

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

March 27, 2024

4740 Dillon Drive, LLC – Paul Julian at paulj@nuvuepharma.com – (919) 619-2443

Sites: Nu Vue at 1171 Jaffa Rd NE (J20E028)

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

The city conducted a fourth ESC Inspection today, 3/27/24, as a follow-up to the first three inspections, which were conducted on 2/27/24, 3/7/24, and 3/20/24. The following violations were identified at the time of this fourth inspection.

1. Ray Talamante brought the **SWPPP** to the site after I called Patrick Audenis, the owner of Harrison Construction LLC. (NMR1009Z). The SWPPP was not up to date, in violation of CGP 7.1, and the self-inspection reports were missing, in violation of CGP 4.7.3 and City Ordinance § 14-5-2-11(C)(1). The Stormwater team member(s) responsible for installing, maintaining, and repairing the controls were not identified, and neither was the person responsible for corrective actions in Violation of CGP 6.1 and CGP 7.2.2.

Two pages of a SWPPP form. The left page is titled "Section 6 Responsible Parties and Operators" and contains information for the Legally Responsible Person (Paul Julian) and the Stormwater Team (Cassandra Durkin). The right page is titled "Section 7 Compliance with Other Requirements" and contains information for Threatened and Endangered Species Protection, Historic Properties, Safe Drinking Water Act, and Safety and Monitoring Exemptions. The form is dated March 27, 2024, at 10:58:59 AM, and is located at 1171 Jaffa Rd NE, Albuquerque NM 87112, United States.

Section 6 Responsible Parties and Operators

6.1 Responsible Parties

6.1.1 Legally Responsible Person

The Legally Responsible Person (LRP) is the person, company, agency, or other entity that possess a real property interest in the land upon which the construction or land disturbance activities will occur for the regulated site. The LRP's information is listed below.

LRP Name: Paul Julian
Title: Authorized Agent
Company: 4740 Dillon Drive, LLC.
Address: 4740 Dillon Dr Pueblo, CO 81008
Phone: 919-619-2443

6.1.2 Stormwater Team

The Stormwater Team are the individuals assigned responsibility to ensure compliance with the General Permit, implementation of all elements of the SWPPP. The QSP and Designated Inspector's (if applicable) information is listed below.

CPESC Name: Cassandra Durkin
Title: CPESC, CESSWI, QSD/P, CHST
Company: BBA Stormwater Services & More, LLC.
Address: 7625 Vista Del Arroyo Ave NE Albuquerque, NM 87109
Phone: 505-264-9909

Designated Inspector: Cassandra Durkin
Title: CPESC, CESSWI, QSD/P, CHST
Company: BBA Stormwater Services & More, LLC
Address: 7625 Vista Del Arroyo Ave NE Albuquerque, NM 87109
Phone: 505-264-9909

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Section 7 Compliance with Other Requirements

7.2 Threatened and Endangered Species Protection

An IPaC Species list was obtained for this site as well as a Critical Habitat Mapper from USFWS. There are no Critical Habitats within the project area.

7.2.2 Historic Properties

Pervious Surveys at this site have excluded Historic or Tribal Properties

7.2.3 Safe Drinking Water Act Underground Injection Control (UIC) Requirements for Certain Subsurface Stormwater Controls

There is no use of Infiltration Trenches, Commercially manufactured pre-cast or pre-built proprietary subsurface detention vaults, chambers, or other devices designed to capture and infiltrate stormwater flow, and Drywells, seepage pits, or improved sinkholes.

7.3 Safety and Monitoring Exemptions

Safety practices will be in accordance with the Contractor's Health and Safety Plan for the project. A summary of the safety concerns that apply to the project are provided below.

- Trip and Fall Hazards
- Active Construction Equipment
- Wet or Muddy Surfaces
- Open Trenches
- Hazardous Material and Waste
- Traffic
- Steep Slopes
- Manhole Lid Removal
- Wild Animals, Domestic Dogs, Snakes, Bees, Ticks, etc.

This project is not required to collect samples or conduct visual observations (inspections) under the following conditions:

- During dangerous weather conditions such as flooding and electrical storms.
- Outside of scheduled site business hours.

If monitoring of the site is unsafe because of the dangerous conditions noted above or other dangerous situations that may arise, the CPESC or designated inspector shall document the conditions for why an exception to performing the monitoring was necessary. The exemption documentation shall be filed in Appendix G.

7.4.1 Routine Observations and Inspections

Routine site inspections and visual monitoring are necessary to ensure that the project is in compliance with the requirements of the General Permit, and is conducted regardless of the time of year or storm events. Regardless of who installs BMPs, the CPESC or their delegate is expected to verify and document the installation through routine inspections. When a delegated inspector is not available, the project owner or a designated inspector must perform the inspections.

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2. The BMPs were not installed properly. The Silt fence had a big gap at the bottom and wasn't embedded in Violation of CGP 2.1 and CGP 2.2.3.



Required Mitigation:

1. The SWPPP, including the SWPPP Map, 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. Each operator's SWPPP, corrective action log, site inspection, and any other compliance documentation required under this permit must be signed by the same responsible corporate officer who signs the certification statement on the NOI or by a duly authorized representative of that person per CGP Appendix G.11.2
2. Ensure that all stormwater controls (BMPs) are 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.

History of Violations:

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

1. NOI – 2/28/24 (Level 2)
2. BMPs – 2/28/24 (Level 2), 3/8/24 (level 2), 3/27/24 (level 3)
3. Posting - 2/28/24 (Level 2)
4. SWPPP – 2/28/24 (Level 2), 3/20/24 (Level 3), 3/27/24 (level 4)

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 3/20/2024, the city is assessing a fine of \$3,500 for the current level 4 violation, and the non-compliance is being reported to the EPA. This fine is for seven days, from 3/21/24 through 3/27/24. Additional days may be added if the violation is not mitigated within 7 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.