

# CITY OF ALBUQUERQUE

Planning Department  
Alan Varela, Director



Mayor Timothy

M. Keller

October 20, 2023

Pacific Cactus, LLC – Aaron Carlson – aaron.carlson@yahoo.com – 505-506-6310

**Site: Cactus Patch Plaza at 7801 La Morada Place NW (H10E034) – NMR100433**

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

The City performed a Stormwater Quality Inspection at the Cactus Patch Plaza on 10/17/2023 to verify compliance with the City Ordinance and the EPA Construction General Permit (CGP). This letter details non-compliance with the CGP and City Ordinance along with the required mitigation. The City inspection observed the following violations:

1. The NOI and permit coverage for this site expired February 17, 2022 and there was no submittal to continue permit coverage under the 2022 CGP, nor was there a Notice of Termination submitted. There is an estimated 1.1 acres of land disturbed without current CGP coverage in violation of CGP Part 1.4.3 and City Ordinance 14-5-2-11.

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](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. The operator of a site with 2017 CGP coverage where construction activities commenced prior to February 17, 2022 were required to submit a NOI no later than May 18, 2022 to continue permit coverage, as per CGP Part 1.4.3. The requirement for projects that disturb one acre or more must submit a current CGP NOI to the city is described in City Ordinance 14-5-2-11-(A). CGP Appendix G, Part G.2 states that you have a duty to reapply for coverage to continue an activity regulated by the permit.

## **History of Violations:**

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

1. NOI – 10/20/2023 (Level 2)
2. Posting – 10/20/2023 (Level 1)
3. SWPPP – 10/20/2023 (Level 1)
4. Stabilization – 10/20/2023 (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. The City escalates to Level 2 (Formal Warning without Fine) for having land disturbance without approval from the City. To receive approval from the City, submit a NOI for current permit coverage.

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 924-3325, or [cenglish@cabq.gov](mailto:cenglish@cabq.gov).

Sincerely,

*Chancellor English*

Chancellor English

Erosion and Sediment Control Specialist, Stormwater Quality  
Planning Dept.