

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

October 13, 2022

VIA Real Estate, LLC – Jordan Merchant - jordan@7bdev.com -

Sites: Champion Xpress Car Wash at 5307 4th St. NW (F14E036A)

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

This notice is being issued as a result of repeat violations observed during a followup inspection conducted by the City yesterday on 10/12/22. Generally the “commencement of construction” occurred at this site before the property owners Construction General Permit (CGP) coverage was approved by the City and before the Erosion and Sediment Controls (BMPs) were in place. A previous inspection report was emailed on 8/26/22. These inspections included the following general categories of violations:

1. NOI - 8/26/22, 10/12/22, (Level 2)
2. Posting - 8/26/22, 10/12/22, (Level 2)
3. SWPPP – 8/26/22, 10/12/22, (Level 2)
4. BMPs – 8/26/22, 10/12/22, (Level 2)
5. Sediment 10/12/22, (Level 1)

The City Escalation Process (attached) describes 4 levels of escalation. The City Inspection report (attached) for 10/12/22 addresses Sediment from the general categories above and is the only warning given for Level 1. The rest of the general categories above are described in more detail below and mitigation requirements are at the end of this notice.

1. The ESC Plan and EPA documentation has been submitted twice to the City for approval but is still missing the required documentation to confirm that the property owner has filed an NOI.
2. The property owner’s NPDES permit coverage isn’t posted for safe public viewing.
3. The SWPPP wasn’t available onsite at the time of the inspection.
4. BMPs including the Silt Fence, and the Construction Entrance



Albuquerque's Erosion and Sediment Control (ESC) ordinance § 14-5-2-11 at link

https://codelibrary.amlegal.com/codes/albuquerque/latest/albuquerque_nm/0-0-0-19897 requires the property owner to provide an ESC Plan and the EPA's Notice of Intent (NOI) to the city for review and approval prior to issuing construction permits and prior to any land-disturbing activity. It also requires compliance with the Construction General Permit (CGP) [2022 Construction General Permit \(CGP\) | US EPA](#).

Required Mitigation:

1. The property owner's NOI and ESC Plan must be submitted to the City of Albuquerque for review and approval in accordance with the above referenced ordinance.
2. 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. Ensure that all stormwater controls (BMPs) including the silt fence and construction entrance are installed and 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.

If the violations are not mitigated within seven days, 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, jhughes@cabq.gov.

Sincerely,

James D. Hughes

James D. Hughes, P.E.

Principal Engineer, Hydrology/Stormwater Quality
Planning Dept.