



NEW MEXICO ENVIRONMENT DEPARTMENT
Surface Water Quality Bureau

Public Involvement Plan (PIP)
for the State of New Mexico
Clean Water Act §401
Individual Water Quality Certification of
United States Army Corps of Engineers
Permit Number SPA-2024-00043-ABQ for
the Tico Time Wave Project

July 2024
APPROVAL PAGE

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Date

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Date

I. Public Involvement Plan (PIP) Overview

The New Mexico Environment Department (NMED or Department), Surface Water Quality Bureau (Bureau) developed this Public Involvement Plan (PIP) for the State of New Mexico Clean Water Act Section 401 (CWA §401) Individual Water Quality Certification (Certification) of United States Army Corps of Engineers (USACE) permit number SPA-2024-00043-ABQ for the Tico Time Wave Project.

The Bureau encourages the public to learn about and get involved in regulatory decision-making opportunities for the Certification process. The purpose of this PIP is to provide public participation opportunities and information that may be needed to participate in the CWA §401 Certification process.

This PIP integrates information about the community and identifies resources needed by the Bureau to successfully incorporate community participation activities into the decision-making process for the Certification. The PIP identifies the Department staff and resources needed to accomplish these activities.

The Bureau will meet the public participation requirements for the CWA §401 Certification by following this PIP, which includes all applicable policy, regulatory and statutory public participation requirements.

In developing this PIP, community participation needs were assessed to ensure appropriate promotion of public outreach by identifying whether there is a combination of environmental and demographic factors (i.e., low-income community, minority community, limited English proficiency individuals, linguistically isolated households, etc.) that may impact public participation. These factors are presented in Section IV: Location and Demographics. This assessment identifies community outreach needs and provides for public access opportunities above and beyond statutorily mandated requirements and underscores the importance of adequate public access to information about the CWA §401 Certification.

As much as possible, public participation and informational activities related to the CWA §401 Certification will be held within the timelines outlined in the table below. This timeline is tentative and subject to change; activities subject to statutory or regulatory deadlines are noted.

More detailed information about planned Bureau outreach is available in this PIP.

Activity	Dates
Notice PIP (invite public input)	July 15, 2024
Public Notice for the CWA §401 Certification	July 15, 2024
Public Comment Period	30 days
Public announcements (radio, brochures, signs, postcards, factsheets, etc.)	As needed
Bureau sends the CWA §401 Certification	October 31, 2024

Activity	Dates
to the USACE, Applicant, and those members of the public who submitted comments to the department (20.6.2.2002.H NMAC).	This date is the “120-day” Reasonable Period of Time (40 C.F.R. 121.6) following the Certification Request received on July 3, 2024.

This PIP is a “living” document that may be amended after considering public comments and feedback. The Bureau Chief provides final approval of the PIP and amendments.

II. Contacts

Bureau contacts for questions regarding the Individual CWA §401 Certification of the Tico Time Wave Project, the Bureau’s website, or this PIP, are listed below:

Alan Klatt, Team Leader
 Surface Water Quality Bureau
 1190 South St. Francis Dr.
 Santa Fe, NM 87505
 Phone: (505) 819-9623
 Email: alan.klatt@env.nm.gov

Jared Wood, Project Officer
 Surface Water Quality Bureau
 1190 South St. Francis Dr.
 Santa Fe, NM 87505
 Phone: (505) 919-9657
 Email: jared.wood@env.nm.gov

If you need to contact the Bureau regarding the Individual Water Quality Certification of USACE permit number SPA-2024-00043-ABQ for the Tico Time Wave Project, please call or email the bureau contacts listed above.

A. Non-English Language Speaker Assistance and Accommodations

Non-English speakers may call the Bureau contact listed in this PIP and request language assistance services, such as an interpreter, so they can learn more about the Tico Time Wave Project.

B. Department Websites

- New Mexico Environment Department - <https://www.env.nm.gov/>
- New Mexico Environment Department Surface Water Quality Bureau - <https://www.env.nm.gov/surface-water-quality/>
- New Mexico Environment Department Surface Water Quality Bureau Dredge and Fill Activities - <https://www.env.nm.gov/surface-water-quality/dredgeandfillactivities/>
- New Mexico Environment Department Non-Discrimination and Environmental Justice - <https://www.env.nm.gov/general/environmental-justice-in-new-mexico/>
- New Mexico Environment Department Public Notices - <https://www.env.nm.gov/public-notices/>
- New Mexico Environment Department Public Comment Portal - <https://nmed.commentinput.com/comment/search>
- New Mexico Environment Department Events Calendar - <https://www.env.nm.gov/events-calendar/>

C. CWA §401 Water Quality Certification Website

The Bureau maintains a website location for information on CWA §401 Certifications (see website addresses below). The website will be kept up to date and has information about the process and important documents.

