

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

August 12, 2024

Uncer Property LLC
Mohamad Touffaha
813 S Woodlawn
Wichita, KS 67218

**Site: 10860 Unser Blvd NW (A11E018A)
Tracts 4-A (0.5 acres) and 4-B (1.3 acres) of Paradise Plaza Cont**

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

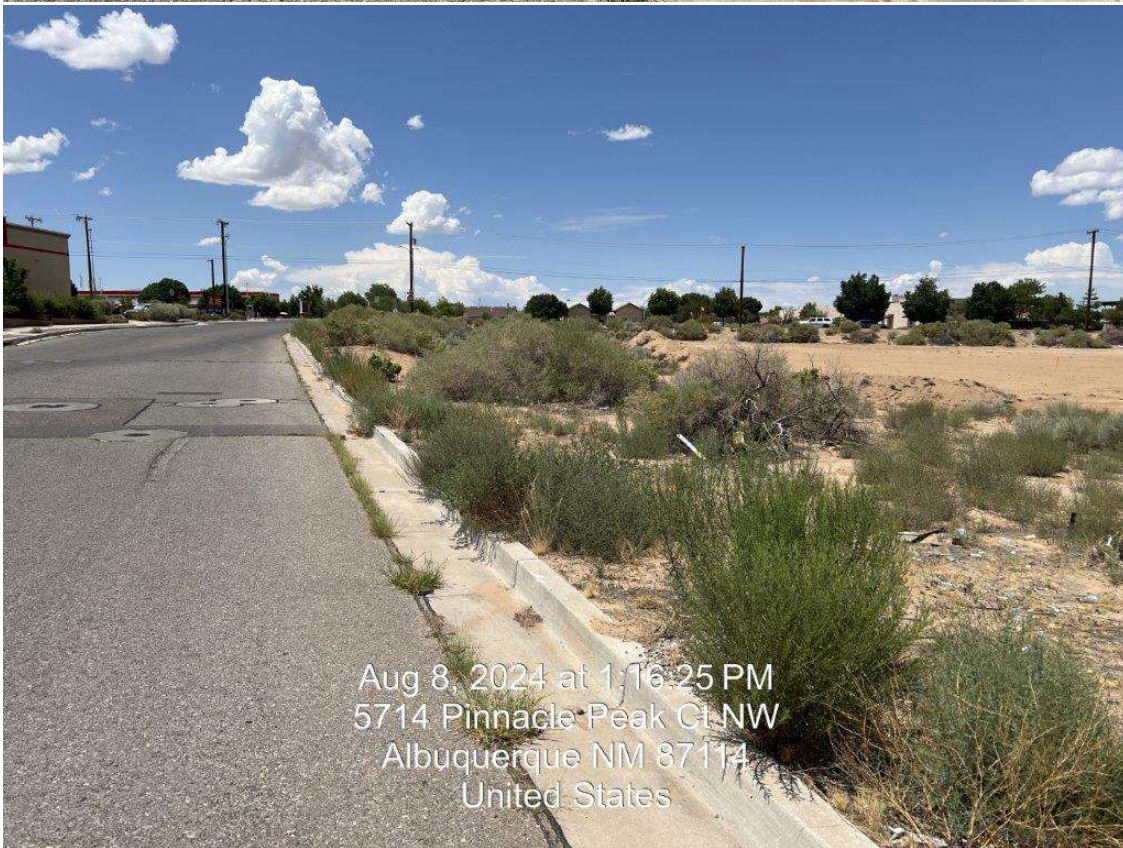
While inspecting the site on 8/8/24, the city observed the following general categories of Erosion and Sediment Control (ESC) violations.

1. The ESC Plan was not approved by the city and a **NOI** was not submitted,
2. The NPDES coverage was not **posted**,
3. The **SWPPP** and reports were not available on-site,
4. The **BMPs** were not installed before land disturbing activities started.

Land disturbing activities had already begun before the City has approved an ESC Plan, and a NOI was not submitted to the City for review. The site has begun grading the property without BMPs in place. There wasn't any construction equipment or personnel onsite. There were a couple of small stockpiles of dirt onsite. There were no identification signs or permits posted. Specifically, the violations on 8/8/24 were:

1. **NOI** - Land-disturbing activities began before City approval of the property owner's ESC Plan and NOI in violation of Albuquerque's ordinance § 14-5-2-11(a) (attached,) which requires the property owner to provide an ESC Plan and the EPA's Notice of Intent (NOI) to the City for review and approval before 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](#). It also appears that there are stockpiles from the grading that is encroaching on the neighboring property to the south of your site.
2. **Posting**—CGP coverage was not posted so it is visible from the public road nearest to the active part of the construction site, using a font large enough to be readily viewed from a public right-of-way in violation of CGP 1.5.
3. **SWPPP** The up-to-date SWPPP and /or self-inspection reports were not available on-site at the time of inspection in violation of CGP 7.1 and 7.3. No personnel were present on site, and the location of the SWPPP was not posted on a sign near the gate in violation of CGP 7.3.

4. **BMPs** – The stormwater controls were not installed by the time construction activities began which violates CGP 2.1.3. There is no stabilized construction exit and no perimeter silt fencing.



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Required Mitigation:

1. **NOI** - The property owner's NOI and ESC Plan must be submitted to the City of Albuquerque for review and approval per Albuquerque's Erosion and Sediment Control (ESC) ordinance § 14-5-2-11 (attached). If land disturbing activity has occurred on the southern property, you must either provide an ESC Plan and NOI per CGP 1.4 to the City's Storm Water Quality (SWQ) for approval for Albuquerque-Unser Take Five LLC per ordinance 14-5-2-11, or you must remove all construction support activity and stabilize the disturbed portion of Tract 4-A with "Native Seed and Aggregate Mulch" per City Std Spec 1012 or equivalent, to comply with the Final Stabilization Criteria in the CGP Part 2.2.14.c.
2. **Posting** - 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. **BMPs** - Ensure that all stormwater controls (BMPs), including the silt fence and construction entrance, 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.

If the violations are not mitigated within seven days, 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, contact me at 505-924-3325, cenglish@cabq.gov.

Sincerely,

Chancellor English

Chancellor English, CPESC
Erosion and Sediment Control Specialist - Stormwater Quality
Planning Dept.