



NEW MEXICO ENVIRONMENT DEPARTMENT
Surface Water Quality Bureau

Limited English Proficiency (LEP) Analysis
for the
Clean Water Act Section 401 Certification of
the federal draft NPDES permit for the
Westmoreland San Juan Mining, LLC / La
Plata Mine
Permit No. NM0029505

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APPROVAL PAGE

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Date

**Limited English Proficiency (LEP) Analysis for NPDES Permit No. NM0029505
Westmoreland San Juan Mining, LLC / La Plata Mine
Wastewater Treatment Plant**

The purpose of this analysis is to determine the extent to which LEP services are necessary and is based on relevant information for the following four factors defined by Department policy:

- Factor 1: The Number and Proportion of LEP Individuals Eligible to be Served or Likely to be Encountered in the Community of Concern.
- Factor 2: The Frequency with Which LEP Individuals Come in Contact with the Program.
- Factor 3: The Nature and Importance of the Activity or Service Provided by the Program.
- Factor 4: The Resources Available to NMED and the Associated Costs.

1. Number and proportion of LEP persons estimated to be served or encountered in the community of concern.

Demographic indicators were obtained from the Public Environmental Data Partners EJSCREEN, an environmental justice screening and mapping tool, available on-line at <https://experience.arcgis.com/experience/b81cbe0d84844a6191836ddac05669c1/page/Archive-EJ-Screen>. The Public Environmental Data Partners EJSCREEN is based on nationally consistent data and an approach that combines environmental and demographic indicators in maps and reports. Users choose the geographic area of interest by indicating a point, line or polygon on the map; users may also choose to select a “buffer” area (up to 10 miles) around the point, line or polygon to better capture the affected community. The Public Environmental Data Partners EJSCREEN then provides an EJSCREEN Multisite Report that describes demographic and environmental information for that area, with or without an assigned buffer.

The Public Environmental Data Partners EJSCREEN provides an EJSCREEN Multisite Report based on U.S. Census Bureau American Community Survey (ACS) data, available at: <https://www.census.gov/programs-surveys/acs>. The U.S. Census Bureau collects data through the ACS to assess language characteristics within a geographic area. These data identify a person’s ability to speak English “very well” or “less than very well” and the language predominately spoken at home for those populations age 5 and older. The EJSCREEN Multisite Report provided quantitative information regarding LEP populations for this analysis.

Summary of Site-Specific EJSCREEN Inputs

- Community of Concern = La Plata, San Juan County, New Mexico
- Buffer = 5-mile buffer that includes the neighboring community and mine site

The results of the EJScreen Multisite Report (attached to this LEP) are summarized in the table below.

EJSCREEN Multisite Report Results for the Affected Community

Total population	456
Percentage people of color population	33%
Percentage of the population by race	Population reporting one race: White: 67 % Black: 0 % American Indian: 15 % Asian: 1 % Hawaiian/Pacific Islander: 0 % Hispanic: 14 % Some Other Race: 0 % Population reporting more than one race: Multiracial: 5 %
Percentage of limited English households	0%
Percentage of limited English households in New Mexico	6%
Languages by percentage in limited English-speaking breakdown	Spanish: 100 % Other Indo-European languages: 0 % Asian-Pacific Island languages: 0 % Other languages: 0 %
Percentage low income	35%
Percentage low income, U.S.	30%

The Bureau reviewed the administrative record and found that, historically, there has been no LEP participation regarding the Westmoreland San Juan Mining, LLC / La Plata Mine NPDES permit. It does not appear from the facility's permit file that extensive public participation has been warranted in the past and there is no record of LEP individuals participating in the permit process in the past permit renewal cycle. Interested parties can request a public meeting or public hearing from EPA, but there is no record in NMED's files of EPA conducting public meetings related to this permit. There is no record of individuals needing specific accessibility accommodations.

2. The frequency with which LEP individuals might come in contact with the program.

The Westmoreland San Juan Mining, LLC / La Plata Mine is no longer in operation and is in reclamation, which requires monitoring until reclamation is complete.

An identifier of not frequent is being assigned because Westmoreland San Juan Mining, LLC / La Plata Mine is located in an area that does not have a large population or recreational activities.

3. The nature and importance of the activity or service provided by the subject material of the program.

The NPDES program regulates discharges of pollutants to the nation's waters. A state Water Quality Certification is required by the federal Clean Water Act (CWA) Section 401 to ensure that the action (NPDES permit) is consistent with state law and complies with state Water Quality Standards, the Water Quality Management Plan/Continuing Planning Process, including Total Maximum Daily Loads (TMDLs), and the Antidegradation Policy.

