



NEW MEXICO ENVIRONMENT DEPARTMENT
Surface Water Quality Bureau

Public Involvement Plan (PIP)
for the
Clean Water Act Section 401 Certification of
the federal draft NPDES permit for
City of Las Cruces
East Mesa Water Reclamation Facility
Permit No. NM0030872

March 2024
APPROVAL PAGE

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Chief, Surface Water Quality Bureau

Date

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Date

Public Notice Date: March 30, 2024

I. Public Involvement Plan (PIP) Overview

The New Mexico Environment Department (NMED or Department), Surface Water Quality Bureau (SWQB or Bureau) developed this Public Involvement Plan (PIP) for the State of New Mexico Clean Water Act Section 401 Certification of the draft federal permit for the City of Las Cruces East Mesa Water Reclamation Facility (WRF) National Pollutant Discharge Elimination System (NPDES) permit number NM0030872.

The Bureau encourages the public to learn about and get involved in regulatory decision-making opportunities for the NPDES process. The purpose of this PIP is to provide public participation opportunities and information that may be needed to participate in the Clean Water Act Section 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 401 Certification. The PIP identifies the Department staff and resources needed to accomplish these activities.

The Bureau will meet the public participation requirements for the 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 Section 401 Certification.

As much as possible, public participation and informational activities related to the 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)	Saturday, March 30, 2024
EPA-NMED Joint Public Notice for the draft NPDES permit for City of Las Cruces East Mesa WRF, NPDES permit number NM0030872	Saturday, March 30, 2024, through Monday, April 29, 2024
Public Notice/Comment Period for the Department's 401 Certification	Saturday, March 30, 2024, through Monday, April 29, 2024
Bureau sends 401 Certification to EPA Region 6	Tuesday, May 14, 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. Bureau Contacts

If you have questions about the State of New Mexico 401 Certification Process, the Bureau’s website, or this PIP, please contact:

Susan A. Lucaskamat, Program Manager
Surface Water Quality Bureau
1190 St. Francis Dr.
Santa Fe, NM 87505
Phone: (505) 946-8924
Fax: (505) 827-0160
Email: susan.lucaskamat@env.nm.gov

Mingcheng Ren, Complex Facilities Specialist
Surface Water Quality Bureau
1190 St. Francis Dr.
Santa Fe, NM 87505
Phone: (505) 531-7396
Fax: (505) 827-0160
Email: Mingcheng.Ren@env.nm.gov

If you need to contact the Bureau regarding the City of Las Cruces East Mesa WRF or draft NPDES permit number NM0030872, 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 State of New Mexico Section 401 Certification.

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 Point Source Regulation Section - <https://www.env.nm.gov/surface-water-quality/point-source-regulation-section/>
- 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. 401 Certification Website

The Bureau maintains a website location for information on 401 Certifications at: <https://www.env.nm.gov/wp-content/uploads/sites/25/2018/01/NPDES-401-Certification-List-2021-06-10.pdf>. The website will be kept up to date and has information about the process and important documents. Information on draft NPDES permits that are in the comment period for the Department's 401 Certification can be found at: <https://www.env.nm.gov/public-notices/>.

III. Regulatory Framework

The Environmental Protection Agency (EPA) retains permitting authority for the National Pollutant Discharge Elimination System (NPDES) Program in New Mexico, and as such, drafts permits for facilities that discharge pollutants into surface waters located in New Mexico. The New Mexico Environment Department's role in NPDES permitting is to ensure that federal permits comply with the requirements of state law, including New Mexico's antidegradation requirements. The Department's permit certification process is outlined in Section 401 of the Clean Water Act, and New Mexico's Administrative Code at 20.6.2.2001 NMAC.

The Bureau has three options in a 401 Certification. If there is an existing state law or regulation (such as water quality standards) that requires more stringent limitations than the federal permit, the Bureau can write a condition for that requirement, and EPA must include the condition in the final permit. However, the Bureau cannot condition a permit to make it less stringent. The second option is that the Bureau can comment on the draft permit based on best professional judgement and on-the-ground knowledge of the facility. EPA will consider but may not incorporate suggestions made in comments into the final 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. This would prohibit EPA from issuing the permit.

The federal requirement for public notice of draft NPDES permits issued by EPA Region 6 is at least a 30-day public review and comment period (40 CFR Part 124.10(b)), and the state requirement for 401 Certification is at least a 30-day public comment period (20.6.2.2001 NMAC). Typically, this is accomplished via a joint public notice issued by EPA, which is posted on EPA's public notice website, accompanying all the draft permit documents. EPA posts draft permits for New Mexico facilities which are on public notice on their website: <https://www.epa.gov/publicnotices/notices-search/location/New%20Mexico>.

