NEW MEXICO ENVIRONMENT DEPARTMENT

Surface Water Quality Bureau

Public Involvement Plan (PIP) for the Clean Water Act §401 Certification of the federal draft NPDES permit for Aztec Water Treatment Plant NM0028762

September 2021

APPROVAL PAGE

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Date

Public Notice Date: September 25, 2021

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 Aztec Water Treatment Plant NM0028762.

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 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, September 25, 2021
EPA-NMED Joint Public Notice for the draft NPDES permit for the Aztec Water Treatment Plant NM0028762	Saturday, September 25, 2021, through Sunday, October 24, 2021
Public Notice/Comment Period for the Department's 401 Certification	Saturday, September 25, 2021, through Monday, October 25, 2021
Bureau sends 401 Certification to EPA Region 6	Tuesday, November 9, 2021

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@state.nm.us

Daniel Valenta, Permit Lead
Surface Water Quality Bureau
1190 St. Francis Dr.
Santa Fe, NM 87505

Phone: (505) 819-8112
Fax: (505) 827-0160
Email: daniel.valenta@state.nm.us

The NMED offices are currently closed for in person meetings due to the COVID-19 public health emergency. If you need to contact the Bureau regarding the Aztec Water Treatment Plant or draft NPDES permit no. NM0028762, 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 are not needed for this activity, at this time. The Bureau has 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. NM0028762 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/
Point Source Regulation Section - https://www.env.nm.gov/surface-water-quality/point-source-regulation-section/

NMED Public Notices - https://www.env.nm.gov/public-notices/

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 of 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/CPP[1]). 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 Aztec Water Treatment Plant NPDES NM0028762 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 Aztec Water Treatment Plant NPDES NM0028762 is located in Aztec, San Juan County, New Mexico.

[1] https://www.env.nm.gov/surface-water-quality/wqmp-cpp/

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

- Community of Concern = Aztec, New Mexico
- Buffer = 1-mile buffer that includes the urban area

The 2014-2018 ACS Report indicates that the total population of the area-of-interest for the Aztec Water Treatment Plant is 1,929; 26% identify as Hispanic, and 67% of the community identifies as White alone, 5% identify as Native American alone, and 2% identify as multiracial. The percent of persons that communicate in a language other than English (non-English) at home is 14% (255 individuals), with 23 individuals speaking English "less than very well." The per capita income for 2014-2018 for the Aztec area is $24,719, as compared to the national per capita income for 2014-2018 of $32,621. From the Bureau's EJScreen analysis, there are 4 linguistically isolated households in this community. These results indicate that the percentage of non-English-speaking communication in this community and various demographic factors (i.e. low-income community, minority community, etc.) could 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:

- Creating and maintaining a specific public notice web page with attachments and links to EPA's draft permit documents (https://www.env.nm.gov/public-notices/) and EPA's final permit (https://www.env.nm.gov/surface-water-quality/point-source-regulation-section/),

- 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 notice to the Bureau's website, and
- Emailing this public notice to Bureau's email list through the GovDelivery e-mail delivery service (1,881 email addresses as of June 2021).

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. 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 does not indicate 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 (1,881 email addresses as of June 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.

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 sent to the Bureau's listserv 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-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 Aztec Water Treatment Plant NPDES NM0028762 is planned to start Saturday, September 25, 2021, and end Sunday, October 24,2021, 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 Aztec Water Treatment Plant NPDES NM002876 is planned to start on Saturday, September 25, 2021 and end on Monday, October 25,2021, at 5:00 p.m. (MST).

G. Other Outreach

Due to the COVID-19 pandemic and health emergency, other means of outreach such as flyers or other hard copy postings will not be used. However, any updates will be posted on the Department's website.

