



NEW MEXICO ENVIRONMENT DEPARTMENT
Surface Water Quality Bureau

Public Involvement Plan (PIP)
for the
Clean Water Act §401 Certification of the
U.S. Army Corps dredge and fill permit for
the Village of Ruidoso Hazard Mitigation and
Stabilization for Sewer Lines
SPA-2018-00034-ABQ

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APPROVAL PAGE

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Date

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Date

I. Public Involvement Plan (PIP) Overview

The New Mexico Environment Department (Department), Surface Water Quality Bureau (Bureau) developed this Public Involvement Plan (PIP) for the State of New Mexico Clean Water Act §401 Certification of the draft federal permit for the Village of Ruidoso Hazard Mitigation and Stabilization for Sewer Lines Project, SPA-2018-00034-ABQ.

The Bureau encourages the public to learn about and get involved in regulatory decision-making opportunities for dredge and fill activities. 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.¹ This assessment identifies community outreach needs and provides for public access opportunities above and beyond statutorily mandated requirements, and underscores the provision of adequate public access to information about the 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)	June 2019
Joint Public Notice for the dredge and fill permit for the Village of Ruidoso Hazard Mitigation and Stabilization for Sewer Lines Project, SPA-2018-00034-ABQ.	June 2019
Public Notice/Comment Period for the Department's 401 Certification	30-days (40 CFR 25.4) June-July 2019
Public announcements (radio, brochures, signs, postcards, factsheets, etc.)	As needed
Bureau sends 401 Certification to USACE	60-days (40 CFR 124.53(c)(3)) August 2019

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.

¹ See IV. Location and Demographics – Demographic Summary below.

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:

Abe Franklin, Program Manager
Surface Water Quality Bureau
1190 St. Francis Dr.
Santa Fe, NM 87505

Phone: (505) 827-2798
Fax: (505) 827-0160
Email: abraham.franklin@state.nm.us

Davena Crosley, Project Officer
Surface Water Quality Bureau
2301 Entrada del Sol
Las Cruces, NM 88001

Phone: (575) 915-1172
Fax: (575) 526-3891
Email: davena.crosley@state.nm.us

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 401 Certification.

- The Bureau will send a notice in English and Spanish to the Bureau's listserv announcing the availability of the comment period for consideration in the state's §401 Certification.
- The Bureau will work with U.S. Army Corps of Engineers (USACE), Albuquerque District to publish the joint public notice of the permit application which will include a comment period for the state's §401 Certification in both English 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, 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.

B. Department Websites

New Mexico Environment Department - <https://www.env.nm.gov/>

Surface Water Quality Bureau - <https://www.env.nm.gov/surface-water-quality/>

Watershed Protection Section - <https://www.env.nm.gov/surface-water-quality/watershed-protection-section/>

C. 401 Certification Website

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

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

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

III. Regulatory Framework

The U.S. Army Corps of Engineers (USACE) administers a regulatory program to implement Section 10 of the Rivers and Harbors Appropriation Act and Section 404 of the Clean Water Act. The Regulatory Division issues or authorizes permits, which are generally required for earth-moving work within wetlands, lakes, and streams (including ephemeral streams or arroyos). Under Section 401, the CWA provides States or Tribes the opportunity to certify 404 permits ("dredge and fill" permits). In New Mexico, this certification process depends on where your project is located and the kind of permit the USACE will use.

The Bureau's CWA §401 certification ensures that the federal permit 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 Section 401 of the Clean Water Act, and New Mexico's Administrative Code at 20.6.2.2002 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 USACE must include the condition in the final permit. The Bureau generally certifies 404 permits conditionally, meaning that we certify the permit if those conditions are followed. 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. USACE 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 USACE from issuing the permit.

The federal requirement for 404 dredge and fill permits issued by 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 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 at the federal level, which is posted on the USACE public notice website, accompanying all of the draft permit documents:

<http://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/Public-Notices/>.

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. Federal regulations also require that the 401 Certification is received by USACE within 60 days after the draft permit is mailed (40 CFR Part 124.53(c)(3)). A final copy of the 401 Certification will be sent to USACE, the applicant and those who submitted comments for consideration in the 401 Certification.

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/CPP). 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).

To fulfill this requirement, the Bureau invites the public to submit comments on the Village of Ruidoso Hazard Mitigation and Stabilization for Sewer Lines Project, SPA-2018-00034-ABQ directly to USACE staff in Albuquerque. Directions on how to do so are documented on this website:

<http://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/Public-Notices/>.

Alternatively, 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 Village of Ruidoso Hazard Mitigation and Stabilization for Sewer Lines Project, SPA-2018-00034-ABQ is located in the Village of Ruidoso and City of Ruidoso Downs, New Mexico.