Final permits (along with EPA's response to comments) are posted to the EPA's website at: <https://www.epa.gov/npdes-permits/new-mexico-npdes-permits>.

The Bureau does not prepare a draft 401 Certification for the public to review, but accepts comments for consideration in the certification during this public notice period. The Bureau cannot provide a draft document for public review due to stringent federal timelines for permit issuance – after EPA's comment period is concluded, the Bureau is required to issue or deny 401

Certification within 45 days from the date that the request to grant certification is received by the Bureau unless circumstances require a longer timeframe (20.6.2.2001.G NMAC). Federal regulations also require that the 401 Certification is received by EPA Region 6 no later than 60 days after the draft permit is mailed unless the Regional Administrator finds that unusual circumstances require a longer time frame (40 CFR Part 124.53(c)(3)). A final copy of the 401 Certification will be sent to EPA Region 6, the applicant and those who submitted comments for consideration in the 401 Certification.

Final NMED 401 Certification letters are posted on the Bureau's website:

<https://www.env.nm.gov/wp-content/uploads/sites/25/2018/01/NPDES-401-Certification-List-2021-06-10.pdf>.

The public participation requirements of specific water quality programs are specified in 40 CFR Section 25.4 and described in New Mexico's Statewide Water Quality Management Plan and Continuing Planning Process (WQMP/CPP¹). At a minimum, the public participation process for New Mexico's water quality programs consists of the following:

- Providing the public with the information and assistance necessary for meaningful involvement;
- Providing a central location of reports, studies, plans, and other documents;
- Maintaining a list of affected or interested parties and stakeholders; and
- Notifying stakeholders in a timely fashion prior to consideration of major decisions (generally at least 30 days).

The Bureau invites the public to either submit comments on EPA's draft NPDES permit for City of Las Cruces East Mesa WRF NPDES permit number NM0030872 directly to EPA Region 6 staff in Dallas, Texas. Directions on how to do so are documented on this website:

<https://www.epa.gov/publicnotices/notices-search/location/New%20Mexico>. 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.

IV. Location and Demographics

The City of Las Cruces East Mesa WRF NPDES permit number NM0030872 is located in Las Cruces, Dona Ana County, New Mexico.

Demographic Summary

Demographic indicators were obtained from EPA NEPAAssist, an environmental justice screening and mapping tool, available on-line at <https://nepassisttool.epa.gov/nepassist/nepamap.aspx>. NEPAAssist 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

¹ <https://www.env.nm.gov/surface-water-quality/wqmp-cpp/>

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. NEPAAssist then provides a report that describes demographic and environmental information for that area, with or without an assigned buffer. The 2017-2021 American Community Survey (ACS) Report link in NEPAAssist provides a report with U.S. Census Bureau American Community Survey (ACS) data in PDF format. The 2017-2021 ACS, through NEPAAssist, provided quantitative information regarding demographic indicators.

Summary of Site-Specific NEPAAssist Inputs

- Community of Concern = City of Las Cruces, Dona Ana County, New Mexico
- Buffer = 10-mile buffer centered on the City of Las Cruces East Mesa Water Reclamation Facility discharge, includes part of the eastern developed area of Las Cruces

The 2017-2021 ACS Report indicates that the total population of the area-of-interest for the City of Las Cruces East Mesa WRF is 145,534; 71 percent of the community identifies as white, 2 percent identifies as Black, 2 percent identifies as American Indian, 1 percent identifies as Asian, 11 percent identifies as some other race, and 12 percent identifies as multiracial. Of the total population, 62 percent identify as Hispanic. The percent of persons that communicate in a language other than English (non-English) at home is 38 percent (51,618 individuals), with 12,904 individuals speaking English “less than very well.” The per capita income for the City of Las Cruces area for 2017-2021 is \$26,389, as compared to the national per capita income for 2017-2021 of \$37,638. From the Bureau’s NEPAAssist analysis, there are 3,178 linguistically isolated households in this community. 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.

V. Public Participation & Outreach Activities

The public may ask questions about NPDES permits at any time. Interested community members do not need to wait for a formal public comment period to contact the Bureau. However, the Bureau emphasizes that to be included in the administrative record, comments solicited by public notices about the draft permit must be submitted during the noticed comment periods, and in accordance with the public notice and 20.6.2.2001 NMAC.