<https://www.env.nm.gov/public-notice/>

<https://www.env.nm.gov/surface-water-quality/dredgeandfillactivities/>

D. The Document the Bureau is Reviewing under CWA §401

Additional information regarding the Tico Time Wave Project is available at

<https://www.env.nm.gov/public-notice/> and

<https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/Public-Notices/> or upon request.

III. Regulatory Framework

The USACE administers a regulatory program to implement Section 10 of the Rivers and Harbors Appropriation Act and Section 404 of the Clean Water Act (CWA). The Regulatory Division of the USACE-Albuquerque District authorizes the discharge of dredged or fill material within Waters of the United States which include certain wetlands, lakes, and streams. Section 401 of the CWA provides States or Tribes the opportunity to certify CWA Section 404 permits. In New Mexico, this Certification process depends on where your project is located and the kind of permit the USACE will use.

CWA §401 provides States, Tribes, or Pueblos the opportunity to certify general permits. The Bureau's CWA §401 Certification ensures that the federal permit or action is consistent with State law and otherwise complies with Water Quality Standards (20.6.4 NMAC), the Water Quality Management Plan/Continuing Planning Process (WQMP/CPP) including Total Maximum Daily Loads (TMDLs), and the current Antidegradation Policy. The Department's permit Certification process is outlined in CWA §401, Title 40 of the Code of Federal Regulations (CFR) Part 121, and New Mexico's Administrative Code at 20.6.2.2002 NMAC.

The Bureau has four options in a CWA §401 Certification: certify, certify with conditions, deny certification, and waive certification. Option one is to certify CWA §404 permit without conditions. The Bureau generally follows option two and certifies CWA §404 permits with conditions, meaning that the Certification includes conditions that must be followed as part of the CWA §404 permit. Thirdly, the Bureau can deny Certification of the permit if it will not comply with the applicable sections of the Clean Water Act and appropriate requirements of state law. Denying certification prohibits the USACE from issuing the permit. The fourth option is to waive certification which allows the USACE to issue the permit without a water quality certification.

The federal requirement for CWA §404 dredge and fill permits issued by the USACE is at least a 15-day public review and comment period (33 CFR Parts 325.3 and 330.5), and the state requirement for CWA §401 Certification is at least a 30-day public comment period (20.6.2.2002.F NMAC). The Bureau does not prepare a draft CWA §401 Certification for the public

to review, but accepts comments for consideration in the Certification during this public notice period (20.6.2.2002.F NMAC). Federal regulations also require that the CWA §401 Certification is received by the USACE within the Reasonable Period of Time (40 CFR 121.6). A final copy of the Certification will be sent to the USACE, the applicant, and those who submitted comments for consideration in the CWA §401 Certification (20.6.2.2002.H NMAC).

The Bureau invites the public to submit comments on the CWA §401 Certification of USACE permit number SPA-2024-00043-ABQ for the Tico Time Wave Project. Comments may be submitted to the Bureau for consideration and inclusion in the 401 Certification. If you would like to comment directly to the Bureau, please send written comments to the Bureau contacts listed above in Section II or through the NMED Public Comment Portal: <https://nmed.commentinput.com/comment/search>.

IV. Location and Demographics

The Tico Time Wave Project is located in San Juan County, New Mexico approximately 3.5 miles north of Cedar Hill, New Mexico at approximate latitude and longitude 36.9877608 degrees north, -107.8678770 degrees west.

Demographic Summary

Demographic indicators were obtained from the United States Census Bureau 2017-2021 American Community Survey (ACS) 5-year estimates and EJSCREEN Community Report.

Summary of Site-Specific EJSCREEN Inputs

- Community of Concern = the community near the Tico Time recreational wave project located in San Juan County approximately 3.5 miles north of Cedar Hill, New Mexico at the approximate coordinates 36.9877608 degrees north, -107.8678770 degrees west.
- Buffer = 4-mile buffer around the project location.

