

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

January 3, 2024

B&B Merritt Real Estate Group – Ken Merritt – kmerritt@merrittgroup.net – 480-748-0314

Site: Sonic 98th and Bluewater at 9701 Bluewater Rd NW (K09E048C) – NMR1005XZ

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

The City performed a follow-up stormwater inspection at the Sonic construction site on Bluewater Rd. on 12/28/23. The City is issuing this Formal Notice of Violation due to repeated violations of the EPA's CGP. The City inspection observed the following violations:

1. SWPPP – The SWPPP was not certified by both operators' signatory in violation of CGP Part 7.2.10. The self-inspection reports were not available at the time of the inspection in violation of CGP Part 4.7.3.

2. Posting – There was no posting of permit coverage on the perimeter of the construction site in violation of CGP Part 1.5.

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 comply with the Construction General Permit (CGP) [2022 Construction General Permit \(CGP\) | US EPA](#).

Required Mitigation:

1. SWPPP - Your signatory must sign and date your SWPPP in accordance with CGP Appendix G, Part G.11 per CGP Part 7.2.10. You must keep a copy of all signed inspection reports at the site or at an easily accessible location so that it can be made immediately available at the time of an on-site inspection per CGP Part 4.7.3.
2. Posting – You must post a sign or other notice of your permit coverage at a safe, publicly accessible location in 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 Part 1.5.

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)
2. SWPPP – 11/28/23, 1/3/24 (Level 2)
3. Posting – 11/28/23, 1/3/24 (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.

Sincerely,

Chancellor English

Chancellor English

Erosion and Sediment Control Specialist, Stormwater Quality
Planning Dept.