Specific outreach activities related to this draft NPDES permit and the Bureau’s 401 Certification process include:

- Maintaining a specific Department public notice web page (<https://www.env.nm.gov/public-notices/>) with attachments and links to EPA’s draft permit documents (found at <https://www.epa.gov/publicnotices/notices-search/location/New%20Mexico>) and EPA’s final permit (found at <https://www.epa.gov/npdes-permits/new-mexico-mpdes-permits>),

- Creating and maintaining a specific archive webpage with the final 401 Certification letters sent to EPA Region 6 (<https://www.env.nm.gov/wp-content/uploads/sites/25/2018/01/NPDES-401-Certification-List-2021-06-10.pdf>),
- Developing a public notice announcing the opening of the 30-day (or more, if applicable) public comment period (joint notice with EPA Region 6),
- 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 (1,823 email addresses on the general SWQB listserv and 2,216 email addresses on the SWQB NPDES listserv as of March 2024), and
- Listing the public notice on the NMED Public Comment Portal (<https://nmed.commentinput.com/comment/search>) with attachments and links to EPA's draft permit documents (found at <https://www.epa.gov/publicnotices/notices-search/location/New%20Mexico>).

Copies of the draft permit and any supporting documents may be obtained via download from the EPA Region 6 website during the comment period at <https://www.epa.gov/publicnotices/notices-search/location/New%20Mexico>, or by contacting Susan A. LucasKamat at (505) 946-8924, susan.lucaskamat@state.nm.us, NMED SWQB, P.O. Box 5469, Santa Fe, New Mexico, 87505.

The most direct way to learn about and be involved in the decision-making process for draft NPDES permits is to comment on the federal permit directly to EPA. 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>). As stated in Section III above, the Bureau can only mandate changes to the draft permit if based on state law; however, EPA does consider the Bureau's comments based on best professional judgement. Additionally, the public may request to review documents at the Bureau or one of the information repositories listed below.

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 Spanish 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 email list (1,823 email addresses on the general SWQB listserv and 2,216 email addresses on the SWQB NPDES listserv 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 the State Newspaper and Local Newspapers

There is a state requirement for public notices related to NMED's 401 Certification to be published in state or local newspapers. EPA publishes notice of draft NPDES permits in a newspaper with local distribution in the permit area.

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

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

E. Informational Pamphlets

The Bureau does not develop informational pamphlets for draft permits. Generally, information about how EPA's permit was developed or has changed is documented in the fact sheet or statement of basis accompanying the draft permit, which is located along with the draft permit itself on EPA's public notice website.

F. Public Comment Period

The 30-day public comment period to EPA Region 6 on the draft City of Las Cruces East Mesa WRF NM0030872 is planned to start Saturday, March 30, 2024, and end Monday, April 29, 2024, at 5:00 p.m. (CST). The 30-day comment period to the Bureau for consideration in the Clean Water Act Section 401 Certification of the draft NPDES permit for City of Las Cruces East Mesa WRF NM0030872 is planned to start on Saturday, March 30, 2024, and end on Monday, April 29, 2024, at 5:00 p.m. (MST).