Demographic Summary

Demographic indicators were obtained from EPA EJSCREEN, an environmental justice screening and mapping tool, available on-line at <https://www.epa.gov/ejscreen>. 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. EJSCREEN then provides a report that describes demographic and environmental information for that area, with or without an assigned buffer. The 2012-2016 ACS Report link in EJSCREEN provides a report with U.S. Census Bureau American Community Survey (ACS) data in PDF format. The 2012-2016 ACS, through EJSCREEN, provided quantitative information regarding demographic indicators.

Summary of Site-Specific EJSCREEN Inputs for NPDES permit No. NM0028088

Community of Concern = Residents along this segment of the Rio Ruidoso in the Village of Ruidoso and City of Ruidoso Downs, NM.

Buffer = 4-mile buffer around the affected stream segment

The community within a 4-mile buffer of the impacted stream segment has an estimated population of 11,559; 33 percent of the community identifies as Hispanic and 60 percent identify exclusively as White. The percent of persons that communicate in a language other than English (Non-English) at home is 27 percent. The per capita income for the Lincoln County, New Mexico is \$23,739. From the Bureau’s EJScreen analysis, 160 households are Linguistically Isolated Households – 143 of which speak Spanish. Specific information is unavailable for the remaining 16 linguistically isolated households. However, 3 percent of the population or 330 individuals identify as American Indian. These results indicate that the percentage of Spanish-speaking communication is considerable (i.e. substantially greater than the state or national percentage) and there are demographic factors (i.e. low-income community, minority community, limited English proficiency individuals, Linguistically Isolated Households, etc.) that may impact public participation.

It is important for the Bureau to incorporate the linguistic and communication needs of New Mexico communities when conducting public outreach and participation activities. To help accomplish this, for this activity, 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. For example, mass communication methods may be used in addition to private postal notices or personal email, as many residents in New Mexico may not have regular access to the internet, private e-mail accounts or postal service, and may rely on publicly posted notices and radio broadcasts. Informational flyers may be posted at post offices, community centers and public libraries, at the Bureau’s discretion and after consideration of public interest and input. Community centers and public libraries may serve as access areas for the Bureau to leave hard copies of important documents and information about this permit. Specific repository addresses, if the need is determined, are provided in this PIP on page 7.

V. Public Participation & Outreach Activities

The public may ask questions about the dredge and fill permit and the water quality certification 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 must be submitted during the noticed comment periods, and in accordance with the public notice.

Specific outreach activities related to this dredge and fill permit and the Bureau's 401 Certification process include:

- Creating and maintaining a specific public notice web page with attachments and links to USACE's permit documents <http://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/Public-Notices/>),
- Developing a public notice announcing the opening of the 30-day (or more, if applicable) public comment period (joint notice with USACE if practical),
- Posting this notice to the Bureau's website, and
- Emailing this public notice to the Bureau's extensive email list through the GovDelivery e-mail delivery service (1,633 email addresses as of April 18, 2018).

The most direct way to learn about and be involved in the decision-making process for dredge and fill permits is to comment on the federal permit directly to USACE. Comments may also be submitted to the Bureau for the 401 Certification. As stated in Section III above, the Bureau can only mandate changes to the draft permit if based on state law. USACE also considers 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, basic information about public involvement opportunities will be in both English and Spanish. This information will include how to request materials in Spanish or to speak with Bureau staff through an interpreter. 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 (1,633 email addresses as of April 18, 2018) 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 "**Subscribe to SWQB News**" button on the bottom of the home page. For help, you can contact the Bureau's website liaison, Heidi Henderson at 505-827-2901 or email heidi.henderson@state.nm.us.

C. Notices in the State Newspaper and Local Newspapers

There is a federal and state requirement for public notices, related to NMED's 401 Certification, to be published in state or local newspapers. This is accomplished by a joint public notice with USACE's when

either the USACE or NMED publishes the notice 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 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 draft permits. Generally, information about how USACE’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 USACE’s public notice website.

F. Public Comment Period

The 30-day public comment period to USACE for the Village of Ruidoso Hazard Mitigation and Stabilization for Sewer Lines Project, SPA-2018-00034-ABQ is planned to start June 12, 2019, and end on July 12, 2019, at 5:00 p.m. The 30-day comment period to the Bureau for consideration in the Clean Water Act Section 401 Certification of the permit the Village of Ruidoso Hazard Mitigation and Stabilization for Sewer Lines Project, SPA-2018-00034-ABQ is planned to start on June 12, 2019 and end on July 12, 2019, at 5:00 p.m.

G. Other Outreach

Other means of outreach such as flyers announcing public comment periods and meetings may be posted in locations throughout the community (e.g., local businesses, schools, libraries) and on the Department’s website, at the Bureau’s discretion after consideration of public interest and input.

H. Information Repositories

Copies of the dredge and fill permit and any of the above-mentioned supporting documents may be obtained via download from USACE’s website at <http://www.spa.usace.army.mil/Missions/Regulatory-Program-and-Permits/Public-Notices/> or by contacting Davena Crosley at (575) 915-1172, davena.crosley@state.nm.us, NMED SWQB, 2301 Entrada del Sol, Las Cruces, NM 88001.