The 2017-2021 ACS Report indicates that the total population for the area of interest is 475 with 22% of the population that identify as Hispanic, and 80% identify as white, 1% identify as Black, 7% identify as some other race, and 2% identify as two or more races. The percent of persons that communicate in a language other than English (non-English) at home is 17% (78 individuals), with 21 individuals speaking English “less than very well.” The per capita income the area of interest is \$37,972, as compared to the national per capita income for 2017-2021 of \$37,638. From the Bureau’s EJScreen analysis, there are zero linguistically isolated households in this community that speak Spanish. These results indicate that the percentage of non-English-speaking communication in this community is noteworthy and various demographic factors (i.e. low-income community, minority community, limited English proficiency individuals, Linguistically Isolated Households, etc.) may impact public participation.

Therefore, the Bureau will provide information in Spanish and in English for public comment notices, public meeting notices, and other announcements (radio broadcasts, brochures, signs, postcards, etc.), and strive to make public participation efforts as inclusive as possible within Bureau budget and time limitations. Specific information repositories that may be used depending on the need are provided in Section V.H. of this PIP.

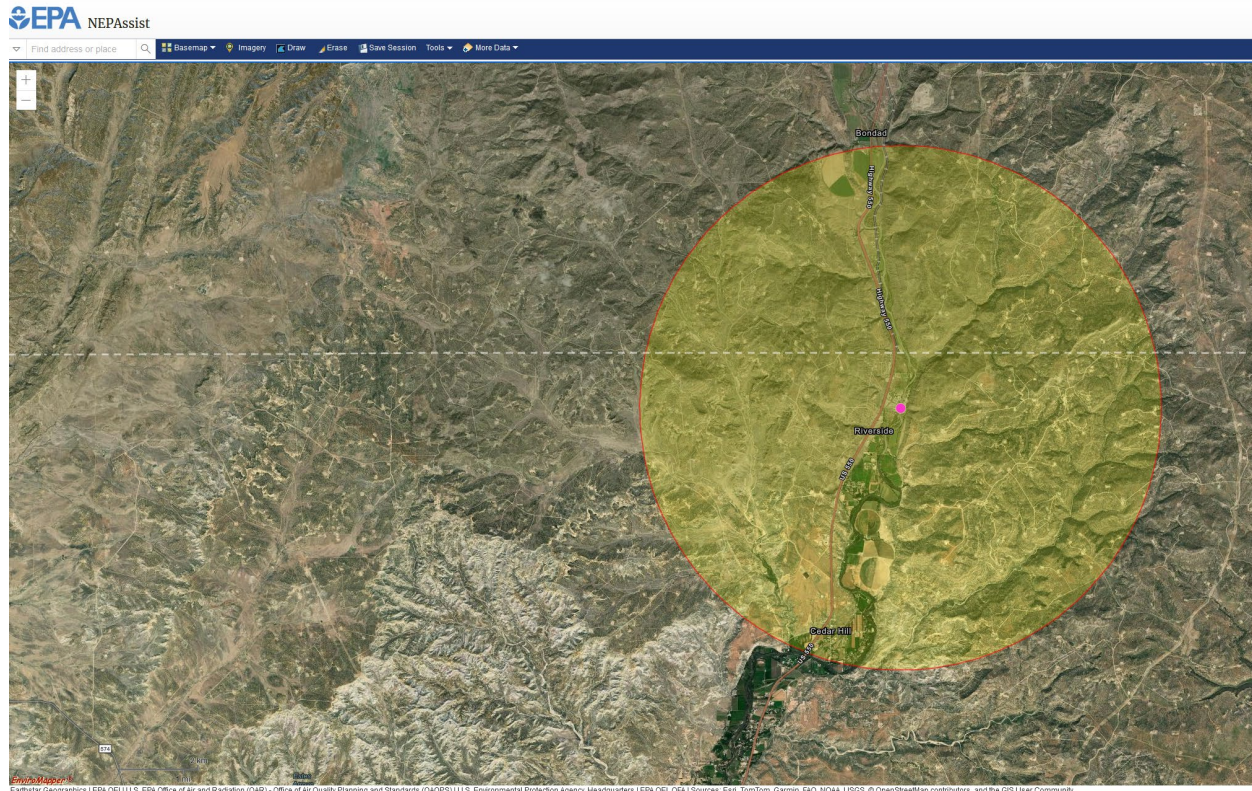


Figure 1. Community of Concern with 4-mile buffer. San Juan County approximately 3.5 miles north of Cedar Hill, New Mexico.

