

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

September 25, 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 9/24/24 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), 8/19/24 (reported 8/22/24), and 9/5/2024 (reported 9/5).

The City found the site to be almost unchanged between inspections, with the deterioration of stormwater controls to be the difference between inspections. The City finds the lack of action from the owner to mitigate the previous violations of the CGP to be egregious and recalcitrant. Specifically, the violations observed on 9/24/24 were:

1. **Posting**—CGP coverage still has not been 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.
2. **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.

3. **BMPs** – The perimeter silt fence has not been maintained and is collapsing in multiple sections in violation of CGP Part 2.1.4.



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4. **Stabilization** – The disturbed land area has been inactive and not stabilized since the initial inspection on 8/8/24 which violates CGP Part 2.2.14.



Required Mitigation:

1. **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.
2. 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.
3. **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.
4. **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), 9/25/24 (Level 4)
3. SWPPP – 8/12/24 (Level 1), 8/22/24 (Level 2), 9/5/24 (Level 3), 9/25/24 (Level 4)
4. BMPs – 8/12/24 (Level 1), 8/22/24 (Level 2), 9/5/24 (Level 3), 9/25/24 (Level 4)
5. Stabilization - 9/5/24 (Level 1), 9/25/24 (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.

Per the previous Violation letter dated 9/5/2024, the City is assessing a fine of \$10,000 to Uncer Property LLC for the current Level 4 violations, and the non-compliance is being reported to the EPA. This fine is for 20 days (9/6/24 – 9/25/24). 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.

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.