

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

August 1, 2024

Boing US Holdco, Inc, dba "Take 5 Car Wash" at 10084 Coors NW
Jorge J. Primo Planta, VP Development - jorge.planta@drivenbrands.com – (919) 699-7198

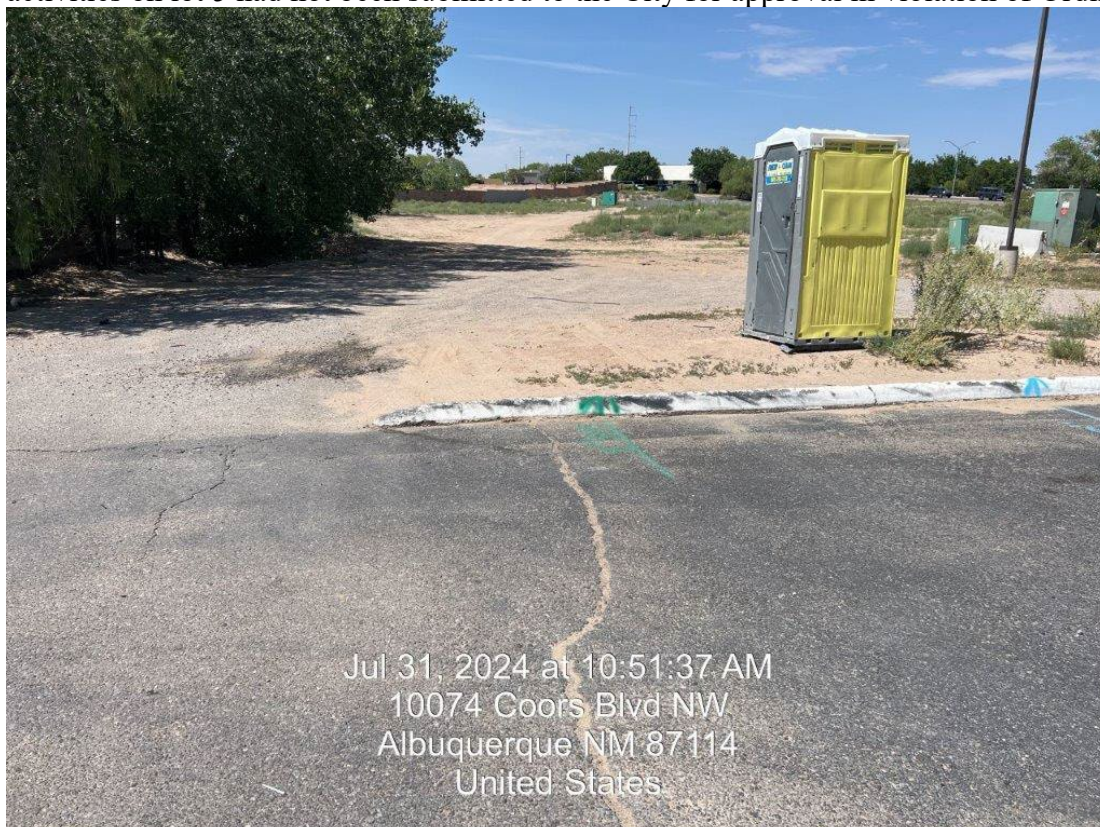
Gourmet Investors LLC, at Lot 5 of Cottonwood Crossing Phase 2
Ray Trombino - ray@trombinos.com – 505-821-5974

**Sites: Take 5 Car Wash - 10084 Coors NW - B14E010C - NMR1005E5, including
Construction support activities at Lot 5 of Cottonwood Crossing Phase 2**

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 7/31/24 and 8/1/24 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 5/29/24, 6/17/24, 6/24/24, 7/10/24, 7/18/24 and 7/22/24. The following violations were observed.

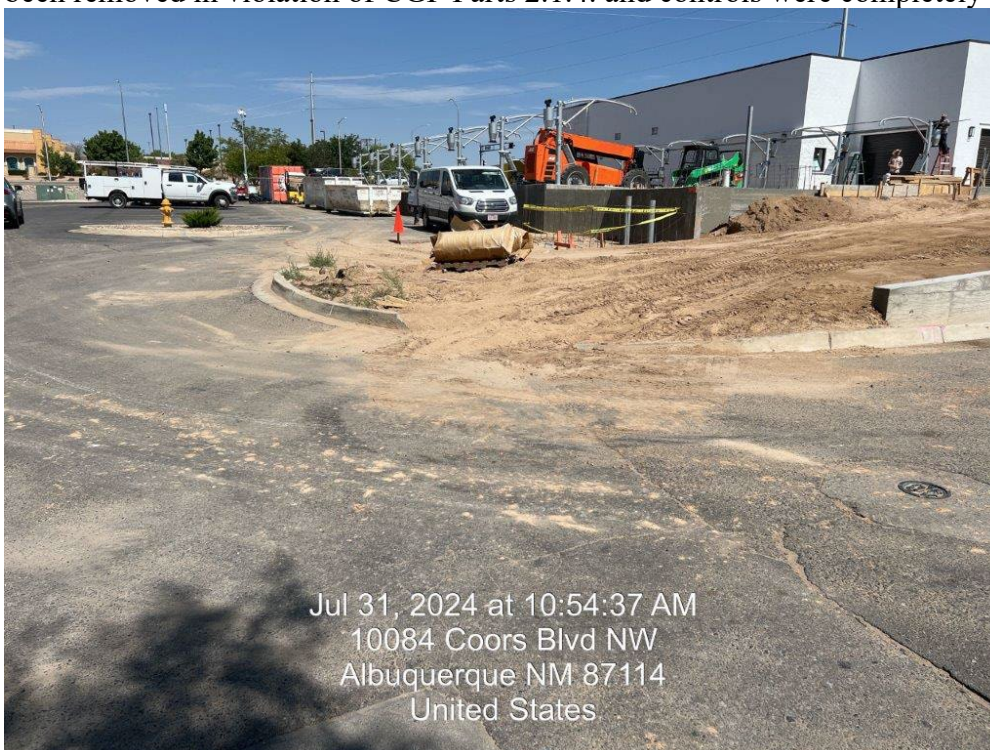
1. **NOI-** Take 5 Car Wash construction support activities were no longer taking place on Lot 5 of Cottonwood Crossing Phase 2, except for one Portable Toilet, and the disturbed areas weren't stabilized; however, the owner of lot 5 doesn't have CGP coverage in violation of CGP 1.4, and the ESC Plan and NOI for the activities on lot 5 had not been submitted to the City for approval in violation of Ordinance § 14-5-2-11.



