

CITY OF ALBUQUERQUE

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.