



Alan Varela, Director



Mayor Timothy M. Keller

February 13, 2023

James Tolman, CPESC
Inspections Plus Inc.
504 El Paraiso Rd. NE Suite B
Albuquerque, NM 87113-1590

**Re: McMahon Market Place Lots 9B, 9C, & 9D - 5760 McMahon Blvd NW
Erosion and Sediment Control Plan
Engineer's Stamp Date 11/28/2022 (A11E011I)**

Dear Mr. Tolman,

The City cannot approve any permits for this property while access is denied. The owner is required to withdraw the notification he gave the city on 1/13/23 stating "that city is denied access to the Owner's property for inspecting any purportedly required compliance pursuant to Drainage Ordinance §14-5-2-11." Access must be allowed per the EPA's Construction General Permit (CGP) Part 4.8 and City Ordinance §14-5-2-14.

This new submittal seems the same as the previous, and none of the comments have been addressed. I have attached a copy of the previous comment letter dated 12/20/22, which assumed that JMD-McMahon LLC, the property owner, would have only one SWPPP and NOI for his 2.2 acres disturbed portion of this "Common Plan of Development or Sale" (Alt #1). I also attached an email from Renee Hartman of Inspections Plus dated 1/6/23 describing the owner's intent to divide the existing permit coverage property into two separate areas of control, each with its own SWPPP and NOI, one for Lot 9B and the other for Lots 9C and 9D (Alt#2). You may construct the type of ground cover that will satisfy the Final Stabilization Criteria of CGP 2.2.14.c on the disturbed portions of Lots 9C and 9D to eliminate the need for permit coverage on those lots until further development (Alt#3).

Based upon the information provided in your submittal received on 1/30/23, it seems that you still intend to split the site into two areas of control, and you have provided a plan for lot 9B only. The above-referenced ESC Plan cannot be approved until you address the following comments.

1. You must submit a revised SWPPP, NOI, and ESC Plan for the remainder of the disturbed portion of the McMahon Marketplace "Common Plan of Development or Sale" before the City can approve this new ESC Plan and NOI for Lot 9B. After you split the existing site into two separate areas of control, the City will review the ESC Plans, NOIs, and SWPPPs side by side to ensure no gaps between them.

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2. You must include the lot numbers in the Project/Site Name on each NOI. The submitted NOI doesn't list any lot numbers.
3. The latitude and longitude on the NOI must lie within the limits of the lot(s). The coordinates on the submitted NOI are on Lot 9D instead of Lot 9B.
4. The estimated area to be disturbed on the NOIs must include both the currently disturbed area plus any new areas of construction activities and construction support activities.
5. The legend includes a line type for the "Property Boundary /Limit of Disturbance" but the property boundary & limit of disturbance are at different locations on the site and the property boundaries are not accurately shown on the ESC Plan. Show the lot lines accurately using a different line type and label the lot numbers on the ESC Plan.
6. Add inlet protection at all of the inlets that this site drains to. Show storm drains and direction of surface flow.
7. The SWPPP must include site-specific interim and permanent stabilization per CGP 9.4.1.c.i. The Landscape Plan can be used to satisfy this requirement and should be submitted separate from the ESC Plan with the application to the Stormwater Quality Section of the Planning Department and they should be included in the SWPPP. Provide a specification on the ESC Plan for any disturbed areas not covered by the Landscape Plan.
8. Describe the nature and extent of construction activities (CGP 7.2.2.). Include the size of the property, and the size of the area of land disturbing activities. The estimated area to be disturbed, 8.39 acres, on sheet 2 seems excessive. It should be noted that the lot area, 0.92 acres, shown on sheet 4 is part of a 10 acre Common Plan of Development or Sale.
9. Soil information – add a table with name type, particle sizes, and Erodibility factor (CGP 2.1.1). Soil loss calculations are required in the SWPPP since this is part of a common plan of development that exceeds 5 acres.
10. Update the engineer's stamp date each time the plan is changed.

