

CITY

CERTIFIED MAIL



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ng Department
Section 4th Floor

*CDR Holdings LLC.
Charles & Demi Nguyen
3554 White Horse Dr. SE
Rio Rancho NM 87124*

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

CDR Holding LLC
Charles and Demi Nguyen
3554 White Horse Dr. SE
Rio Rancho NM 87124



9590 9402 2944 7094 6634 22

2. Article Number (Transfer from service label)

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A. Signature

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☐ Agent

☐ Addressee

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C. Date of Delivery

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PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

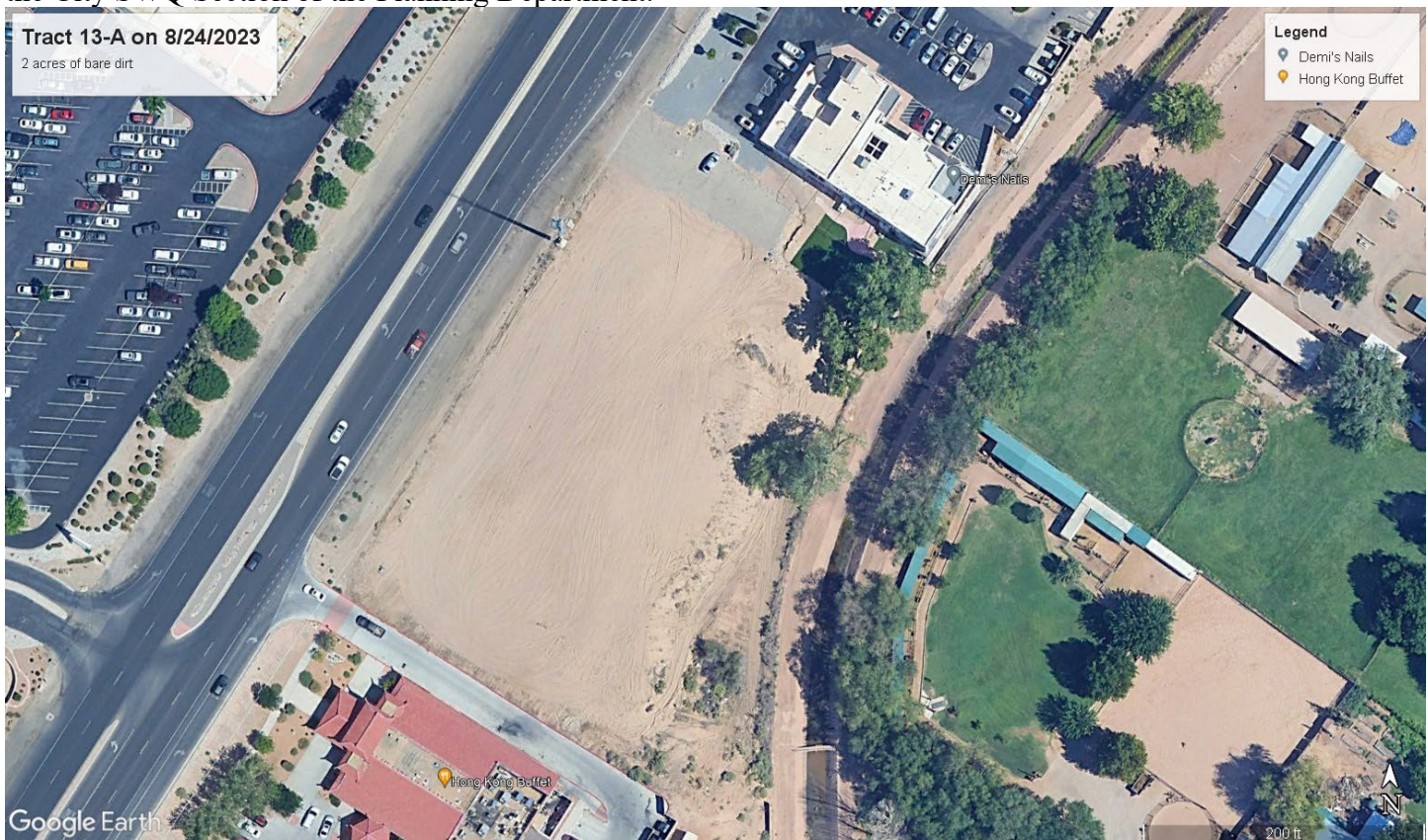
August 15, 2024

CDR Holdings, LLC (Owner of Tract 13-A of Black Ranch Subdivision)
Charles and Demi Nguyen, Members
3554 White Horse Drive SE
Rio Rancho NM 87124