V. Public Participation & Outreach Activities

The public may ask questions about the CWA §401 Certification for the Tico Time Wave Project at any time. However, the Bureau emphasizes that to be included in the administrative record, comments solicited by public notices about the WQC must be submitted during the noticed comment period, and in accordance with the public notice and 20.6.2.2002 NMAC.

Specific outreach activities related to the CWA §401 Certification for the Tico Time Wave Project include:

- Maintaining a specific Department public notice web page (see part II.B and II.C above),
- Developing a public notice announcing the opening of the 30-day public comment period on the WQC,
- Posting this public notice to the Department’s event calendar (<https://www.env.nm.gov/events-calendar/>),
- Emailing this public notice to Bureau’s email list through the GovDelivery e-mail delivery service (1,822 email addresses as of March 2024),
- Listing the public notice on the NMED Public Comment Portal (<https://nmed.commentinput.com/comment/search>), and
- Publishing the notice in at least one newspaper of general circulation (only required if joint public notice with the USACE is NOT practical pursuant to 20.6.2.2002.C NMAC).

The most direct way to learn about and be involved in the decision-making process for this CWA

§401 Certification is to submit a comment to the Bureau. Relevant comments may also be submitted to the Bureau for the 401 Certification through the NMED Public Comment Portal (<https://nmed.commentinput.com/comment/search>).

Based on the demographics report discussed in the PIP, the Bureau's assessment indicates that additional language assistance (interpretation or translation services) or outreach are needed for this activity, at this time. Basic information about public involvement opportunities will be in English and will include information on how to request materials in another language or to speak with Bureau staff through an interpreter. The Bureau has determined that there are adequate resources available within the Department to provide LEP services, if requested or determined necessary. Further details about public participation for this activity are outlined below.

A. Postal Mailing or E-Mailing of Notices to Persons on the Surface Water Quality Bureau's Email List

The Bureau maintains an extensive email list (1,822 email addresses as of March 2024) that includes individuals interested in surface water quality issues and activities. This list is a combination of all previously interested persons who requested the Bureau provide them with information about surface water quality in New Mexico. The Bureau regularly maintains contact information which is updated or supplemented if additional information is found. Interested persons providing both an address and email may receive physical mail and an email. Additional individuals, organizations, and other interested parties are added to the email list as requested.

B. Email Updates

If you would like to be added to the Bureau's email list for information and updates, visit the Bureau's website at: <https://www.env.nm.gov/surface-water-quality/> and click on the "Click here to subscribe to receive email updates" button on the bottom of the home page. For help, you can contact the Bureau's website liaison, Heidi Henderson at 505-819-9986 or email heidi.henderson@env.nm.gov.

C. Notices in State Newspaper and Local Newspaper

The notice will NOT be published in a newspaper of general circulation, because the public notice will be conducted jointly with the USACE pursuant to 20.6.2.2002.C NMAC.

D. Public Meeting Notices, Public Comment Notices, and Other Notices

Based on the Bureau's evaluation of the community, notices will be translated into Spanish. In addition, the Bureau may post notices on the Department's Events Calendar at: <https://www.env.nm.gov/events/>

E. Informational Pamphlets

The Bureau does not develop informational pamphlets for projects covered by Nationwide Permits (NWP). Information about the Individual Permit will be available at the USACE Albuquerque District's website: <https://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/Public-Notices/>.

F. Public Comment Period

The 30-day public comment period on the CWA §401 Certification for the Tico Time Wave Project is planned to start July 15, 2024 and end August 14, 2024 at 5:00 p.m.

G. Other Outreach

Currently the Bureau is not using other means of outreach such as flyers or other hard copy postings. However, any updates will be posted on the Department's website.

H. Information Repositories

Copies of supporting documents of USACE permit number SPA-2024-00043-ABQ for the Tico Time Wave Project may be obtained at NMED's website at <https://www.env.nm.gov/public-notices/> or by contacting Bureau contacts listed above in Section II.

I. CWA §401 Certification Proceedings, Outcomes and Responses to Comments

The Bureau considers public comments received prior to the close of the public comment period. The final Certification will be sent to the USACE-Albuquerque District, the permit applicant, and the interested stakeholder and/or community members who commented directly to the Bureau.