

January 11, 2023

TWAS Properties LLC  
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115 E Main St.  
Thomaston GA 30286-3146

**Site: Tidal Wave Car Wash – 10601 Unser Blvd. NW (Lot 2)– A11E017C**

**Re: Drainage Ordinance (§14-5-2-11) Violations for Erosion and Sediment Control**

Subsequent to an inspection on 1/9/23 the City finds that the site, lot 2, is not in compliance with the Construction General Permit and that stormwater controls will not prevent sediment and waste from entering the City's drainage system and/or leaving the construction site.

This lot is part of a 19 acre “Common Plan of Development or Sale” which is defined in Appendix A of the CGP. Holly Partners, LLC was the original developer that graded the site and subdivided it into 9 lots and then sold lot 2 to TWAS Properties LLC. The property owners of all 9 lots must have coverage under the CGP with BMPs until they satisfy the Final Stabilization Criteria in CGP 2.2.14. The entire site is covered by dirt with weeds with no significant perennial vegetation.

The following violations were observed on 1/9/23 on lot 2:

1. The property owner hasn't provided their NOI to the City.
2. The permit coverage wasn't posted.
3. Neither the SWPPP nor any reports were available on-site. Nobody was onsite and the location of the SWPPP wasn't indicated on any sign onsite.
4. BMPs - Silt fence was falling down and missing. Additional Silt fence is needed to keep sediment out of the streets.



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](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](#).



Alan Varela, Director

Mayor Timothy M. Keller

**Required Mitigation:**

1. The property owner's NOI and ESC Plan must be submitted to the City of Albuquerque for review and approval per the above-referenced ordinance.
2. You must post a sign or other notice of your permit coverage at a safe, publicly accessible location in close proximity to the construction site. The notice must be located so it is visible from the public road that is nearest to the active part of the construction site, and it must use a font large enough to be readily viewed from a public right-of-way per CGP 1.5.
3. The SWPPP, including Self Inspection Reports and Corrective Action Reports, must be kept up-to-date per CGP 7.1 and available on-site per CGP 4.7.3, 5.4.3, and 7.3. If an on-site location is unavailable to keep the SWPPP when no personnel are present, a notice of the plan's location must be posted near the main entrance of your construction site CGP 7.3.
4. Ensure that all stormwater controls (BMPs), including the silt fence, are installed and maintained and remain in effective operating condition during permit coverage per CGP 2.1.4. If at any time you find that a stormwater control needs routine Maintenance, you must immediately initiate the needed maintenance work and complete such work by the close of the next business day. When the problem requires a new or replacement control or significant repair, install the new or modified control and make it operational, or complete the repair, by no later than seven (7) calendar days from the time of discovery per CGP 5.2.1.

**History of Violations and Escalation Process:**

Notice of the following types of violations was sent on the dates noted below:

1. NOI – 1/12/23 (Level 2)
2. Posting – 1/12/23 (Level 2)
3. SWPPP – 1/12/23 (Level 2)
4. BMPs – 1/12/23 (Level 2)

The City Escalation Process (attached) describes four levels of escalation based on the number of repeats and/or recalcitrant violations of each type. Failure to obtain permit coverage is a particularly egregious offence so level 1 is skipped and the escalation process begins at level 2.

If the violations are not mitigated within seven days from receipt of this notice, the property owner is subject to a fine of \$500/day per the City's Drainage Control Ordinance, and the non-compliance will be reported to the EPA. Repeat violations are also subject to a fine of \$500/day.

If you have any questions, you can contact me at 924-3420 or [jhughes@cabq.gov](mailto:jhughes@cabq.gov) .

Sincerely,

*James D. Hughes*

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