Sites: Tract 13-A of Black Ranch at 10112 Coors Blvd. NW – B14E013

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 8/12/24 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](#). According to the Google Earth photo on 8/24/2023 (below), all vegetation was removed from more than 2 acres of Tract 13-A without coverage under the CGP or approval by the City SWQ Section of the Planning Department.



The following violations were observed during the inspection on 8/12/24.

1. **NOI-** The property owner's NOI and ESC Plan weren't approved by the City in Violation of City Ordinance § 14-5-2-11(A).

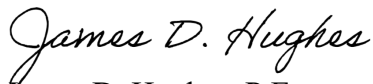
2. **SWPPP** - The up-to-date SWPPP and /or self-inspection reports were not available on-site at the time of inspection in violation of CGP 7.1 and 7.3. No personnel were present on site, and the location of the SWPPP was not posted on a sign near the gate in violation of CGP 7.3.
3. **Posting** - CGP 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.
4. **BMPs** - Erosion and sediment controls were not been implemented and maintained to minimize the discharge of pollutants in stormwater from this site in violation of CGP 2.2.
5. **Stabilization** – Stabilization measures were not implemented in violation of CGP 2.2.14.

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 CDR Holdings, LLC, the owner of Tract 13-A per ordinance § 14-5-2-11, or you must stabilize the disturbed portion of Tract 13-A 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. **SWPPP** - 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. Your SWPPP, corrective action log, site inspection, and any other compliance documentation required under this permit must be signed by the same responsible corporate officer who signs the certification statement on your NOI or by a duly authorized representative of that person per CGP Appendix G.11.2.
3. **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.
4. **BMPs** – You must design, install, and maintain all stormwater controls in accordance with good engineering practices, including applicable design specifications per CGP 2.1 until the Final Stabilization Criteria of CGP 2.2.14.c are satisfied.
5. **Stabilization** - Implement and maintain stabilization measures in areas that remain inactive for 14 days or more. Measures must be initiated within 14 days, and the installation must be completed no later than 14 days after initiation per CGP 2.2.14.
As an alternative to complying with the above-required mitigation, you may immediately stabilize all disturbed areas with rock/gravel per CGP 2.2.14.c.ii.

If you have any questions, contact me at 924-3420, jhughes@cabq.gov .

Sincerely,



James D. Hughes, P.E.

Principal Engineer, Hydrology/Stormwater Quality
Planning Dept.

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Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

August 15, 2024

Boing US Holdco, Inc, dba "Take 5 Car Wash" at 10084 Coors NW- B14E010C
Jorge J. Primo Planta, VP Development - jorge.planta@drivenbrands.com – (919) 699-7198

Gourmet Investors LLC, at Lot 5 of Cottonwood Crossing Phase 2 – B14E010C
Ray Trombino - ray@trombinos.com – 505-821-5974

CDR Holdings, LLC at Tract 13-A of Black Ranch Subdivision- B14D013
Charles and Demi Nguyen, Members
3554 White Horse Drive SE
Rio Rancho NM 87124

**Sites: 1) Take 5 Car Wash on Lot 2C at 10084 Coors NW - B14E010C - NMR1005E5, including
2) Construction support activities at Lot 5 of Cottonwood Crossing Phase 2 and
3) Tract 13-A of Black Ranch at 10112 Coors Blvd. NW – B14E013**

**Re: Investigation of History of Violations for Erosion and Sediment Control within the
“Common Plan of Development or Sale” at Black Ranch Tracts 13 & 14**