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

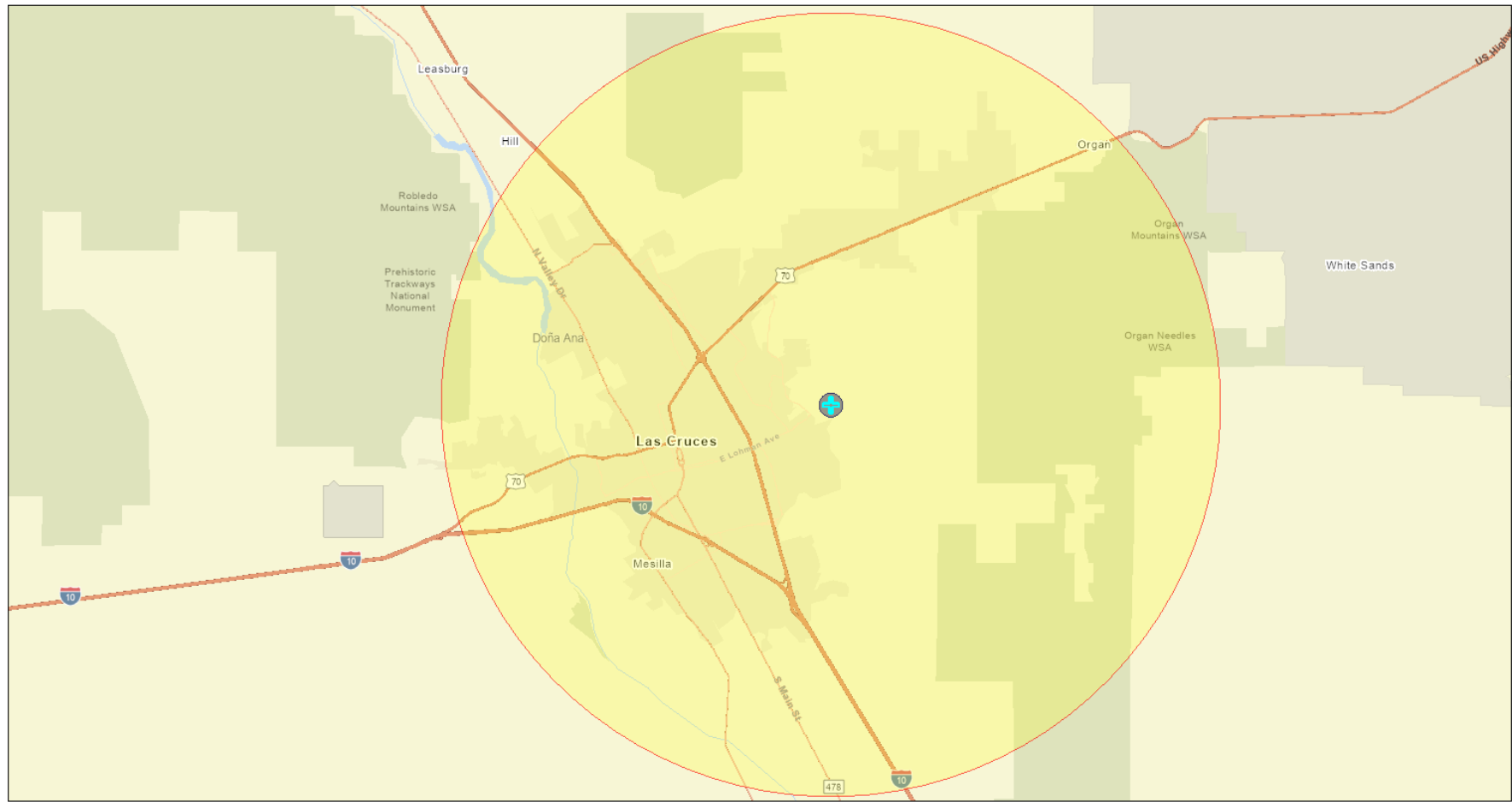
Copies of the draft NPDES permit and any of the above-mentioned supporting documents may be obtained via download from EPA Region 6's website at <https://www.epa.gov/publicnotices/notices-search/location/New%20Mexico> or by contacting Susan A. LucasKamat at (505) 946-8924, susan.lucaskamat@env.nm.gov, NMED SWQB, P.O. Box 5469, Santa Fe, New Mexico, 87505.

The Bureau is not providing hardcopies and other information at post offices, community centers, public libraries, or other repositories. If you would like to request hard copies of important documents and information about how to comment on the draft permit, please contact Susan A. LucasKamat at (505) 946-8924 or susan.lucaskamat@env.nm.gov.

I. 401 Certification Proceedings, Outcomes and Responses to Comments

The Bureau considers public comments received prior to the close of the public comment period in its Clean Water Act Section 401 Certification of the draft permit. The final 401 Certification will be sent to EPA Region 6, the permit applicant and the interested stakeholder and/or community members who commented directly to the Bureau. The final 401 Certification will be available to the public via download from the Bureau's website at: <https://www.env.nm.gov/wp-content/uploads/sites/25/2018/01/NPDES-401-Certification-List-2021-06-10.pdf>.

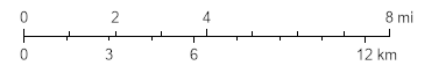
10-mile buffer around the City of Las Cruces East Mesa WRF, NPDES permit number NM0030872



February 27, 2024

- Project Buffer
- City of Las Cruces East Mesa Water Reclamation

1:183,450



City of Las Cruces GIS, CONANP, Esri, TomTom, Garmin, Foursquare, SafeGraph, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA, USFWS

Location: User-specified point center at 32.330209, -106.712887
 Ring (buffer): 10-miles radius
 Description: City of Las Cruces East Mesa Water Reclamation

Summary of ACS Estimates		2017 - 2021
Population		145,534
Population Density (per sq. mile)		572
People of Color Population		98,046
% People of Color Population		67%
Households		55,947
Housing Units		61,921
Housing Units Built Before 1950		3,012
Per Capita Income		26,389
Land Area (sq. miles) (Source: SF1)		254.62
% Land Area		100%
Water Area (sq. miles) (Source: SF1)		0.27
% Water Area		0%