If you have any questions, you can contact me at 924-3420 or jhughes@cabq.gov .

Sincerely,

James D. Hughes

James D. Hughes, P.E.
Principal Engineer, Planning Dept.
Development and Review Services



Alan Varela, Director



Mayor Timothy M. Keller

December 20, 2022

James Tolman, CPESC
Inspections Plus Inc.
504 El Paraiso Rd. NE Suite B
Albuquerque, NM 87113-1590

**Re: McMahon Market Place Lots 9B, 9C, & 9D - 5750 McMahon Blvd NW
Erosion and Sediment Control Plan
Engineer's Stamp Date 11/28/2022 (A11E011I)**

Mr. Tolman,

Based upon the information provided in your submittal received on 12/05/2022, the above referenced ESC Plan cannot be approved until the following comments are addressed.

1. This site is already supposed to have permit coverage, but NMR1000WQ and NMR1002NB expired on 2/16/22 before the Final Stabilization Criteria of CGP 2.2.14 was satisfied. NMR1002NB covered the last 2.5 acre part of a 9 acre "Common Plan of Development or Sale" owned by JMD-McMahon, LLC. This 2.5 acre part has been disturbed since 2014 and has never satisfied the Final Stabilization Criteria of CGP 2.2.14, so JMD-McMahon, LLC must provide an NOI and ESC Plan covering the remaining disturbed area to the City for approval.
2. The above referenced ESC Plan only covers Lot 9B which may be sufficient for the contractor's area of control but the contractors' plans don't need to be approval by the City. Show all of the remaining disturbed property on the ESC Plan with temporary BMPs and the structures and stabilization that will be provided prior to filing the NOT.
3. Correct the estimated area to be disturbed and the Project /Site Name on the property owner's NOI.
4. The SWPPP must include site-specific interim and permanent stabilization per CGP 9.4.1.c.i. The Landscape Plan can be used to satisfy this requirement and should be submitted separate from the ESC Plan with the application to the Stormwater Quality Section of the Planning Department and they should be included in the SWPPP. Provide a specification on the ESC Plan for any disturbed areas not covered by the Landscape Plan.
5. Describe the nature and extent of construction activities (CGP 7.2.2.). Include the size of the property, and the size of the area of land disturbing activities. Provide a project schedule beginning with the initial establishment of the BMPs, posting of permit coverage, and any demolition covered by the permit. Describe the schedule of stabilization, timing of the removal of the BMPs and filing of the NOT. Describe construction support activities and show staging area on the ESC Plan.



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6. Soil information – add a table with name type, particle sizes, and Erodibility factor (CGP 2.1.1). Soil loss calculations are required in the SWPPP since this is part of a common plan of development that exceeds 5 acres.
7. Update the engineer's stamp date each time the plan is changed.

If you have any questions, you can contact me at 924-3420 or jhughes@cabq.gov .

Sincerely,

James D. Hughes

James D. Hughes, P.E.
Principal Engineer, Planning Dept.
Development and Review Services

From: [Rene Hartman](#)
To: [Hughes, James D.](#)
Cc: [Madelyn Schauer](#)
Subject: McMahon Market Place Lot 9B not to include RE: McMahon Market place Lots 9B, 9C, and 9D_A11E011I - NMR1002NB & NMR10059B_Violation Payments
Date: Friday, January 06, 2023 1:49:44 PM
Attachments: [image002.jpg](#)
[image003.png](#)

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Doug,

Please read below what I have written in red. JMD McMahon LLC wants to have a completely new SWPPP for the vertical construction on lot 9B and will call it McMahon Market Place Lot 9. Madelyn is sending you documents to get that construction permit approved. We do not want to update the older SWPPP that you are working with them on the violations to include the vertical construction on lot 9B. When they start in February (if you will approve the construction permit for the new SWPPP) we will update the original older SWPPP showing that lot 9b is under another permit.