State certification of NPDES permits reasonably ensure that the permitted activities will be conducted in a manner that will comply with applicable State water quality standards, including the antidegradation policy, and applicable statewide water quality management plans. This is an important activity to ensure that designated uses of intermittent waters are protected and water quality criteria are met.

4. The resources available to NMED and the associated costs.

The Bureau will provide language assistance free of charge. From the Bureau's assessment, there are adequate resources available within the Department to address LEP requirements. NMED can translate public notices and vital documents, as needed or requested. If it is discovered that additional LEP services are needed, the Bureau may also contract with a translator/interpreter to communicate with LEP individuals. Other expanded outreach activities that may be utilized, as identified and necessary, include:

- posting translated materials and information on the Bureau's website;
 - contracting with a telephone interpreter service to facilitate phone conversations with LEP individuals;
 - airing announcements in Spanish or other languages as deemed appropriate on local radio stations;
 - printing translated materials on postcards that are distributed to the affected community; and,
 - working with community leaders (tribal chapter houses, church leaders, community centers, libraries, etc.) to disseminate the information to the affected population.
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LEP Plan for the Westmoreland San Juan Mining, LLC / La Plata Mine, NPDES Permit No. NM0029505

Policy Overview

This LEP Four Factor Analysis has been prepared in accordance with the New Mexico Environment Department (NMED) Limited English Proficiency Accessibility and Outreach Policy 07-11 and NMED Public Participation Policy 07-13 by NMED's Surface Water Quality Bureau (SWQB or Bureau), Point Source Regulation Section (PSRS).

This analysis was initiated and conducted after the Bureau received a National Pollutant Discharge Elimination System (NPDES) application to discharge to Waters of the United States that was determined to be administratively complete by the United States Environmental Protection Agency (EPA). The Bureau anticipates that a joint EPA and NMED Public Notice will be published by EPA announcing a public comment period and requirement for State of New Mexico certification or denial of a Draft Permit in accordance with federal Clean Water Act Section 401. More information will be provided in the activity's Public Involvement Plan (PIP). This determination will be kept with the administrative record for this activity.

The Bureau is not using other means of outreach such as flyers or other hard copy postings at post offices, community centers, public libraries, or other repositories at this time.

Determination

The area-of-interest near the Westmoreland San Juan Mining, LLC / La Plata Mine has a total population of 456 people within a 5-mile radius. Of that, 0 % of individuals live in a limited English household.

Based on a balanced evaluation of the four factors described above, the assessment does not indicate that additional language assistance (interpretation or translation services) or outreach are needed for this activity, at this time. Outreach materials will include information on how LEP persons or persons with disabilities can obtain assistance. Public participation activities that are provided by the Bureau for all certifications or denials of an NPDES Draft Permit in accordance with federal Clean Water Act Section 401 appear sufficient. If additional information or data are acquired that indicate translation or interpretation services are needed, the Bureau will implement expanded outreach activities described in the PIP and Factor 4 above. The Bureau has determined that there are adequate resources available within the Department to provide LEP services, if requested or determined necessary. (See SWQB SOP 1.5 – Providing Language Access Services.)

Final Actions

- The Bureau will send a notice in English to the Bureau's listserv announcing the availability of the comment period for consideration in the state's Section 401 Certification.
- The Bureau will work with USEPA Region 6 to publish the joint notice of the draft permit's comment period and the state's Section 401 Certification in English.
- If LEP individuals contact the Bureau, bureau staff will provide language assistance, either through immediately available staff as noted above, or through contracted translation services.
- If individuals with accessibility needs contact the Bureau, bureau staff will work with the Department's Non-Discrimination Coordinator to address the request.



EJScreen Multisite Report

This report summarizes environmental and socioeconomic information for user-defined areas, and combines that data into environmental justice and supplemental indexes.

