



**ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

---

In re Albuquerque Bernalillo County Water  
Utility Authority

NPDES Permit No. NM0022250

---

)  
)  
) NPDES Appeal No. 26-01M  
)  
)  
)

**ORDER CLARIFYING THE EFFECT OF 40 C.F.R. § 124.16**

---

January 23, 2026

---

***Before Environmental Appeals Judges Aaron P. Avila and Ammie Roseman-Orr.***

***Per Curiam:***

The Albuquerque Bernalillo County Water Utility Authority (“ABCWUA”) filed a “Notice of Appeal” seeking review of a National Pollutant Discharge Elimination System (“NPDES”) permit decision issued by U.S. EPA Region 6, and a motion requesting an extension of time to file its brief. Notice of Appeal (Jan. 5, 2026); Motion for Extension of Time (Jan. 5, 2026). The Environmental Appeals Board granted the requested extension, allowing ABCWUA to file its brief on or before Monday, February 23, 2026. Order Granting Extension of Time to File Brief (Jan. 6, 2026). Noting that the above-referenced NPDES permit takes effect on February 1, 2026, ABCWUA has now filed a motion requesting that the Board stay the permit limitations for total dissolved solids. Motion to Stay Permit Limitations for Total Dissolved Solids, at 1 (Jan. 16, 2026) (“Mot.”). ABCWUA represents that it “sought the positions of the

interested parties \* \* \* and received the following responses: EPA Region 6 opposes the relief requested because they understand the permit conditions were already stayed upon appeal, New Mexico Environment Department takes no position, and the Pueblo of Isleta does not object.”

*Id.* at 2. It added that “[n]o other party provided a position.” *Id.*

The relevant federal permitting regulations provide that “[i]f a request for review of a \* \* \* NPDES permit under § 124.19 \* \* \* is filed, the effect of the contested permit conditions shall be stayed and shall not be subject to judicial review pending final agency action,” and uncontested conditions that are not severable from those contested are stayed together with the contested conditions. 40 C.F.R. § 124.16(a)(1), (2)(i). The regulations further provide that the Regional Administrator will notify the Board and the parties of any uncontested and severable conditions that will become fully effective and enforceable 30 days after the date of the notification. *Id.* § 124.16(a)(2)(ii). Thus, per regulation, ABCWUA’s request for review stayed the effect of all permit conditions. This is consistent with ABCWUA’s representation of the Region’s response with respect to the filing of this motion. Because the relief requested is already in effect, ABCWUA’s motion is DENIED.

So ordered.

## **CERTIFICATE OF SERVICE**

I certify that copies of the foregoing *Order Clarifying the Effect of 40 C.F.R. § 124.16* in the matter of Albuquerque Bernalillo County Water Utility Authority, NPDES Appeal No. 26-01M, were sent to the following persons on January 23, 2026, in the manner indicated:

### **By E-mail:**

*For United States Environmental  
Protection Agency:*

Tung Nguyen  
Curry Jones  
Sherry Wilson  
[nguyen.tung@epa.gov](mailto:nguyen.tung@epa.gov)  
[jones.curry@epa.gov](mailto:jones.curry@epa.gov)  
[wilson.sherry@epa.gov](mailto:wilson.sherry@epa.gov)  
[R6NPDES@epa.gov](mailto:R6NPDES@epa.gov)

*For ABCWUA:*

Keith Herrmann  
Nann Winter  
John Stomp  
Christopher Melendrez  
Danielle Shury  
[kherrmann@stelznerlaw.com](mailto:kherrmann@stelznerlaw.com)  
[nwinter@stelznerlaw.com](mailto:nwinter@stelznerlaw.com)  
[jstomp@stelznerlaw.com](mailto:jstomp@stelznerlaw.com)  
[cmelendrez@abcwua.org](mailto:cmelendrez@abcwua.org)  
[dshury@abcwua.org](mailto:dshury@abcwua.org)

*For New Mexico Environment Department: For Amigos Bravos:*

Jason Martinez  
Scott Brecken  
[Jason.Martinez2@env.nm.gov](mailto:Jason.Martinez2@env.nm.gov)  
[brecken.scott@env.nm.gov](mailto:brecken.scott@env.nm.gov)

Sarah Knopp  
Shannon Romeling  
[sknopp@amigosbravos.org](mailto:sknopp@amigosbravos.org)  
[Sromeling@amigosbravos.org](mailto:Sromeling@amigosbravos.org)

*For New Mexico Acequia Association:*

Vidal Gonzales  
[vidal@lasacequias.org](mailto:vidal@lasacequias.org)

*For Pueblo of Isleta:*

Ramona Montoya  
[Ramona.Montoya@Isletapueblo.com](mailto:Ramona.Montoya@Isletapueblo.com)

---

Tommie Madison  
Clerk of the Board