

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

December 8, 2022

Los Dows, LLC – Author J Dow - 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

The City conducted a followup inspection on 12/6/22.

Land disturbing activities began without City approval of an ESC Plan or NPDES permit and without BMPs. The first Notice of Violation (NOV) was sent on 10/31/22 and followup inspections were conducted by the City on 11/8/22 and 11/17/22 with NOV #2 and #3 respectively. 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 since NOV #3 was the BMPs had been constructed. The other two Violations still remained and are described as follows.

1. The sign wasn't legible from the public right-of-way. Contrary to the mitigation required in the first three notices, the sign was too far from the road and the font too small to be legible from the public right-of-way.



2. Neither the SWPPP nor any reports were available on-site. Nobody was onsite and the location of the SWPPP wasn't indicated on any sign onsite.

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. 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. The sign must be moved or the font increased so that it can be read from the public right-of-way.
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.

History of Violations and Escalation Process:

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

1. NOI – 10/31/22, 11/09/22 (Level 3)
2. BMPs – 10/31/22, 11/09/22, 11/17/22 (Level 4)
3. Posting – 10/31/22, 11/09/22, 11/17/22, 12/07/22 (Level 4)
4. SWPPP – 10/31/22, 11/09/22, 11/17/22, 12/07/22 (Level 4)
5. 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.

Since the owner has been cooperative and has made significant progress mitigating the violations, seven days additional time is being granted to mitigate the remaining two violations in accordance with the footnote at the bottom of the Escalation Process. 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.