

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

November 4, 2024

Cedar Investments, LLC - Matt Lammers at mlammers@titan-development.com – 505-998-0163

Sites: Tracts 4, 5, and 6 of the Highlands from 1111 to 1301 Central Ave NE (K15E034)

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

Cedar Investment's coverage under the EPA's Construction General Permit (CGP) expired 2/15/22, and illegal stormwater discharges have recently deposited sediment into Cedar St. The following violations were observed while inspecting the site on 10/29/24 and 11/4/24. They are the same violations as reported 4/3/24.

1. **NOI** – Your CGP coverage, NPDES ID# NMR1003OP, expired on 2/17/22 before the construction and stabilization were complete in violation of CGP1.4.3. The EPA has denied the submittal of the NOI NMR1006CH, so the site still not permitted for stormwater discharges.
2. **Stabilization** – “large bare areas” still exist contrary to the CGP 2.2.14.c.i “*Final Stabilization Criteria.*”



3. **Posting** of the CGP coverage was missing in violation of CGP 1.5.
4. The **SWPPP** and self-inspection reports were not available on-site during the inspection in violation of CGP 7.3, City Ordinance § 14-5-2-11(C)(1), and CGP 4.7.3.

5. **Sediment** – Sediment had been discharged in stormwater runoff from Tract 5, in violation of CGP 1.2, and the deposited sediment in Cedar St., over the city's 60" storm drain that is the head works to the South Diversion Channel. Sediment has also been discharged along Copper Ave and Central Ave. The sediment had not been removed within 24 hours in violation of CGP 2.2.4.d.



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6. **BMPs** – Erosion and sediment controls were not been implemented and maintained to minimize the discharge of pollutants in stormwater from this site in violation of CGP 2.2. The silt fence above wasn't adequate to prevent eroded sediment from concentrated flows on Tract 5 from dumping sediment into the street at the city's 60" storm drain on Cedar St. The perimeter controls, silt-fence, were down on the south half of Tract 5 in violation of CGP 2.2.3.





Required Mitigation:

1. **NOI** - New Permit Coverage is required in accordance with the CGP. The property owner's NOI and ESC Plan must be submitted to the City of Albuquerque for review and approval per Albuquerque's Erosion and Sediment Control (ESC) ordinance § 14-5-2-11 (attached).
2. **Stabilization** - Stabilize the inactive disturbed areas and "large bare areas" per CGP 2.2.14.c.i. Implement and maintain stabilization measures in areas that remain inactive for 14 days or more. Measures must be initiated within 14 days and completed no later than 14 days per CGP 2.2.14.
3. **Posting** - 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.
5. **Sediment** – Onsite erosion from Tract 5 should be prevented from entering the pavement and storm drains on Cedar St. either by providing non-erosive (rock) stabilization cover or by providing more effective erosion and sediment controls like berms and sediment traps per CGP 2.1.2 Where sediment has been discharged from your site onto paved roads and sidewalks, remove the deposited sediment by the end of the same business day. Remove the sediment by sweeping, shoveling, or vacuuming these surfaces or using other similarly

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effective means of sediment removal. You are prohibited from hosing or sweeping tracked-out per CGP 2.2.4.d.

6. **BMPs** - Ensure that all stormwater controls (BMPs) 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 per CGP 2.1.4.b. 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. The silt fence along Cedar St has failed repeatedly and requires corrective action per CGP 2.1.4.c; it should be supplemented by additional BMPs such as appropriately sized berms and a sediment trap. Most of the downed silt fence needs reset, but some may only need repair.

History of violations:

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

1. **NOI** – 4/3/24 (Level 2), 11/4/24 (Level 3)
2. **Stabilization** 4/3/24 (Level 1), 11/4/24 (Level 2)
3. **Posting** - 4/3/24 (Level 1); 11/4/24 (Level 2)
4. **SWPPP** – 6/25/21 (Level 1), 4/3/24 (Level 2), 11/4/24 (Level 3)
5. **Sediment** - 11/12/20 (Level 1), 4/3/24 (Level 2), 11/4/24 (Level 3)
6. **BMPs** – 11/12/20 (level 1), 4/3/24 (Level 2), 11/4/24 (Level 3)

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 sent 4/3/2024, the City is assessing a fine of \$500 to Cedar Investors, LLC for the current Level 3 violations, and the non-compliance is being reported to the EPA. This fine is for one day, 11/4/2024. Additional days may be added if the violations are 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 505-924-3325, cenglish@cabq.gov.

Sincerely,

Chancellor English

Chancellor English, CPESC
Erosion and Sediment Control Specialist, Stormwater Quality
Planning Dept.