

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

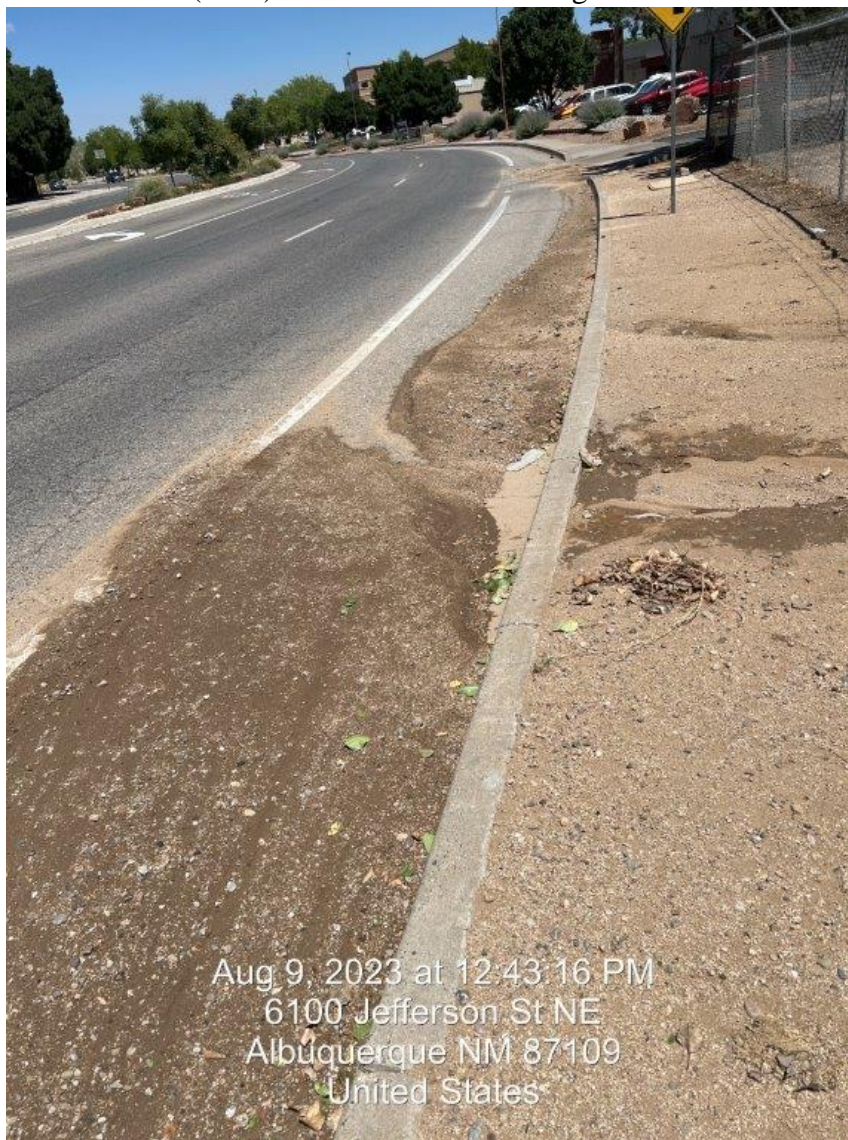
August 30, 2023

PMC Albuquerque, LLC. -William Blount CEO bblount@powermotivecorp.com – 303-355-5900

Site: Power Motive Corporation at 6101 Pan American Freeway NE (E17E004)

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

Sediment-laden stormwater was discharged from this site during the storm on 8/8/23 causing sediment accumulations of up to 3" depth for a distance of about 150' on the east side of Jefferson Street adjacent to the northwest corner is this site. The sediment deposition was first observed during a city drive by inspection on 8/9/23. The property owner, PMC Albuquerque, LLC., has not filed a Notice of Intent (NOI) to use the EPA's Construction General Permit (CGP) for stormwater discharges from this site in violation of the 2022 CGP.



The City Street Maintenance Department was in the process of removing the sediment during a second drive by inspection on 8/23/23. Sediment removal is the property owners responsibility, not the City's.



