


NPDES FORM 3510-9		UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, DC 20460 NOTICE OF INTENT (NOI) FOR THE 2022 NPDES CONSTRUCTION PERMIT	FORM Approved OMB No. 2040-0305
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Submission of this Notice of Intent (NOI) constitutes notice that the operator identified in Section III of this form requests authorization to discharge pursuant to the NPDES Construction General Permit (CGP) permit number identified in Section II of this form. Submission of this NOI also constitutes notice that the operator identified in Section III of this form meets the eligibility requirements of Part 1.1 CGP for the project identified in Section IV of this form. Permit coverage is required prior to commencement of construction activity until you are eligible to terminate coverage as detailed in Part 8 of the CGP. To obtain authorization, you must submit a complete and accurate NOI form. Discharges are not authorized if your NOI is incomplete or inaccurate or if you were never eligible for permit coverage. Refer to the instructions at the end of this form.

Permit Information

NPDES ID: NMR1005SZ

State/Territory to which your project/site is discharging: NM

Is your project/site located on federally recognized Indian Country lands? No

Are you requesting coverage under this NOI as a *"Federal Operator"* or a *"Federal Facility"* as defined in Appendix A (<https://www.epa.gov/system/files/documents/2022-01/2022-cgp-final-appendix-a-definitions.pdf>)? No

Have stormwater discharges from your current construction site been covered previously under an NPDES permit? No

Will you use polymers, flocculants, or other treatment chemicals at your construction site? No

Has a Stormwater Pollution Prevention Plan (SWPPP) been prepared in advance of filling this NOI, as required? Yes

Are you able to demonstrate that you meet one of the criteria listed in Appendix D (<https://www.epa.gov/system/files/documents/2022-01/2022-cgp-final-appendix-d-endangered-species-protection.pdf>) with respect to protection of threatened or endangered species listed under the Endangered Species Act (ESA) and federally designated critical habitat?

Yes

Have you completed the screening process in Appendix E (<https://www.epa.gov/system/files/documents/2022-01/2022-cgp-final-appendix-e-historic-properties.pdf>) relating to the protection of historic properties? Yes

Indicating "Yes" below, I confirm that I understand that CGP only authorized the allowable stormwater discharges in Part 1.2.1 and the allowable non-stormwater discharges listed in Part 1.2.2. Any discharges not expressly authorized in this permit cannot become authorized or shielded from liability under CWA section 402(k) by disclosure to EPA, state or local authorities after issuance of this permit via any means, including the Notice of Intent (NOI) to be covered by the permit, the Stormwater Pollution Prevention Plan (SWPPP), during an inspection, etc. If any discharges requiring NPDES permit coverage other than the allowable stormwater and non-stormwater discharges listed in Parts 1.2.1 and 1.2.2 will be discharged, they must be covered under another NPDES permit.

Yes

Operator Information

Operator Information

Operator Name: Whataburger

Operator Mailing Address:

Address Line 1: 300 Concord Plaza

Address Line 2:

City: San Antonio

ZIP/Postal Code: 78216

State: TX

County or Similar Division: Bexar

Country: US

Operator Point of Contact Information

First Name Middle Initial Last Name: Abraham J Vazquez

Title: WB Project Manager

Phone: 210-476-6614 Ext.:

Email: avazquez@wbhq.com

NOI Preparer Information

☒ This NOI is being prepared by someone other than the certifier.

First Name Middle Initial Last Name: Madelyn J Schauer

Organization: Inspections Plus LLC

Phone: (505) 895-1547 Ext.:

Email: madelyn@inspectionsplus.com

Project/Site Information

Project/Site Name: WB Alameda & San Pedro

Project/Site Address

Address Line 1: 6100 Alameda NE Blvd

Address Line 2:

City: Albuquerque

ZIP/Postal Code: 87113

State: NM

County or Similar Division: Bernalillo

Latitude/Longitude: 35.18415°N, 106.57724°W

Latitude/Longitude Data Source: GPS

Horizontal Reference Datum: WGS 84

Project Start Date: 07/17/2023

Project End Date: 01/31/2024

Estimated Area to be Disturbed: 1

Types of Construction Sites:

Commercial

Will there be demolition of any structure built or renovated before January 1, 1980?

