

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

November 4, 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

A follow-up inspection was conducted on 11/2/22 to verify compliance with the City Ordinance and the CGP, especially the progress in mitigating the areas of concern in Notice of Violation #1 sent on 10/13/22. The first violation, the NOI, was the only violation that was completely mitigated. No progress was evident in mitigating three of the Violations; Posting, SWPPP, and Sediment. Some progress was made in mitigating BMP violations. A silt fence had been attached to a movable chain link fence, but there are gaps in the fence. Other BMPs, such as the Construction Entrance, haven't been installed. The following ongoing Violations were noted during the inspection yesterday.

1. The property owner's NPDES permit coverage isn't posted for safe public viewing.
2. The SWPPP and the reports weren't available on-site at the time of the inspection. Precipitation in excess of 0.25" has occurred on this site five times since the original City inspection report was sent on 8/26/22 and since the first NOI was signed on 9/15/22, so there should be at least five self-inspection reports available on-site.
3. BMPs were incomplete, the construction entrance was missing, and the silt fence on the north lot was not properly embedded and had gaps under it. Wattle that is typically used to plug the gaps was missing on the north lot. Inlet Protection is needed at 2 inlets on 4th St.



4. Sediment that was tracked out into 4th St. prior to the inspection on 10/12/22 was still in the street



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though traffic had moved some of the sediment about 100' south of the site.



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 comply with the Construction General Permit (CGP) [2022 Construction General Permit \(CGP\) | US EPA](#).

Required Mitigation:

1. 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.
2. 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, a notice of the plan's location must be posted near the main entrance of your construction site CGP 7.3.
3. Ensure that all stormwater controls (BMPs), including the silt fence, inlet protection, 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.
4. Sediment in 4th St. must be picked up and removed from the street and sidewalk adjacent to the site and 100' south of the site. Steps must be taken to prevent track out from reoccurring, and it must be removed by the end of the same business day if it occurs again per CGP 2.2.4.d.

History of Violations:

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

1. Posting - 8/26/22, 10/12/22, 11/04/22 (Level 3)
2. SWPPP – 8/26/22, 10/12/22, 11/04/22 (Level 3)
3. BMPs – 8/26/22, 10/12/22, 11/04/22 (Level 3)
4. Sediment 10/12/22, 11/02/22 (Level 2)
5. NOI - 8/26/22, 10/12/22, (Level 2)

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

Per the previous Violation letter dated 10/13/2022, the City is assessing a fine of \$500, and the non-compliance is being reported to the EPA. This fine is for one day, 11/4/2022. Additional days may be added if the violation is not mitigated within seven days. Progressive enforcement escalation procedures will be used and strictly enforced for recalcitrant or repeat offenders.

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.