



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 Nationwide  
Permit 42 for the Alto Reservoir Bridge and  
Boat Dock  
SPA-2021-00102-LCO

**June 2021**  
**APPROVAL PAGE**

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Shelly Lemon  
Chief, Surface Water Quality Bureau

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Date

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Abe Franklin  
Program Manager, Surface Water Quality Bureau

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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 Nationwide 42 Permit for the Alto Reservoir Bridge and Boat Dock Project, SPA-2021-00102-LCO.

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.<sup>1</sup> 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 2021
Public Notice for the dredge and fill permit for the Alto Reservoir Bridge and Boat Ramp, SPA-2021-00102-LCO.	June 2021
Public Notice/Comment Period for the Department's 401 Certification	30-days (40 CFR 25.4) June 2021
Public announcements (radio, brochures, signs, postcards, factsheets, etc.)	As needed
Bureau sends 401 Certification to USACE	60-days (40 CFR 124.53(c)(3)) July 2021 (tentative)

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:

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<sup>1</sup> See IV. Location and Demographics – Demographic Summary below.

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

Phone: (505) 946-8952  
Email: [abraham.franklin@state.nm.us](mailto:abraham.franklin@state.nm.us)

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

Phone: (575) 636-3425  
Email: [davena.crosley@state.nm.us](mailto:davena.crosley@state.nm.us)

The NMED SWQB offices are currently closed due to the COVID-19 public health emergency. If you need to contact the Bureau regarding the Alto Reservoir Bridge and Boat Dock Project, SPA-2021-00102-LCO, 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 401 Certification.

Based on a four-factor evaluation for limited English proficiency (LEP) accessibility and outreach (NMED Policy and Procedure 07-11), the Bureau determined that additional language assistance (interpretation or translation services) and outreach in Spanish are needed for this activity, at this time. The Bureau also determined that there are adequate resources available within the Department to provide LEP services, if requested or determined necessary. Public participation activities that are provided by the Bureau for certification or denial of NPDES Permit No. NM0029819 in accordance with federal Clean Water Act Section 401 appear sufficient. If additional information or data are acquired that indicate translation or interpretation services are needed, the Bureau will implement expanded outreach activities described in this PIP.

#### **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. 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 the 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 the CWA Section 401 Certification Rule published in July of 2020 (40 CFR 121), 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 provided that the conditions includes a statement explaining why the condition is necessary and has a citation to a law that authorizes the condition (40 CFR 121.7). 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 state requirement for 401 Certification is at least a 30-day public comment period (20.6.2.2001 NMAC). 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)) unless the Federal agency establishes a longer reasonable period of time that does not exceed 1 year (40 CFR 121.6). 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 Alto Reservoir Bridge and Boat Ramp Project, SPA-2021-00102-LCO to the Bureau for consideration and inclusion in the 401 Certification. If you would like to comment, please send written comments to the Bureau contacts listed above in Section II.

#### **IV. Location and Demographics**

Alto Reservoir Bridge and Boat Ramp Project, SPA-2021-00102-LCO is located north of the Village of Ruidoso at the Alto Reservoir, 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 2014-2018 ACS Report link in EJSCREEN provides a report with U.S. Census Bureau American Community Survey (ACS) data in PDF format. The 2014-2018 ACS, through EJSCREEN, provided quantitative information regarding demographic indicators.

### **Summary of Site-Specific EJSCREEN Inputs for Alto Reservoir Bridge and Boat Ramp Project, SPA-2021-00102-LCO**

Community of Concern = Residents using the Alto Reservoir near the Village of Ruidoso, NM

Buffer = 6-mile buffer around the affected stream segment

The community within a 6-mile buffer of the impacted stream segment has an estimated population of 11,483; 27 percent of the community identifies as Hispanic and 70 percent identify exclusively as White. The percent of persons that communicate in a language other than English (Non-English) at home is 21 percent. The per capita income for the Lincoln County, New Mexico is \$28,224. From the Bureau’s EJScreen analysis, 96 households, are Linguistically Isolated Households – 61 of which speak Spanish. Specific information is unavailable for the remaining 35 linguistically isolated households. However, 1 percent of the population or 130 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.

## **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,
- 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 (1,800 email addresses as of September 2020).

As stated in Section III above, the Bureau can only mandate changes to the draft permit if based on state law and by following the CWA Section 401 Certification Rule at 40 CFR 121; however, USACE 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.

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, 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 (1,800 email addresses as of September 2020) 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 505-819-9986 or email [heidi.henderson@state.nm.us](mailto: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 NMED publishing 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 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 permit, which is located along with the Nationwide Permit itself on USACE's public notice website.