EJAM Report

5 Mile Ring Centered at 36.985842, -108.151815
Area in Square Miles: 78.54
Population: 456

Environmental and Socioeconomic Indicators Data

SELECTED VARIABLES	VALUE	STATE AVERAGE	PERCENTILE IN STATE	USA AVERAGE	PERCENTILE IN USA
POLLUTION AND SOURCES					
Particulate Matter (PM 2.5 in ug/m3)	5.57	6.11	36	8.45	3
Ozone (ppb)	65.4	65.3	44	61.8	72
Nitrogen Dioxide (NO2)	2.3	8.1	5	7.8	2
Diesel Particulate Matter (ug/m3)	0.015	0.187	6	0.191	0
Toxic Releases to Air	35	29	70	4,600	15
Traffic Proximity and Volume (daily traffic count/distance to road)	28,000	730,000	22	1,700,000	8
Lead Paint Indicator (% pre-1960s housing)	0.02	0.19	29	0.3	20
Superfund Proximity (site count/km distance)	0.00	0.34	0	0.39	0
RMP Proximity (facility count/km distance)	0.01	0.20	53	0.57	28
Hazardous Waste Proximity (facility count/km distance)	0.1	1.2	36	3.5	15
Underground Storage Tanks (UST) indicator	0.0	2.8	28	3.6	27
Wastewater Discharge Indicator (toxicity-weighted concentration/distance)	14	990,000	45	700,000	39
Drinking Water Non-Compliance	0.1	5.58	71	2.2	74
SOCIOECONOMIC INDICATORS					
Demographic Index USA	1.34	2.16	23	1.34	57
Supplemental Demographic Index USA	1.62	1.62	38	1.64	55
% Low Income	35%	39%	43	30%	63
% in limited English-speaking Households	0%	6%	42	5%	56
% Unemployed	4%	6%	45	6%	48
% with Less Than High School Education	8%	14%	41	11%	50
% under Age 5	6%	5%	63	5%	58
% over Age 64	29%	20%	81	18%	86
% People of Color	33%	62%	13	40%	52

Environmental Justice & Supplemental Indexes

The environmental justice and supplemental indexes are a combination of environmental and socioeconomic information. For each of the environmental indicators EJScreen, there is an EJ Index and a Supplemental EJ Index. The indexes for a selected area are compared to those for all other locations in the state or nation. For more information and calculation details on the EJ and supplemental indexes, please visit the [EJScreen website](#).

EJ INDEXES

The EJ indexes help users screen for potential EJ concerns. To do this, the EJ index combines data on low income and people of color populations with a single environmental indicator.

SELECTED VARIABLES	PERCENTILE IN STATE	PERCENTILE IN USA
EJ INDEXES		
Particulate Matter EJ Index	29	7
Ozone EJ Index	29	81
Nitrogen Dioxide (NO2) EJ Index	5	5

Diesel Particulate Matter EJ Index	6	1
Toxic Releases to Air EJ Index	58	26
Traffic Proximity and Volume EJ Index	17	16
Lead Paint EJ Index	28	16
Superfund Proximity EJ Index	0	0
RMP Proximity EJ Index	53	28
Hazardous Waste Proximity EJ Index	38	0
Underground Storage Tanks EJ Index	31	46
Wastewater Discharge EJ Index	34	52
Drinking Water Non-Compliance EJ Index	70	73
SUPPLEMENTAL EJ INDEXES		
Particulate Matter Supplemental EJ Index	32	3
Ozone Supplemental EJ Index	36	87
Nitrogen Dioxide (NO2) Supplemental EJ Index	5	2
Diesel Particulate Matter Supplemental EJ Index	6	1
Toxic Releases to Air Supplemental EJ Index	67	18
Traffic Proximity and Volume Supplemental EJ Index	19	8
Lead Paint Supplemental EJ Index	30	15
Superfund Proximity Supplemental EJ Index	0	0
RMP Proximity Supplemental EJ Index	53	28
Hazardous Waste Proximity Supplemental EJ Index	41	0
Underground Storage Tanks Supplemental EJ Index	31	34
Wastewater Discharge Supplemental EJ Index	40	43
Drinking Water Non-Compliance Supplemental EJ Index	70	73

SELECTED VARIABLES	VALUE
BREAKDOWN BY RACE	
% Hispanic or Latino	14%
% Black or African American (non-Hispanic, single race)	0%
% Asian (non-Hispanic, single race)	1%
% American Indian and Alaska Native (non-Hispanic, single race)	15%
% Native Hawaiian and Other Pacific Islander (non-Hispanic, single race)	0%
% Other race (non-Hispanic, single race)	0%
% Two or more races (non-Hispanic)	5%
% White (non-Hispanic, single race)	67%
BREAKDOWN BY GENDER	
% Male	50%
% Female	50%
LIMITED ENGLISH SPEAKING BREAKDOWN	
%Spanish lang (as %of limited English hhlds)	100%
%Other Indo-European lang (as %of limited English hhlds)	0%
%Asian-Pacific Island lang (as %of limited English hhlds)	0%
%Other lang (as %of limited English hhlds)	0%

Note: Diesel particulate matter index is from the EPA's Air Toxics Data Update, which is the Agency's ongoing, comprehensive evaluation of air toxics in the United States. This effort aims to prioritize air toxics, emission sources, and locations of interest for further study. It is important to remember that the air toxics data presented here provide broad estimates of health risks over geographic areas of the country, not definitive risks to specific individuals or locations. More information on the Air Toxics Data Update can be found at: <https://www.epa.gov/haps/air-toxics-data-update>