct the sample type for TN and TP to “Grab.”

The effluent limitation table in draft permit Part I. Requirements for NPDES Permits, Section A. Limitations and Monitoring Requirements, Subsection 1. Effluent Limits – 0.02 MGD identifies a monitoring frequency of 5/week for the pollutant TRC. The Fact Sheet notes that TRC shall be monitored, as recommended by the NMIP and the same frequency as the previous permit. The NMIP Table 7: Recommended Monitoring Frequencies for Municipal Wastewater Permits – Discharging Lagoons (Design Capacity $0 \leq 0.1$ MGD) states that TRC and pH should be monitored 1/week. The previous permit had a monitoring frequency for TRC of 1/week. NMED requests that EPA correct the monitoring frequency for TRC to 1/week in the effluent limitation table.

Response No. 1: Recommended Monitoring Frequencies for Municipal Wastewater Permits – Discharging Lagoons (Design Capacity $0 \leq 0.1$ MGD) is provided for in The NMIP Table 7. The factsheet contained the initial reporting frequencies for BOD₅ and TSS, which generally should be a minimum of two samples per month. For this reissued permit where the pollutant limit is not violated or due to exceeding reasonable potential to violate WQS, or was a pollutant regulated by technology-based concerns, recommended frequencies in the NMIP were applied. Sampling type for Total Nitrogen (TN), Total Phosphorus (TP) and measurement frequency for Total Residual Chlorine (TRC) has been updated based on the NMIP. Comment of factsheet has been noted for the record and no change to the final permits in response to this comment.

Comment No. 2 (NMED): 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.

Response No. 2. The Clean Water Act (CWA) Section 401(a)(2) requires EPA to provide notification to States and Tribes with “treatment as a state” status (TAS) if the Agency determines a discharge from a certified activity in another jurisdiction “may affect” their water quality. In the case of NPDES permitting, Section 401(a)(2) applies to EPA-issued NPDES permits. Based on the nature of discharge,

size of facility, proximity of the neighboring jurisdiction and whether the discharge associated with this certified project will affect the quality of the state's waters so as to violate any of the state's water quality requirements, including the ability to meet the designated use of waterbodies, EPA Region 6 made a negative "may affect" determination for the Maxwell WWTP. For this case, Incidents of Sewer overflow and bypass events that endanger health or the environment shall be reported to EPA region 6 and NMED for proper handling. There is no change to the final permit in response to this comment.

Comment No. 3 (NMED) Part II. Section E. Whole Effluent Toxicity Testing, Subsection 1. Scope and Methodology Testing: The Critical Dilution value reported in the table appears to be incorrect. The table lists the value as 0.01%, however it should be 99% to accurately reflect the intended dilution requirement. This discrepancy should be corrected.

Response No. 3. As described in section V.(C)(e)(iii) for Critical dilutions which states that "Critical dilutions are used to establish certain permit limitations and conditions. The State of New Mexico WQS allows a mixing zone for establishing pollutant limits in discharges. Both the NMWQS and NMIP establish a critical low flow designated as 4Q3, as the minimum average four consecutive day flow which occurs with a frequency of once in three years. The SWQB of the NMED provided EPA with the 4Q3 for the Village of Maxwell at 0.0003 cfs (0.00016MGD).

For permitting purposes of certain parameters such as WET, the critical dilution (CD) of the effluent to the receiving stream is determined. The CD is 99% and calculated as follows:

$CD = Q_e / (FQ_a + Q_e)$, where:

Q_e = facility flow (0.02 MGD)

Q_a = critical low flow of the receiving waters (0.0003 cfs (0.00016MGD))

F = fraction of stream allowed for mixing (1.0)

$$CD = 0.02 / [0.02 + 0.00016] \quad CD = 0.99 \text{ or } 99\%$$

The critical dilution of 0.001% provided in the WET table is typographical error and has been updated in the final permit.

Comment No. 4 (NMED). Fact Sheet, Part V. Draft Permit Rationale and Proposed Permit Conditions, Section E. Monitoring Frequency for Limited Parameters. NMED notes that the effluent limitation table in draft permit Part I. Requirements for NPDES Permits, Section A. Limitations and Monitoring Requirements, Subsection 1. Effluent Limits – 0.02 MGD identifies a monitoring frequency of 1/week for pH and 5/week for TRC. Page 11 of the Fact Sheet states that "The pollutants TRC and pH shall be monitored five times per week, as recommended by the NMIP and the same frequency as the previous permit, using instantaneous grab samples." The previous permit had a monitoring frequency for TRC and pH of 1/week. The NMIP Table 7: Recommended Monitoring Frequencies for Municipal Wastewater Permits – Discharging Lagoons (Design Capacity $0 \leq 0.1$ MGD) states that TRC and pH should be monitored 1/week. NMED requests that EPA correct page 11 of the Fact Sheet to identify a monitoring frequency of 1/week for TRC and pH.

Response No. 4. Comment has been noted for the record. No change to the final permit required in response to this comment.

Attachment: Certification dated April 21, 2026