Please call me if you have any questions on this I know it has been confusing.

Thank you!!

Rene Hartman
Chief Administrative Officer
I am in the office Wednesday through Friday
Inspections Plus
504 El Paraiso Rd NE, Ste. B
Albuquerque, NM 87113

505-344-9410

WWW.inspectionsplus.com

From: Madelyn Schauer <madelyn@inspectionsplus.com>
Sent: Friday, January 6, 2023 1:28 PM
To: Rene Hartman <rene@inspectionsplus.com>
Subject: Fw: McMahon Market place Lots 9B, 9C, and 9D_A11E011I - NMR1002NB & NMR10059B_Violation Payments

Here are Doug's comments

From: Hughes, James D. <jhughes@cabq.gov>
Sent: Thursday, December 29, 2022 11:13 AM
To: Madelyn Schauer <madelyn@inspectionsplus.com>
Cc: Colleen McGrath <colleen@petersonproperties.net>; Rene Hartman

<rene@inspectionsplus.com>; Chris Sioss <chris.sioss@petersonproperties.net>;
esparza.david@epa.gov <esparza.david@epa.gov>

Subject: RE: McMahon Market place Lots 9B, 9C, and 9D_A11E011I - NMR1002NB &
NMR10059B_Violation Payments

Madelyn,

JMD McMahon, LLC owns all three disturbed lots, 9B, 9C, and 9D, and only needs one NOI and SWPPP to cover those lots. The SWPPP and Map must be updated as plans change. The McMahon Lots SWPPP will be updated in February, when the SWPPP for the one section in 9B (SWPPP name McMahon Market Place Lot 9) will take over for the portion of the 3 lots. The McMahon Lots SWPPP will then not in that SWPPP that lot 9b is not part of the SWPPP but covered by another SWPPP. They wish to have a separate SWPPP to cover the vertical construction.

Wilger is the contractor that will be in control of the daily operations at lot 9B and the EPA (not the City) requires him to have permit coverage under the CGP and to file an NOI. Wilger will get an NOI to cover the new SWPPP (McMahon Market Place Lot 9) before February when the vertical construction begins. They will not be working on the SWPPP for McMahon Lots 9B, C, D. because lot 9B will no longer be apart of the McMahon Lots 9B,C,D SWPPP.

Both operators, Wilger and JMD McMahon, LLC, are required to maintain a SWPPP during their Permit Coverage under the CGP. They may each have their own SWPPP or, if they agree, they may share one SWPPP, as long as the area of control of each operator is clearly identified in that SWPPP. Wilger and JMD McMahon, LLC both understand that they will need to have a NOI permit coverage for the new SWPPP covering the vertical construction on lot 9B. Wilger will not need an NOI for the McMahon Lots 9B,C,D SWPPP because they will not be working on that project.

You need to work with the operators to determine how many SWPPPs are needed and to determine each operator's area of control. As a property right, the property owner controls all of the plans, specifications, and contracts for all of the property he owns.

The property owner's SWPPP must show all three lots on a SWPPP Map (ESC Plan) though it may be appropriate to show the new plan for lot 9B on separate sheets. This is the only SWPPP and NOI that the City requires prior to issuing permits and it is the only SWPPP that the City inspects.



DOUG HUGHES, P.E., CFM, CPESC

principal engineer construction SWQ

o 505.924.3420

e jhughes@cabq.gov

cabq.gov/planning

From: Madelyn Schauer [<mailto:madelyn@inspectionsplus.com>]
Sent: Thursday, December 29, 2022 9:41 AM
To: Hughes, James D. <jhughes@cabq.gov>
Cc: Colleen McGrath <colleen@petersonproperties.net>; Rene Hartman <rene@inspectionsplus.com>; Chris Sioss <chris.sioss@petersonproperties.net>; esparza.david@epa.gov
Subject: Re: McMahon Market place Lots 9B, 9C, and 9D_A11E011I - NMR1002NB & NMR10059B_Violation Payments

[EXTERNAL] Forward to phishing@cabq.gov and delete if an email causes any concern.