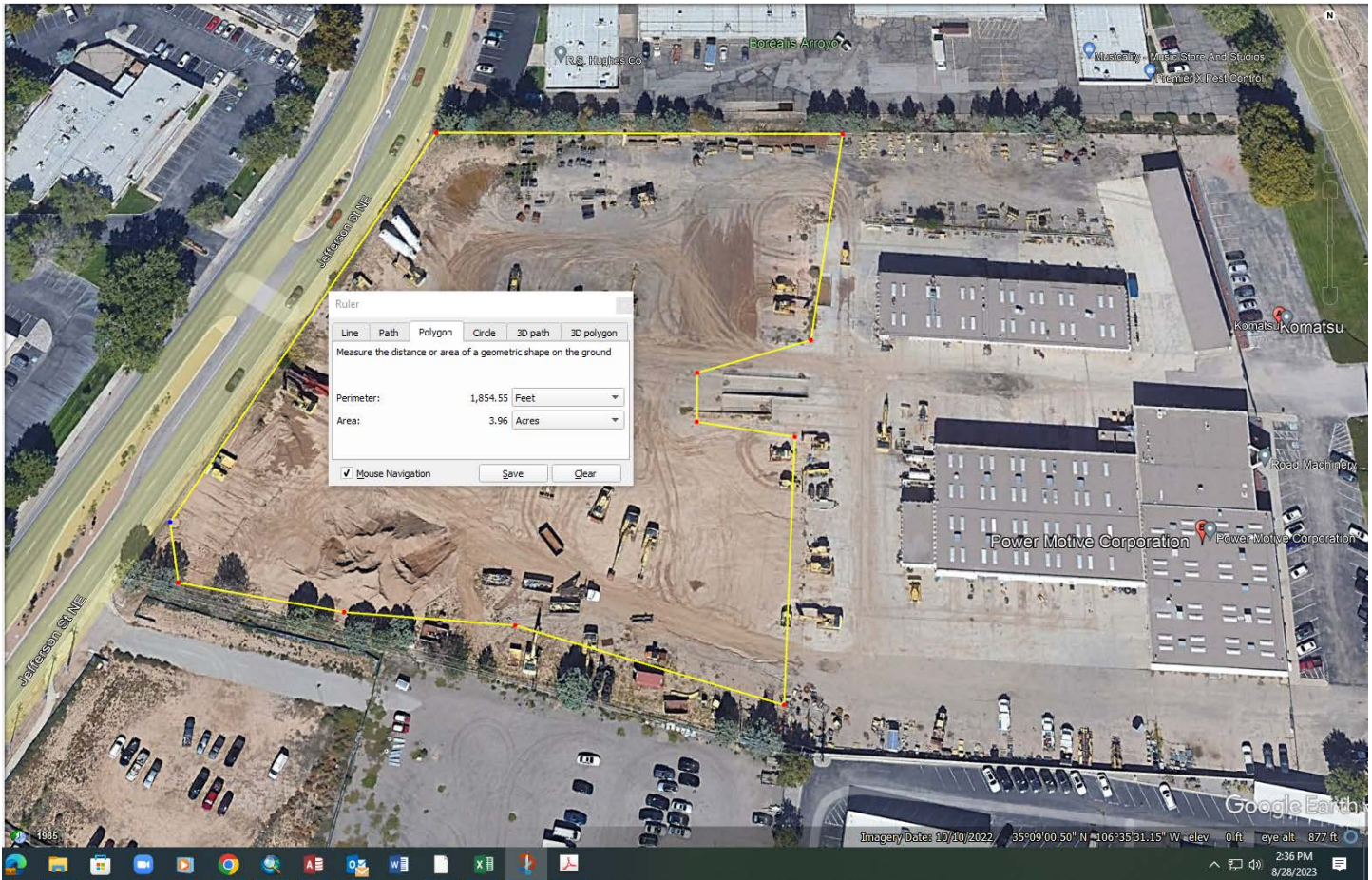
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Permit coverage for such stormwater discharges has been required by the EPA since the first CGP became effective on October 1, 1992. Coverage under the CGP is required for stormwater discharges even though the construction activities commenced before the permit went into effect. The City approved a Drainage Report for this 10 acre site on 7/22/1976. Google earth photos dating back to 1994 show that about 4 acres of land disturbance has existed on this site for the past 30 years or more. Most of the rest of this 10 acre site is covered by buildings and pavement.



This 10 acre site is used to store construction equipment for rent and for sale. Occasionally the equipment is tested/demonstrated by moving dirt around (grading). Vegetative cover was cleared from this site many years ago and hasn't been replaced. Construction equipment maintenance also occurs onsite. Most people think this isn't **"construction"** since nothing is being built; however, these activities are included in the EPA's definition of **"Construction Activities"** – *earth-disturbing activities, such as the clearing, grading, and excavation of land, and other construction-related activities (e.g., grubbing; stockpiling of fill material; placement of raw materials at the site) that could lead to the generation of pollutants.* found in Appendix A of the CGP.

This property is being disturbed without City approval of the NOI and ESC Plan in Violation of City Ordinance § 14-5-2-11 (attached). Albuquerque's Erosion and Sediment Control (ESC) ordinance also requires the property owner to comply with the EPA's CGP.

Summary of Violations:

1. NOI – The property owner failed to obtain CGP coverage for stormwater discharges from the disturbed construction areas of this site in Violation of CGP 1.2.1, and the property owner failed to submit the NOI and ESC Plan to the City in Violation of Ordinance § 14-5-2-11(A).
2. Posting – Permit coverage wasn't posted in Violation of CGP 1.5.
3. SWPPP – The up-to-date Storm Water Pollution Prevention Plan (SWPPP) and self-inspection reports were not available onsite at the time of inspection in Violation of CGP 7.1 and 7.3
4. BMPs - There aren't any erosion controls at this site to prevent sediment and other pollutants from leaving this site and getting into the adjacent street.
5. Sediment – Sediment had been discharged from the site with the stormwater runoff and deposited in the adjacent street where it remained for two weeks.

Required Mitigation:

1. NOI - The property owner's NOI and ESC plan must be submitted to the City of Albuquerque per Ordinance § 14-5-2-11
2. 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.
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. If an on-site location is unavailable to keep the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance of your construction site CGP 7.3
4. BMPs - Ensure that all stormwater controls (BMPs) are 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.
5. Sediment - Where sediment has been discharged from your site onto paved roads and sidewalks remove the deposited sediment by the end of the same business day CGP 2.2.4.d.

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History of Violations:

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

1. NOI - 8/30/23
2. Posting - 8/30/23
3. SWPPP - 8/30/23
4. BMPs - 8/30/23
5. Sediment- 8/30/23

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, you can 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