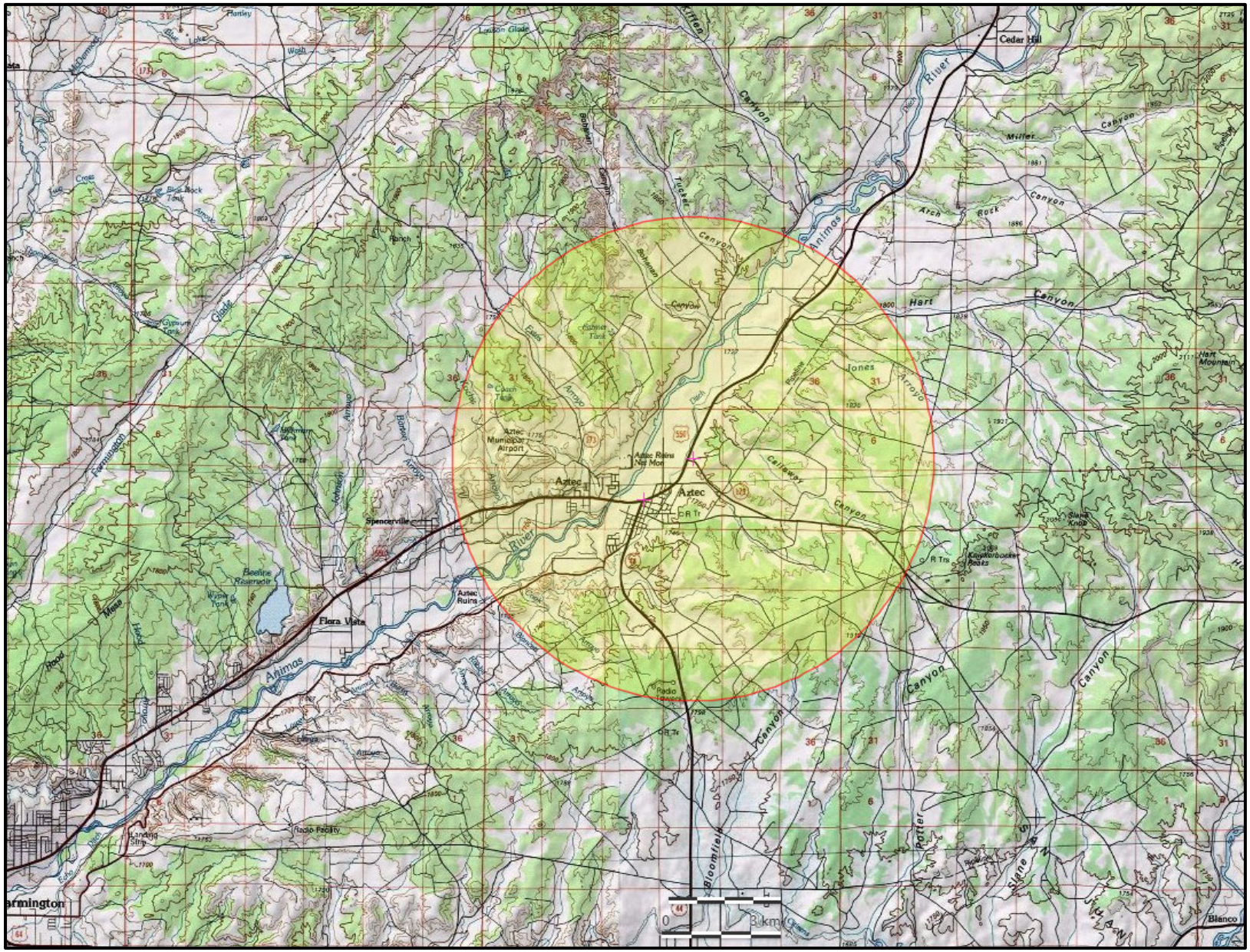
H. Information Repositories

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@state.nm.us, NMED SWQB, P.O. Box 5469, Santa Fe, New Mexico, 87505.

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 Susan A. LucasKamat at (505) 946-8924 or susan.lucaskamat@state.nm.us.

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.



1-mil-mile buffer around the Aztec Water Treatment Plant NPDES NM0028762