

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

August 21, 2024

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

**Site: 10850 Unser Blvd NW (A11E018A)
Tract 4-B (1.3 acres) of Paradise Plaza Cont**

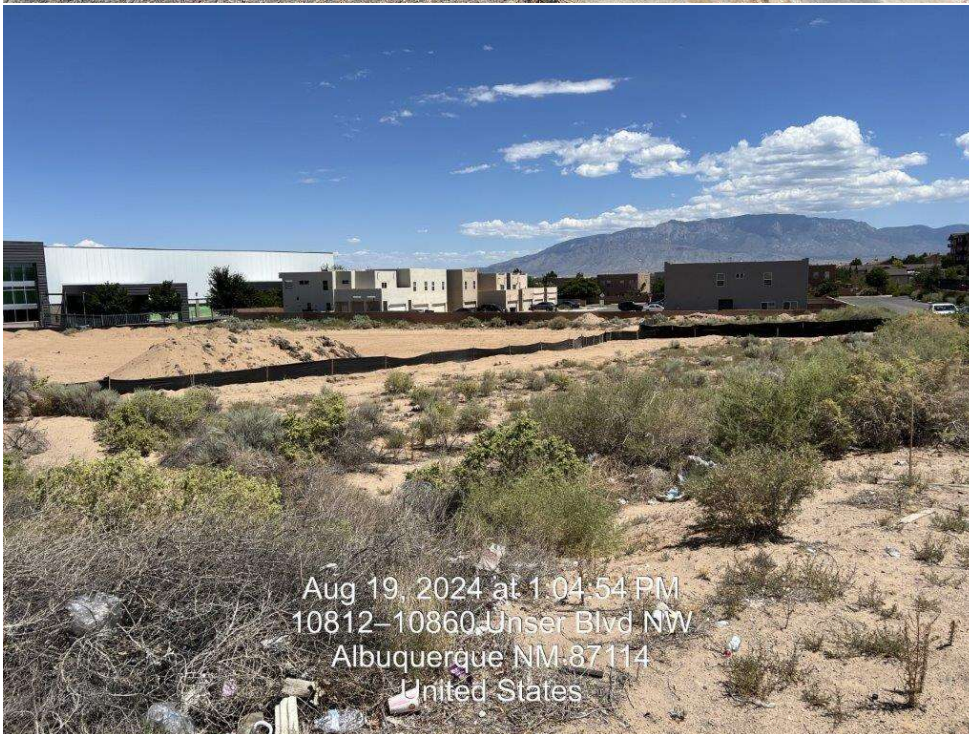
Re: Drainage Ordinance (14-5-2-11) Violations for Erosion and Sediment Control

The Storm Water Quality (SWQ) Section of the City of Albuquerque conducted an Erosion and Sediment Control (ESC) inspection of the site on 8/19/24 to determine compliance with City Ordinance § 14-5-2-11 (attached) and the Environmental Protection Agency's (EPA's) Construction General Permit (CGP) [2022 Construction General Permit \(CGP\) | US EPA](#). This was a follow-up to an inspection conducted by the City on 8/8/24 and reported 8/12/24.

Land disturbing activities had already begun before the City has approved an ESC Plan, and a Notice of Intent (NOI) was not submitted to the City for review. The site began grading the property without stormwater controls in place, which the City regards as an egregious violation of the City Ordinance. 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), which requires the property owner to provide an ESC Plan and the EPA's 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](#).
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 Parts 4.7.3 and 7.3. The superintendent was on-site, but could not provide the SWPPP.

4. **BMPs** – Silt fence has been installed around the area of land disturbance, but the construction exit has not been stabilized for track-out control in violation with CGP Parts 2.2.4 and 2.1.3



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).
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.

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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** – You must minimize track-out and use appropriate stabilization techniques at all points that exit onto paved roads per CGP Part 2.2.4. Complete installation of stormwater controls by the time each phase of construction activities has begun per CGP Part 2.1.3. By the time construction activity in any given portion of the site begins, install and make operational any downgradient controls (e.g., buffers perimeter controls, **exit point controls**, storm drain inlet protection) that control discharges from the initial site clearing, grading, excavating, and other earth-disturbing activities.

History of Violations:

Notice of the types of violations were reported on the dates below.

1. NOI – 8/12/24 (Level 2), 8/22/24 (Level 3)
2. Posting – 8/12/24 (Level 1), 8/22/24 (Level 2)
3. SWPPP – 8/12/24 (Level 1), 8/22/24 (Level 2)
4. BMPs – 8/12/24 (Level 1), 8/22/24 (Level 2)

Per the previous Violation letter dated 8/12/2024, the City is assessing a fine of \$500 to Uncer Property LLC for the current Level 3 violations, and the non-compliance is being reported to the EPA. This fine is for one day, 8/22/2024. Additional days may be added if the violations are not mitigated within 7 days. Progressive enforcement escalation procedures will be used and strictly enforced for recalcitrant or repeat offenders.

If you have any questions, contact me at 505-924-3325, cenglish@cabq.gov.

Sincerely,

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