**F. Public Comment Period**

The 30-day comment period to the Bureau for consideration in the Clean Water Act Section 401 Certification of the Nationwide Permit 42 of the Alto Reservoir Pedestrian Bridge and Boat Dock, SPA-2021-00102-LCO is planned to start June 07, 2021, and end on July 08, 2021, 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) 636-3425, [davena.crosley@state.nm.us](mailto:davena.crosley@state.nm.us), NMED SWQB, 2301 Entrada del Sol, Las Cruces, NM 88001.

Due to the COVID-19 pandemic and health emergency, the Bureau will not provide 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 Davena Crosley at (575) 636-3425 or email: [davena.crosley@state.nm.us](mailto:davena.crosley@state.nm.us).

#### **I. 401 Certification Proceedings, Outcomes and Responses to Comments**

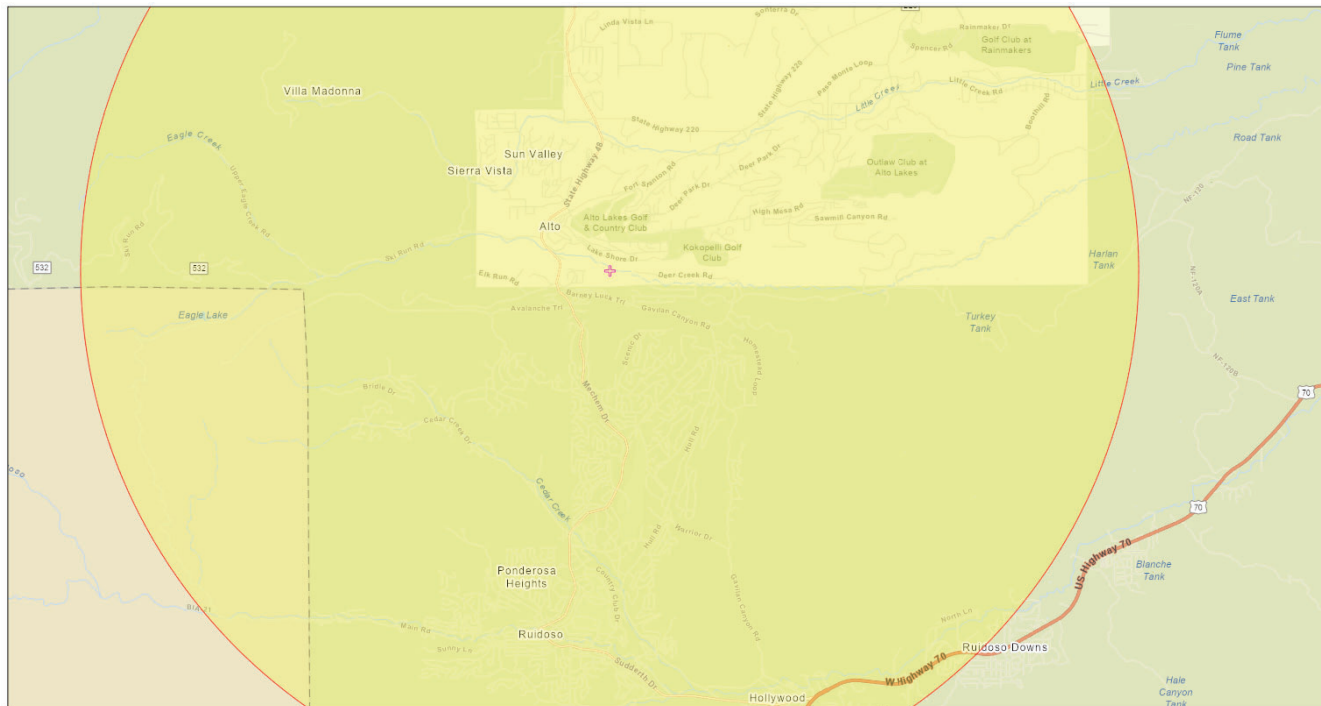
To address stakeholder and community members comments, the Bureau will prepare a “Response to Comments” following the close of the public comment period. The final 401 Certification and Response to Comments will be sent to USACE, the permit applicant and the interested stakeholder and/or community members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

6 miles Ring Centered at 33.393469,-105.667191, NEW MEXICO, EPA Region 6

Approximate Population: 11,483

Input Area (sq. miles): 113.08

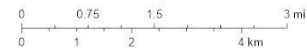
## Alto Reservoir



May 18, 2021

✚ Alto Reservoir

1:72,224



Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, OpenStreetMap contributors, and the GIS User Community