



New Mexico Environment Department

**Surface Water Quality State Permitting Program
Options for Permitting Dredged or Fill Material Discharges
Surface Water Advisory Panel
October 15, 2024**



In one word, what do you expect from this meeting?

① Start presenting to display the poll results on this slide.



How much of all the earth's water is freshwater?

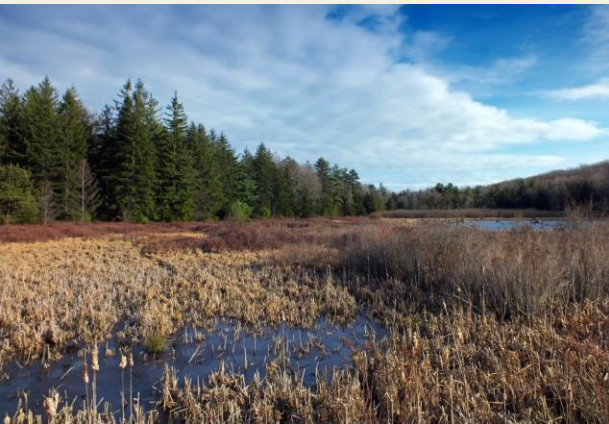
① Start presenting to display the poll results on this slide.



Dredge or Fill Program Options

Member Suggested Topics:

- ❑ Mitigation and Restoration
- ❑ Permit specifics, incl. SWOTS jurisdiction
- ❑ Exemptions and definitions





Agenda

Introductory Comments

9:15 Member Presentation 1 – Natural Channel Design

9:25 Member Discussion re: Mitigation

10:15 BREAK

10:30 Member Discussion – Permit considerations

12:00 LUNCH

1:15 Member Presentation 2 – NMDOT

1:30 Member Discussion – exemptions

3:00 Introduce Topics for Meeting 6



Mitigation Discussion Reminder

The State is proposing two types of permittee-responsible mitigation currently:

- 1. Advance Permittee Mitigation Program** for agencies that expect unavoidable impacts (e.g., NMDOT and Bureau of Reclamation), and
- 2. Permittee Responsible Mitigation** using certified specialists to implement with assurances.



Mitigation Discussion Questions

1. When should mitigation be required?
2. How do you see permittee-responsible mitigation working in New Mexico?
 - *How should NMED consider the resource value of each approach? (restoration, enhancement, establishment, preservation)*
3. What factors or methods should the department consider to establish mitigation ratios?
4. How do you ensure that the mitigation goals are met?
5. From your perspective what aspects of the Section 404 mitigation requirements should be retained?
6. What mitigation changes would you suggest to improve efficiency or improve resource protections? (what has not worked well and how can it be improved?)



When is a permit required?

What questions need to be asked to determine if an activity at a certain site requires a permit?

- *Mapping tools, T&E species, historical & cultural resources, cumulative impacts, buffers, etc.*



What type of permit is required?

What threshold questions would be asked for a general permit vs. individual permit?

- *What types of general permits should the department to consider?*



Exemption Discussion Question

From your perspective, what exemptions are important and why?

- ***What types of exemptions should be authorized?***
 - i) All federal (404) exemptions? With conditions?
 - ii) De minimis discharges (what is threshold for de minimis?)
 - (1) Acreage
 - (2) Linear feet
 - (3) Cubic feet
 - iii) How to quantify de minimis exemption?
 - iv) Thresholds match federal or be state/location specific?
 - v) Should there be buffer setbacks for exemption? Avoidance?



Overall Dredge & Fill Discussion Question

What changes would you suggest to improve efficiency or improve resource protections?
(what has not worked well and how can it be improved?)



Overall Dredge & Fill Discussion Question

What other suggestions or concerns do you have related to a state dredge and fill permitting program?



BREAK



Topic Areas – Water Quality Act

NM Water Quality Act amendments:

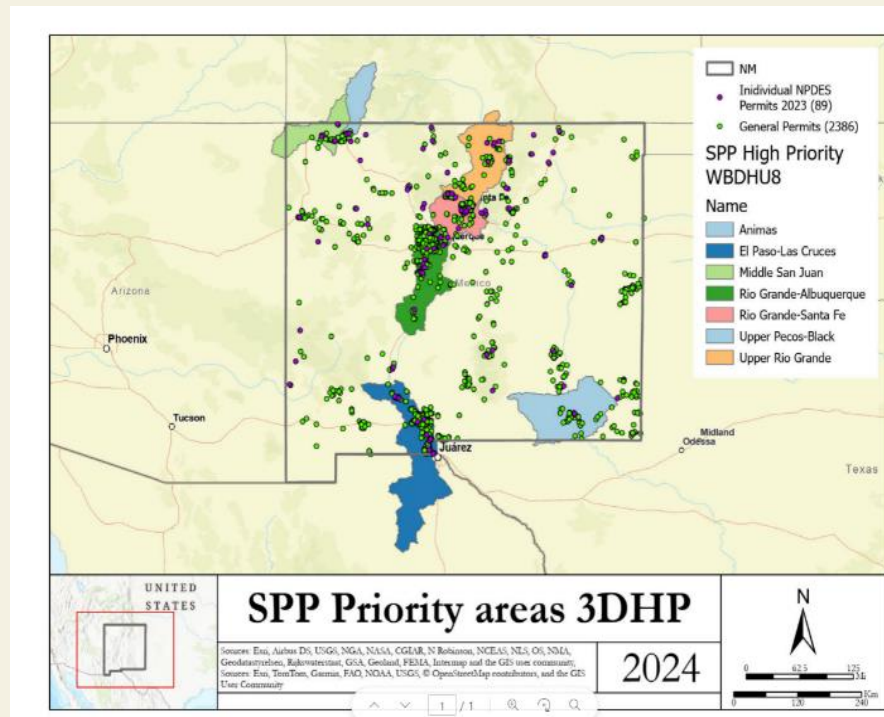
- Authorize the use of general permits
 - stormwater, dredge and fill, pesticide, wildfire, etc.
- Update/Modernize public notification requirements
- Require mitigation for unavoidable adverse impacts to water quality/water resources
- Incorporate antidegradation provision to protect high-quality waters

Retain familiar features of the federal programs in the state (WQA) program - use the same or similar definitions, exemptions, standards, permit types, and processes.



When is a permit required?

Are there priority watersheds/areas for potential USGS 3DHP mapping pilot project?





Exemptions – No Permit Required

CWA Section 404(f) Exemptions (40 C.F.R. 232.3)

- ❑ Normal established/ongoing farming, ranching, and silviculture activities.
- ❑ Maintenance (including emergency reconstruction) of structures such as dams, dikes, and levees; modifications of original design are not exempt.
- ❑ Construction and maintenance of farm or stock ponds.
- ❑ Construction and maintenance of irrigation ditches.
Discharges associated with siphons, pumps, headgates, diversion structures, etc. that are functionally related to irrigation ditches are included in this exemption.
- ❑ Maintenance (but not construction) of drainage ditches.
- ❑ Construction and maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained in accordance with BMPs.