The purpose of this investigation is to identify the parts of any “*Common Plan of Development or Sale*” that fall under the jurisdiction of the EPA’s Construction General Permit (CGP) and the City’s Ordinance § 14-5-2-11. According to CGP 1.1.2.a and City Ordinance § 14-5-2-11(A), the owner of any property that is part of a Common Plan of Development or Sale must obtain CGP coverage prior to any land-disturbing activities and abide by the terms and conditions of the permit until the conditions for terminating CGP coverage have been met (see CGP 8.2). CGP 2.2.14.c identifies the Final Stabilization Criteria that are required by CGP 8.2, and neither bare dirt nor weeds (annual vegetation) satisfy that criterion. The property owners may satisfy the criterion quickly by covering the bare dirt with rock/gravel or more slowly by growing a uniform cover of perennial vegetation.

This investigation presents key moments in the history of the land-disturbing activity based on Google Earth. The definition of “Common Plans of Development or Sale” is in Appendix A of the EPA’s CGP and is included at the end of this investigation. The following site plans and plats are the “Common Plans of Development or Sale.”

- **“Tract 14 Cottonwood Crossing”**, is a 9.769-acre Site Plan for Building Permit signed on 2/10/2004. Earthwork began in 2004 (See Google Earth photo next page).



Popeye's, Nusenda, and the AMAFCA Pond had been developed by 2007, leaving lots 2, 4, and 5 disturbed (see photo below).

- **Tract 13 Black Ranch**, a 5.47-acre plat, subdivided Tract 13 into 13-A (2.47 ac), 13-B (2.47 ac), and 13-C (0.53 ac) and was recorded on 12/28/2004. Construction of the Hong Kong Buffet began in 2007



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and was completed in 2009 (below), leaving 2 acres on Lot 13-A bare dirt.



- Technically, these are two separate plans, but they are contiguous and have an overlapping history of construction activities from 2004 to 2009. A 0.96-acre archaeological site straddles the line between 13 and 14 and has been preserved and dedicated to the City of Albuquerque. On the remaining Lots 2, 4, 5, and 13-A, a healthy stand of vegetation grew during 13 years of inactivity, from 2009 to 2022 (below).



- Take 5 Car Wash construction began in 2023. The Google Earth aerial photo taken on 5/4/2023 (below) shows a 0.5-acre disturbance on Lot 2-C, 0.4-acre disturbance on Lot 5, and 0.2-acre disturbance on Lot 4.



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Then the Google Earth photo on 8/24/2023 shows a 0.6-acre disturbance on lots 2A and 2B (below) and



a 2.0-acre disturbance on Tract 13-A (below).



Within 6 months of the commencement of construction activities, 3.2 acres of offsite land was disturbed around the Take 5 Car Wash. Whether taken together or separately, Tracts 13 and 14 seem to fit the broad interpretation of the “Common Plan of Development or Sale.”

- The 8/24/23 photo (below) also shows construction support activities (Washout and construction vehicles) on Lot 5 and sediment in the parking lot on the low side of the Take 5 construction on Lot 2-C.



- The disturbed area on Lot 4 had been stabilized with gravel since the most recent Google Earth photo, and access to Lots 2-A and 2-B had been prevented with a security fence. However, the city inspection on 6/17/24 documented ongoing construction support activities on Lot 5, including concrete washout, construction vehicles, a waste container, and porta-potties. As of the date of this investigation the area of “Construction Support Activities” on Lot 5 had not been stabilized so Notice of Violation #5 (NOV#5) is being sent separately to Take 5 and the owner of Lot 5. The activities on Tract 13-A haven’t been linked to the Take 5 Car Wash by any of the photos, so the timing of that land-disturbing activity may be a coincidence. A separate Notice of Violation will be sent to the owner of Lot 13-A.
- Definitions from Appendix A of the EPA’s CGP:
“Common Plan of Development or Sale” - A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one common plan. The "common plan" of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot.
“Construction Support Activity” – a construction-related activity that specifically supports the construction activity and involves earth disturbance or pollutant-generating activities of its own, and can include activities associated with concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, and borrow areas.

If you have any questions, contact me at 924-3420, jhughes@cabq.gov .

Sincerely,

James D. Hughes

James D. Hughes, P.E.
 Principal Engineer, Hydrology/Stormwater Quality
 Planning Dept.