



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
Chevron Mining, Inc.
McKinley Mine
Permit No. NM0029386

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APPROVAL PAGE

Shelly Lemon
Chief, Surface Water Quality Bureau

Date

Limited English Proficiency (LEP) Analysis for NPDES Permit No. NM0029386 Chevron Mining, Inc. McKinley Mine

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 = northwest of the City of Gallup, McKinley County, New Mexico
- Buffer = 4-mile buffer that includes the facility outfalls and downstream areas which may be impacted by mine operations

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	1,155
Percentage People of Color population	100%
Percentage of the population by race	Population reporting one race: White: 0% Black: 0% American Indian: 85% Asian: 0% Hawaiian/Pacific Islander: 0% Hispanic: 15% Some Other Race: 0% Population reporting more than one race: Multiracial: 0 %
Percentage of Limited English households	3%
Percentage of Limited English households in New Mexico	6%
Percentage of Limited English households in the U.S.	5%
Languages by percentage in Limited English-Speaking Breakdown	Spanish: 0 % Other Indo-European languages:0 % Asian-Pacific Island languages:0 % Other languages: 100 %
Percentage of Low-Income	70%
Percentage of Low-Income in New Mexico	39%
Percentage of Low-Income in the U.S.	30%

The Bureau reviewed the administrative record and found that, historically, there has been no significant LEP participation regarding the Chevron Mining, Inc. McKinley Mine NPDES permit. 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 facility operated as a coal mine between July 1961 and December 2009. Mining operations began on the Navajo Nation portion of the facility in June 1972. The facility is now a post-operative coal mine engaged in reclamation activities. The discharges from the facility are stormwater runoff from reclamation areas. Discharges flow through Coal Mine Wash, Defiance Draw, and Tse Bonita Wash, which are all tributaries to the Puerco River.

An identifier of not frequent is being assigned because the Chevron Mining, Inc. McKinley Mine is in a remote area behind secured fences.

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 the Puerco River are protected and water quality criteria are met.

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 streams and the Puerco River are protected and water quality criteria are met.

The facility provides an important service by treating industrial wastewater from the Chevron Mining, Inc. – McKinley Mine before discharging treated effluent to various arroyos and washes leading to the Puerco River.

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 has a certified translator who can translate public notices and vital documents for the Department. If it is discovered that additional LEP services are needed, the Bureau may also contract with a translator/interpreter to communicate with those 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 interpretations 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 Chevron Mining, Inc. McKinley Mine, NPDES Permit No. NM0029386

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 Chevron Mining, Inc. McKinley Mine has a total population of 1,155 people within a 4-mile radius. Of that, 3 % of individuals live in a limited-English household.

Based on a balanced evaluation of the four factors described above, the assessment indicates 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 to need supplementation. 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, Spanish, and Diné 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 9 to publish the joint notice of the draft permit's comment period and the state's Section 401 Certification in English, Diné, and Spanish.
- If LEP individuals contact the Bureau, bureau staff will work with the Department's interpreter to 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.

