

# CITY OF ALBUQUERQUE

Planning Department  
Alan Varela, Director



Mayor Timothy M. Keller

November 28, 2023

B&B Merritt Real Estate Group – Ken Merritt – [kmerritt@merrittgroup.net](mailto:kmerritt@merrittgroup.net) – 480-748-0314

**Site: Sonic 98<sup>th</sup> and Bluewater at 9701 Bluewater Rd NW (K09E048C) – NMR1005XZ**

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

The City recently performed a stormwater inspection at the Sonic construction site on Bluewater Rd. The City is issuing this Formal Notice of Violation because ground disturbing activities have begun without the completion of stormwater controls. The City inspection also observed the following violations:

1. Construction work has started before completion of stormwater control BMPs in violation of CGP Parts 2.1.3 and 2.2.3. The silt fence is partially installed on the north and west side of the property, but not on the south and east side. The east side is the low side of the property where stormwater discharges occur.



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. You must complete installation of stormwater controls by the time each phase of construction activities has begun per CGP Part 2.1.3. You must also install sediment controls along any perimeter areas of the site that are downslope from any exposed soil or other disturbed areas per CGP Part 2.2.3.

**History of Violations:**

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

1. Began land disturbing activities before BMPs in place – 11/28/23 (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. In the Escalation Process, Level 2 applies to the first time for either of the following two egregious violation types: either starting land disturbance without approval from the City or starting land disturbance without BMPs.

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.