2. **SWPPP** - The SWPPP wasn't up-to-date in violation of CGP 7.1 because the construction support activities and limits of land disturbing activities on Lot 5 were not indicated on the SWPPP Map in violation of 7.2.4.b.vii. The most recent report available onsite is dated 6/11/24. Zane emailed PDF versions of self-inspection reports for 7/1/24, 7/14/24, and 7/30/24, but a report for the rain events on 7/18/24 and 7/20/24 was missing in violation of CGP 4.2.2. The certification statement at the end of the reports wasn't signed by the owner/operator in violation of Appendix G Part 11.4. Instead, Zane signed the first page of each report. There wasn't any equipment onsite to view the reports except my phone, so the reports "Couldn't be read in a similar manner as a paper record," as required by CGP4.7.3 and part (a) of footnote #76.



3. **BMPs** - The stormwater controls (BMPs), including some silt fence and track-out pads at the two exits, had been removed in violation of CGP Parts 2.1.4. and controls were completely missing from Lot 5.



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4. **Washout**— There were white shadows on the ground downhill of the roll-off container delivered on the 18th,



on the ground on-site,



and more substantial deposits on the ground in the south corner of lot 5.



The container is about 5' high, making it difficult to direct wash water into it. The container is labeled "TRASH," so it may have a drain that has leaked onto the surface.

5. **Sediment**—Extensive sediment track-out was present during the morning inspection at both the east and west exits. Then, in the evening, most of the sediment was still there, and it had been watered, causing some of it to runoff. The next morning, most of the track-out was still there, and new trails of sediment shadows could be seen where runoff had occurred.



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Required Mitigation:

1. **NOI** - You must either provide an ESC Plan and NOI per CGP 1.4 to the City's Storm Water Quality (SWQ) Section for approval for Gourmet Investors, LLC, the owner of Lot 5 per ordinance § 14-5-2-11, or you must remove all construction support activity and stabilize the disturbed portion of Lot 5 with "Native Seed and Aggregate Mulch" per City Std Spec 2012 or equivalent, to comply with the Final Stabilization Criteria in the CGP Part 2.2.14.c.
2. The **SWPPP**, including the SWPPP Map, 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. Each operator must sign the certification statement on all reports per Appendix G 11.2 and 11.4 of the CGP. Comply with CGP footnote 76 or print all reports and map SWPPP documentation. 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 (BMPs), including the silt fence and construction entrance, are installed per CGP 2.1.3 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.
4. **Washout** - Remove and dispose of contaminated soils and hardened concrete with other waste per CGP 2.2.3. Direct all future wash water from concrete, paint, and stucco into a leak-proof container per CGP 2.3.4. Consider using a more conventional washout container.
5. **Sediment** - Where sediment has been tracked from your site onto paved roads and sidewalks, remove the deposited sediment by the end of the same business day. Remove the track-out by sweeping, shoveling, or vacuuming these surfaces or using other similarly effective means of sediment removal. You are prohibited from hosing or sweeping tracked-out sediment downstream per CGP 2.2.4.d.

History of Violations:

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

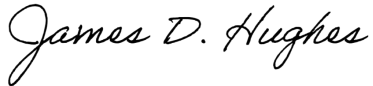
1. NOI – 6/24/24, 7/11/24, 7/22/24, 8/1/24 (level 4)
2. SWPPP - 5/31/24, 6/24/24, 7/11/24, 7/22/24, 8/1/24 (level 4)
3. BMPs – 5/31/24, 6/24/24, 7/11/24, 7/22/24, 8/1/24 (level 4)
4. Posting - 5/31/24 (level 1)
5. Sediment - 6/24/24, 8/1/24 (level 3)
6. Washout - 6/24/24, 7/11/24, 8/1/24 (level 4)

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 7/22/24, the city is assessing an additional fine of \$5,000 for the current level 4 violations, and the non-compliance is being reported to the EPA. This fine is for ten (10) days, 7/23/24 through 8/1/24. Additional days may be added if the violation is 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 924-3420, jhughes@cabq.gov .

Sincerely,

A handwritten signature in black ink that reads "James D. Hughes". The signature is written in a cursive, flowing style.

James D. Hughes, P.E.

Principal Engineer, Hydrology/Stormwater Quality
Planning Dept.