No

Will you be discharging dewatering water from your site?

No

Was the pre-development land use used for agriculture?

No

Are there other operators that are covered under this permit for the same project site?

No

Have earth-disturbing activities commenced on your project/site?

No

Is your project/site located on federally recognized Indian Country lands?

No

Is your project/site located on a property of religious or cultural significance to an Indian tribe?

No

Discharge Information

Does your project/site discharge stormwater into a Municipal Separate Storm Sewer System (MS4)?

Yes

Are there any waters of the U.S. within 50 feet of your project's earth disturbances?

No

Are any of the waters of the U.S. to which you discharge designated by the state or tribal authority under its antidegradation policy as a Tier 2 (or Tier 2.5) water (water quality exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water) or as a Tier 3 water (Outstanding National Resource Water)? See Resources, Tools and Templates (https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates)

No

001: MS4 and then to Rio Grande

Latitude/Longitude:

Tier Designation:

N/A

Is this receiving water impaired (on the CWA 303(d) list)?

No

Has a TMDL been completed for this receiving waterbody?

No

Stormwater Pollution Prevention Plan (SWPPP)

Will all required personnel, including those conducting inspections at your site, meet the training requirements in Part 6 of this permit?

Yes

First Name

Middle Initial

Last Name:

Todd

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Barbour

Title:

Construction PM CKP

Phone:

805-420-0696

Ext.:

Email:

tbarbour@ckpconstruction.com

Endangered Species Protection Worksheet: Criterion E

Determine ESA Eligibility Criterion

Are your discharges and discharge-related activities already addressed in another operator's valid certification of eligibility for your "action area" under the current 2022 CGP?

No

Has consultation between you, a Federal Agency, and the USFWS and/or the NMFS under section 7 of the Endangered Species Act (ESA) concluded?

Yes

The result of the consultation was:

Option ii. Written concurrence (e.g., letter of concurrence) from the applicable Service(s) with a determination that your site's discharges and discharge-related activities are not likely to adversely affect ESA-listed species and/or designated critical habitat. The concurrence letter must have included the effects of your site's discharges and discharge-related activities on all the ESA-listed species and/or designated critical habitat on your species list(s) acquired from USFWS and/or NMFS as part of this worksheet.

The consultation does not warrant reinitiation under 50 CFR §402.16; or, if reinitiation of consultation is required (e.g., due to a new species listing, critical habitat designation, or new information), the federal action agency has reinitiated the consultation and the result of the consultation is consistent with the statements above. Include any reinitiation documentation from the Services or consulting federal agency with your NOI.

True

You are eligible under Criterion E.

Identify the federal action agency or agencies involved (i.e. the federal agencies seeking coverage):

Whataburger

Identify the Service(s) field or regional offices providing the consultation:

IPaC
USFWS

Identify any tracking numbers associated with the consultation (e.g., IPaC number, ECO number):

Project Code: 2023-0097253

Provide the date the consultation was completed: 2023-06-23

Attach correspondence with USFWS and/or NMFS documenting the Biological Opinion, conference opinion (IPaC or ECO tracking number) or concurrence.

Name	Uploaded Date	Size
 Species List_ New Mexico Ecological Services Field Office.pdf (attachment/1704463)	07/27/2023	159.88 KB

Historic Preservation

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Are you installing any stormwater controls as described in Appendix E (<https://www.epa.gov/system/files/documents/2022-01/2022-cgp-final-appendix-e-historic-properties.pdf>) that require subsurface earth disturbances? (Appendix E (<https://www.epa.gov/system/files/documents/2022-01/2022-cgp-final-appendix-e-historic-properties.pdf>), Step 1)

No

Certification Information

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I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. Signing an electronic document on behalf of another person is subject to criminal, civil, administrative, or other lawful action.

Certified By: Abraham Vazquez

Certifier Title: NU Construction Project Manager

Certifier Email: avazquez@wbhq.com

Certified On: 08/03/2023 11:55 AM ET