Post offices, community centers and public libraries, at the Bureau’s discretion after consideration of public interest and input, may serve as access areas for the Bureau to leave hard copies of important documents and information about how to comment on the permit. The following is a list of locations where hard copies of relevant documents will be available to the community:

None identified at this time.

I. 401 Certification Proceedings, Outcomes and Responses to Comments

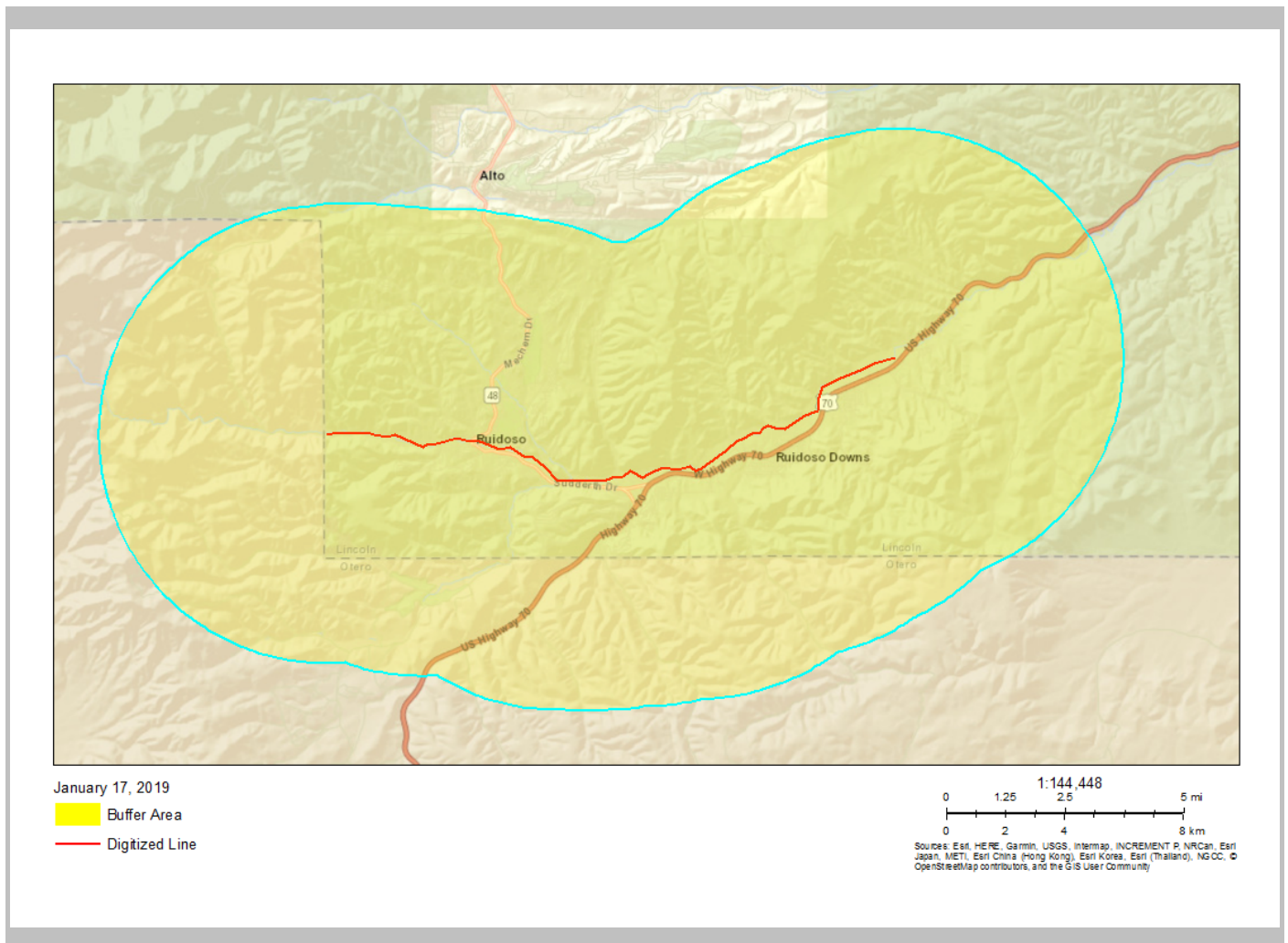
To address stakeholder and community members comments, the Bureau will prepare a “Response to Comments” following the close of the public comment period. The final 401 Certification and Response to Comments will be sent to USACE, the permit applicant and the interested stakeholder and/or community members who commented directly to the Bureau.

4 mile Ring around the Corridor, NEW MEXICO, EPA Region 6

Approximate Population: 11,559

Input Area (sq. miles): 136.78

Ruidoso Sanitary Sewer Project



Sites reporting to EPA	
Superfund NPL	0
Hazardous Waste Treatment, Storage, and Disposal Facilities (TSDF)	0