	2017 - 2021 ACS Estimates	Percent	MOE (±)
Population by Race			
Total	145,534	100%	1,285
Population Reporting One Race	127,872	88%	3,102
White	103,067	71%	1,221
Black	3,411	2%	342
American Indian	2,498	2%	247
Asian	2,046	1%	267
Pacific Islander	190	0%	125
Some Other Race	16,659	11%	900
Population Reporting Two or More Races	17,663	12%	1,099
Total Hispanic Population	89,748	62%	1,309
Total Non-Hispanic Population	55,787		
White Alone	47,489	33%	945
Black Alone	2,875	2%	342
American Indian Alone	1,403	1%	127
Non-Hispanic Asian Alone	1,799	1%	267
Pacific Islander Alone	165	0%	125
Other Race Alone	147	0%	56
Two or More Races Alone	1,908	1%	146
Population by Sex			
Male	71,117	49%	897
Female	74,418	51%	749
Population by Age			
Age 0-4	8,451	6%	414
Age 0-17	33,334	23%	695
Age 18+	112,200	77%	871
Age 65+	23,662	16%	585

Data Note: Detail may not sum to totals due to rounding. Hispanic population can be of any race.
 N/A means not available. **Source:** U.S. Census Bureau, American Community Survey (ACS) 2017 - 2021

Location: User-specified point center at 32.330209, -106.712887
 Ring (buffer): 10-miles radius
 Description: City of Las Cruces East Mesa Water Reclamation

	2017 - 2021 ACS Estimates	Percent	MOE (±)
Population 25+ by Educational Attainment			
Total	89,940	100%	875
Less than 9th Grade	6,279	7%	382
9th - 12th Grade, No Diploma	6,353	7%	270
High School Graduate	18,567	21%	449
Some College, No Degree	19,644	22%	388
Associate Degree	7,618	8%	344
Bachelor's Degree or more	31,478	35%	745
Population Age 5+ Years by Ability to Speak English			
Total	137,083	100%	1,111
Speak only English	85,466	62%	940
Non-English at Home ¹⁺²⁺³⁺⁴	51,618	38%	847
¹ Speak English "very well"	38,713	28%	819
² Speak English "well"	6,892	5%	392
³ Speak English "not well"	4,135	3%	451
⁴ Speak English "not at all"	1,877	1%	369
³⁺⁴ Speak English "less than well"	6,012	4%	457
²⁺³⁺⁴ Speak English "less than very well"	12,904	9%	491
Linguistically Isolated Households*			
Total	3,178	100%	224
Speak Spanish	2,474	78%	212
Speak Other Indo-European Languages	110	3%	88
Speak Asian-Pacific Island Languages	194	6%	78
Speak Other Languages	400	13%	217
Households by Household Income			
Household Income Base	55,947	100%	497
< \$15,000	8,891	16%	417
\$15,000 - \$25,000	6,927	12%	276
\$25,000 - \$50,000	12,519	22%	359
\$50,000 - \$75,000	9,587	17%	375
\$75,000 +	18,023	32%	477
Occupied Housing Units by Tenure			
Total	55,947	100%	497
Owner Occupied	33,777	60%	479
Renter Occupied	22,170	40%	443
Employed Population Age 16+ Years			
Total	116,178	100%	1,037
In Labor Force	66,134	57%	773
Civilian Unemployed in Labor Force	4,945	7%	355
Not In Labor Force	50,044	43%	859

Data Note: Detail may not sum to totals due to rounding. Hispanic population can be of anyrace.

N/A means not available. **Source:** U.S. Census Bureau, American Community Survey (ACS)

*Households in which no one 14 and over speaks English "very well" or speaks English only.

Location: User-specified point center at 32.330209, -106.712887

Ring (buffer): 10-miles radius

Description: City of Las Cruces East Mesa Water Reclamation

	2017 - 2021 ACS Estimates	Percent	MOE (±)
Population by Language Spoken at Home*			
Total (persons age 5 and above)	137,083	100%	1,111
English	85,466	62%	980
Spanish	47,053	34%	1,079
French, Haitian, or Cajun	272	0%	74
German or other West Germanic	417	0%	227
Russian, Polish, or Other Slavic	133	0%	74
Other Indo-European	344	0%	162
Korean	142	0%	117
Chinese (including Mandarin, Cantonese)	382	0%	139
Vietnamese	85	0%	51
Tagalog (including Filipino)	457	0%	163
Other Asian and Pacific Island	270	0%	97
Arabic	926	1%	672
Other and Unspecified	1,137	1%	217
Total Non-English	51,618	38%	1,474

Data Note: Detail may not sum to totals due to rounding. Hispanic population can be of any race.
N/A means not available. **Source:** U.S. Census Bureau, American Community Survey (ACS) 2017 - 2021.
*Population by Language Spoken at Home is available at the census tract summary level and up.