Hello Doug,

Going forward with fixing the NOIs and SWPPP for this site, I am just needing details clarified.

The ESC permit that had been most recently submitted was for only lot 9B on the McMahon Marketplace site. The SWPPP and NOIs are only for that one small lot.

The SWPPP that is in violation is "McMahon Lots" which includes lots 9B, 9C, and 9D.

To resubmit for an ESC, which SWPPP and NOIs need to be addressed?

Thank you,

Madelyn Schauer
Inspections Plus LLC
Environmental Compliance Analyst
505-895-1547
403-740-3225
madelyn@inspectionsplus.com

From: Chris Sioss <chris.sioss@petersonproperties.net>
Sent: Wednesday, December 21, 2022 2:47 PM
To: jhughes@cabq.gov <jhughes@cabq.gov>
Cc: Colleen McGrath <colleen@petersonproperties.net>; Madelyn Schauer <madelyn@inspectionsplus.com>; Rene Hartman <rene@inspectionsplus.com>; esparza.david@epa.gov <esparza.david@epa.gov>
Subject: McMahon Market place Lots 9B, 9C, and 9D_A11E011I - NMR1002NB & NMR10059B_Violation Payments

Mr. Hughes,

Please find the attached paid receipts for Fine #1 and Fine #2 as referenced in your previous email. I would like to request an on-site meeting at the McMahon property with you or someone from your office to review the violations and ask some questions. In the meantime, with the holidays quickly

approaching, I would like to ask for an extension to your follow-up inspection until after we have met and any issues resolved by our vendors and maintenance staff.

Best Regards,



forwarded message:

From: "Hughes, James D." <jhughes@cabq.gov>

Date: December 20, 2022 at 7:31:48 PM MST

To: Doug Peterson <doug@petersonproperties.net>

Cc: Madelyn Schauer <madelyn@inspectionsplus.com>, Rene Hartman <rene@inspectionsplus.com>, "Jones, Curry" <jones.curry@epa.gov>, "Esparza, David" <esparza.david@epa.gov>

Subject: 22.12.20 ESC Notice of Violation 3 and fine 2 for McMahon Market place Lots 9B, 9C, and 9D - 5710 McMahon Blvd NE - A11E011I - NMR1002NB & NMR10059B

Mr. Peterson,

Please find attached Notice of Violation 3, the Escalation Process, and an Invoice for Fine 2. Please pay both Fines 1 and 2 and return the receipts to me showing they are paid. Here is the link to the payment page. Enter the reference number beginning with "SI". Include the dashes.

https://secure33.ipayment.com/cbtsecuretransfer_cabq/cbtsecuretransfer.aspx/ProcessToken?ClientID=CABQ&Token=c1952b46-91ac-4e45-a3db-bb2ffcf641ae

Additional penalties (\$500/day) and sanctions will be added if the fines are not paid and the violations mitigated before the next City Inspection. The City will conduct a followup inspection in one week to verify compliance with the City ordinance and the CGP.

Albuquerque's Erosion and Sediment Control (ESC) ordinance § 14-5-2-11 at link

https://codelibrary.amlegal.com/codes/albuquerque/latest/albuquerque_nm/0-0-0-19897

requires the property owner to provide an ESC Plan and the EPA's Notice of Intent (NOI) to the city for review and approval prior to issuing construction permits and prior to any land-disturbing activity. It also requires compliance with the Construction General Permit (CGP)

[2022 Construction General Permit \(CGP\) | US EPA.](#)

DOUG HUGHES, P.E., CFM, CPESC

principal engineer construction SWQ

o 505.924.3420

e jhughes@cabq.gov

cabq.gov/planning