

# CITY OF ALBUQUERQUE

Planning Department  
Alan Varela, Director



Mayor Timothy M. Keller

November 9, 2022

Los Dows, LLC – Author J Dow - [dowaj@yahoo.com](mailto:dowaj@yahoo.com) – 505-350-4477

**Sites: Starbucks at 1440 Coors Blvd NW (J11E017)**

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

Land disturbing activities began without City approval of an ESC Plan or NPDES permit and without BMPs. The first violation notice was sent on 10/31/22 and a followup inspection was conducted by the City yesterday. At the time of the inspection, there was no vegetation on the site; instead, it was covered by bare dirt with a topsoil and debris stockpile on the north end. The approximate disturbed area was 1.5 acres. The only Violation that had been mitigated at the time of the second inspection was sediment in the adjacent streets had been removed. The other four Violations still remained yesterday and are described as follows.

1. The property owner's ESC Plan and NOI haven't been approved by the Stormwater Quality Section of the Planning Department of the City of Albuquerque.
2. The only BMPs present during the inspection were silt fences at the edge of the Taco Bell parking lot along the north edge of this site. There weren't any silt fences along the east, west, or south edges of the site.



3. Permit coverage still wasn't posted.
4. Neither the SWPPP nor the reports were available on-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](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](https://www.epa.gov/construction/construction-general-permit).

**Required Mitigation:**

1. The property owner's NOI and ESC Plan must be submitted to the City of Albuquerque for review and approval per the above-referenced ordinance.
2. 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.
3. 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.
4. 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.

**History of Violations and Escalation Process:**

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

NOI – 10/31/22, 11/09/22 (Level 3)

1. BMPs – 10/31/22, 11/09/22 (Level 3)
2. Posting – 10/31/22, 11/09/22 (Level 3)
3. SWPPP – 10/31/22, 11/09/22 (Level 3)
4. Sediment – 10/31/22 (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 11/1/2022, the City is assessing a fine of \$500, and the non-compliance is being reported to the EPA. This fine is for one day, 11/9/2022. 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](mailto:jhughes@cabq.gov).

Sincerely,

*James D. Hughes*

James D. Hughes, P.E.

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