

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

September 5, 2024

Uncer Property LLC – Mohamad Touffaha – mtouffaha@gmail.com – 316-308-5507

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 9/5/24 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 inspections conducted by the City on 8/8/24 (reported 8/12/24) and 8/19/24 (reported 8/22/24).

Land disturbing activities had already begun before the City received a Notice of Intent (NOI) for review and approval. 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. The permit coverage has not been posted. Specifically, the violations on 9/5/24 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 at least 14 days prior to any land-disturbing activity. It also requires compliance with the [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 Stormwater Pollution Prevention Plan (SWPPP) and self-inspection reports were not available on-site at the time of inspection in violation of CGP Parts 4.7.3 and 7.3. No one was on-site and the location of the SWPPP was not posted.

4. **BMPs** – There is damage to the perimeter silt fence requiring repair in violation of CGP Part 2.1.4. One section has broken stakes, and another area has been ripped and pulled out of the entrenchment.



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5. **Stabilization** – The disturbed land area has been inactive for a duration that requires stabilization (temporary or permanent) per CGP Part 2.2.14.



Required Mitigation:

1. **NOI** – For projects that disturb one acre or more, or less than one acre but are part of a larger common plan of development exceeding one acre, the property owner is to provide the Construction General Permit (CGP) Electronic Notice of Intent (NOI) documentation that contains the property owner name and contact information a minimum of 14 days prior to earth disturbance and prior to obtaining Work Order or Building Permit approval per City Ordinance §14-5-2-11. To be accepted, the NOI is to be properly filled out and certified.
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 are maintained and remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness per CGP Part 2.1.4.

If at any time you find that a stormwater control needs routine maintenance (i.e., minor repairs or other upkeep to ensure the site's stormwater controls remain in effective operating condition) you must immediately initiate the needed work, and complete such work by the close of the next business day.

5. **Stabilization** – Initiate the installation of stabilization measures immediately in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days and complete the installation of stabilization measures as soon as practicable, but no later than 14 calendar days per CGP Part 2.2.14.

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), 9/5/24 (Level 4)
2. Posting – 8/12/24 (Level 1), 8/22/24 (Level 2), 9/5/24 (Level 3)
3. SWPPP – 8/12/24 (Level 1), 8/22/24 (Level 2), 9/5/24 (Level 3)
4. BMPs – 8/12/24 (Level 1), 8/22/24 (Level 2), 9/5/24 (Level 3)
5. Stabilization - 9/5/24 (Level 1)

The City Escalation Process (attached) describes four levels of escalation based on the number of repeats and/or recalcitrant violations of each type.

Per the previous Violation letter dated 8/21/2024 (sent 8/22/2024), the City is assessing a fine of \$7,000 to Uncer Property LLC for the current Level 4 violation, and the non-compliance is being reported to the EPA. This fine is for 14 days (8/22/2024 – 9/5/24). 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. The City views the lack of submission of your NOI as an egregious violation and will continue to issue \$500 per day fines until the City receives and approves your NOI.

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.