

NPDES PERMIT NO. NM0029165

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 Ruidoso Downs and Village of Ruidoso WWTP
313 Cree Meadows Drive
Ruidoso, NM 88345

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

PREPARED BY: Tung Nguyen
Environmental Engineer
Permitting & Water Quality Branch (6WD-P)
Water Division
VOICE: 214-665-7153
EMAIL: nguyen.tung@epa.gov

PERMIT ACTION: Final permit decision and response to comments received on the draft reissued NPDES permit publicly noticed on July 30, 2022.

DATE PREPARED: September 14, 2022

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations, revised as of July 1st, 2021.

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
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
POTW	Publicly owned treatment works
RP	Reasonable potential
SSM	Sufficiently Sensitive 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 July 30, 2022:

- Monitoring of toxic pollutants have been removed.
- NMED Email address has been added for reporting purpose.
- Hexachlorobenzene, Cadmium, Acrylonitrile and DO have been removed in Part II.B.
- Optional 24-hour reporting via email has been added in Part III.D.7.
- Up to 72-hour holding time for WET has been granted without notification to EPA.

CONDITION RECEIVED ON THE DRAFT PERMIT

None

COMMENTS RECEIVED ON THE DRAFT PERMIT

Letter from Shelly Lemon, New Mexico Environment Department (NMED) to Charles Maguire, EPA dated September 13, 2022.

Letter from Dean Holman, Mayor of City of Ruidoso Downs and Lynn D. Crawford, Mayor of Village of Ruidoso (Permittees) to Evelyn Rosborough, EPA Permitting dated August 26, 2022.

RESPONSE TO COMMENTS

Comment 1 (NMED): The City of Ruidoso Downs and Village of Ruidoso submitted additional monitoring data during the public comment period. NMED reviewed the data and finds it meets the SSM requirement. NMED supports the removal of the pollutants acrylonitrile, benzidine, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, diazinon, dibenzo(a,h)anthracene, heptachlor, hexachlorobenzene, and indeno(1,2,3-cd)pyrene and their monitoring and reporting requirements as the City and Village have met the SSM requirement for toxic pollutants.

Response 1: Tested methods for these pollutants were 8260 SIM, 8270 SIM and 8081, which were not listed in the approved methods under 40 CFR 136.3 as of September 14, 2022. When EPA-approved method(s) is/are available, it must be selected and sufficiently sensitive consistent with 40 CFR 122.21(e)(3)(i). The submitted information/data did not support compliance of the SSM requirement. At this time, EPA accepts the removal of these pollutants because in June 2022 EPA received information that no laboratories in the state/region could perform the testing methods EPA suggested in the fact sheet. The permittee must demonstrate compliance of the SSM requirement now and then. These proposed pollutants have been removed in the final permit.

Comment 2 (NMED): NMED requests that all documents be sent to the mailing address and email address (email preferred) in Part I.C of the permit.

Response 2: The current language in Part I.C requires all reports to be sent to NMED, whose mailing address is stated in Part III.D.4. EPA adds NMED email address in Part III.D.4 as requested in the final permit.

Comment 3 (NMED): In Part II Other Conditions, B 24- hour Oral Reporting: Daily Maximum Limitation Violations, cadmium and dissolved oxygen (DO) are listed as pollutants which require 24 hour oral reporting if there are violations of the daily maximum limits. The reasonable potential analysis does not support a limitation for cadmium and the DO analysis does not show that a limitation for DO is needed. Cadmium and dissolved oxygen are not listed in Part I, Section A, Table 1 and do not have a discharge limitation or measurement frequency. NMED supports the removal of the 24-hour oral reporting for maximum daily load violations requirements for cadmium and DO.

Response 3: Hexachlorobenzene, Cadmium, Acrylonitrile and DO were stated in Part II.B as a mistake since there are no established limitations on these pollutants. EPA removes them in Part II.B.

Comment 4 (NMED): In Part II Other Conditions, B 24- hour Oral Reporting: Daily Maximum Limitation Violations, acrylonitrile and hexachlorobenzene are listed as pollutants which require 24-hour oral reporting if there are violations of the daily maximum limits. Acrylonitrile and hexachlorobenzene are listed in Part I, Section A, Table 1, but they do not have a daily maximum limitation. NMED supports the removal of the 24-hour oral reporting for maximum daily load violations requirements for acrylonitrile and hexachlorobenzene.

Response 4: Please refer to Response 3 above.

Comment 5 (NMED): In Part III Standard Conditions, Section D Reporting Requirements, 4 Discharge Monitoring Reports and other Reports, the NMED requests that the NMED Program Manager email psrs.program.manager@state.nm.us be included in the NMED address.

Response 5: The email address has been added in Part III as stated in Response 3 above.

Comment 6 (NMED): In Part III Standard Conditions, Section D Reporting Requirements, 7 Twenty-Four Hour Reporting, NMED requests that copies of the notifications and reports be emailed to NMED at psrs.program.manager@state.nm.us.

Response 6: Language in Part III.D.4 requires the permittee to submit all required reports in Part III.D to EPA and copies to NMED, whose email address has been added. On September 21, 2022, NMED stated the 24-hour reporting can be emailed in Part III.D.7. EPA has revised the language in Part III.D.7 to include this optional reporting via email as follow:

“The permittee shall report any noncompliance which may endanger health or the environment.

Notification shall be made to the EPA at the following e-mail address:

R6_NPDES_Reporting@epa.gov, as soon as possible, but within 24 hours from the time the permittee becomes aware of the circumstance. Notification shall also be made to the New Mexico Environment Department at (505) 827-0187 or psrs.program.manager@state.nm.us as soon as possible, but within 24 hours from the time the permittee becomes aware of the circumstance. A written submission shall be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain the following information:...”

Comment 7 (Permittees): Regarding the required WET testing, the permittees request the holding time to be listed as 72 hours without the need to request or provide notification to EPA and NMED.

Response 7: The previous permit granted a standing holding time of 72 hours; EPA continues granting this request. The condition under Part II, Item E.2. and E.2c.2 is changed to 72 hours without prior notification, to ensure consistency as follow:

The chart in Part II.E.2 should read for both species: “36 (up to 72) hours for first use” (under Holding Time).

Part II, Item E.2.c.2 should read: “The permittee shall collect a second and third sample (composite samples if possible) for use during the 24 hour renewal of each dilution concentration for each test. The permittee must collect the composite samples so that the maximum holding time for any effluent sample shall not exceed 72 hours for first use of the sample. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first composite sample. Samples shall be chilled to 6 degrees Centigrade during collection, shipping, and/or storage.”

Comment 8 (Permittees): Submitting additional test results for pollutants mentioned in Comment 1 above, the permittees request the proposed monitoring for those to be removed.

Response 8: Please refer to Response 1.

Comment 9 (Permittees): Ruidoso requests that EPA revisit the listing of hexachlorobenzene, cadmium, acrylonitrile and DO in Part II.B as none of these pollutants have a daily maximum limitation.

Response 9: This comment is addressed under Response 3 above.