CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director

Mayor Timothy M. Keller

November 3, 2023

Faizel Kassam, KLG 9, LLC, fkassam@legacydm.net

Sites: Peaks at Markana Phase 1 –6700 Modesto Ave NE- NMR1003VA – C18E088

Re: Drainage Ordinance (14-5-2-11) Violations for Erosion and Sediment Control

On 11/02/23, the City of Albuquerque SWQ Section conducted a routine inspection to verify compliance with the Environmental Protection Agency (EPA) Construction General Permit (CGP) and the City's ESC Ordinance § 14-5-2-11 during which the following violations were observed.

1.   **NOI** – The property owner's NOI with NPDES ID NMR1003VA expired on 2/17/22 per CGP 1.4.5.c and missed the deadline for coverage under the 2022 CGP in Violation of CGP 1.4.3, so all stormwater discharges from this site have been unpermitted since 2/18/22 in violation of the statement on the cover page of the 2022 CGP that says *"Permit coverage is required from the "commencement of construction activities" (see Appendix A) until one of the conditions for terminating CGP coverage has been met (see Part 8.2)."*

2.   **BMPs** – The Erosion and Sediment Controls were missing. The entire site is supposed to drain to a sediment basin in the southwest corner of the site, but a trash compactor was under construction there.

Nov 2, 2023 at 11:13:09 AM
6501 Eagle Rock Ave NE
Albuquerque NM 87113
United States

https://www.cabq.gov/planning/development-review-services/stormwater-quality-section

3. The **SWPPP** wasn't up-to-date since:
   a. The property owner's 2017 NOI with NPDES ID NMR1003VA expired
   b. The property owner's name was incorrect on the 2017 NOI. "KLA 9, LLC" disagrees with Bernalillo County property records that show "KLG 9, LLC" owns the property.
   c. The property owner's signature was missing from the self-inspection reports.
   d. The required temporary sediment basin was crossed out on the SWPPP Map.
4. The **Posting** of NPDES coverage was incorrect due to the expiration of NMR1003VA.

Required Mitigation:
1. **NOI** - KLG 9, LLC must file an NOI with the EPA per CGP 1.4.3 and provide the NOI to the SWQ Section of the Development Services Division of the Planning Department of the City of Albuquerque for approval per Ordinance § 14-5-2-1.
2. **BMPs** – The temporary sediment basin must be constructed in the southwest corner of the site with a minimum volume of 18,000 cf for the 5 acres draining to it per CGP 2.2.12.C where it must remain for the duration of construction activities and until the site satisfies the Final Stabilization Criteria per CGP 2.2.14.c
3. 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. Update the NOI for KLG 9, LLC and the SWPPP Map. All operators must sign their reports per CGP G.11.2.
4. **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.

History of Violations:
Notice of the following types of violations was sent on the dates noted below:
1. NOI –-- 11/2/23 (Level 2)
2. BMPs -   3/1/22 (Level 1), ----------------------11/2/23 (Level 2)
3. SWPPP - 3/1/22 (Level 1), 3/10/22 (Level 1), 11/2/23 (Level 2)
4. Posting - 3/1/22 (Level 1), --------------------- 11/2/23 (Level 2)
5. Sediment -------------------   3/10/22 (Level 1)

The City Escalation Process (attached) describes four levels of escalation based on the number of repeats and/or recalcitrant violations of each type.

If the violations are not mitigated within seven days from receipt of this notice, the property owner is subject to a fine of $500/day per the City's Drainage Control Ordinance, and the non-compliance will be reported to the EPA. Repeat violations are also subject to a fine of $500/day.

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

Sincerely,
James D. Hughes, P.E., CPESC

James D. Hughes

Principal Engineer, Planning Dept.
Development and Review Services