

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

December 5, 2024

Boing US Holdco, Inc. – Jorge Primo Planta – jorge.planta@drivenbrands.com – 919-699-7198

Site: Take 5 Car Wash at 98th St. and Sage Rd. SW (M09E035) – NMR1005E4

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

The City performed ESC inspections on 11/22/23, 12/28/23, 1/24/24, 2/27/24, and 12/2/24. Boing US Holdco, Inc., the owner of the property, has coverage under the Environmental Protection Agency's (EPA's) Construction General Permit (CGP) with National Pollutant Discharge Elimination System (NPDES) ID "NMR1005E4. During the inspection on 12/2/24, the city observed violations of the CGP that had been previously mitigated, but have recurred during the 9 months since the last City inspection. The City conducted the inspection at 1:30 pm on 12/2/24 and found no personnel on-site and the gates were locked. The City then contacted both Jimmy Gibson and Rene Ruiz and was notified that the SWPPP would be made available the day after the inspection was performed and not during the City's inspection. The following violations were observed during the City's stormwater inspection.

1. The permit coverage **Posting** was mounted upside-down and facing into the construction site in violation of CGP Part 1.5. The posting had to be manipulated to find a contact and phone number. The NPDES ID#s were unable to be seen.



2. The **SWPPP** and self-inspection reports were not made available during the time of inspection in violation of CGP Parts 4.7.3 and 7.3. The contractor's offer to make the SWPPP available on-site on a different date is not an acceptable solution for this violation.

Required Mitigation:

1. **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 that 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.
2. **SWPPP** – You must keep a current copy of your SWPPP and a copy of all signed inspection reports at the site or at an easily accessible location so that it can be made available at the time of an on-site inspection or upon request by the EPA or a State, Tribal, or local agency approving stormwater management plans per CGP Parts 4.7.3 and 7.3. If an on-site location is unavailable to keep the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance of your construction site. ***The history of SWPPP violations at this site included missing certification signatures of the operators (CGP Part 7.2.10) and the lack of a proper signature on the self-inspection reports (CGP Part 4.7.2). The Delegations of Authority were also blank, meaning that at this time, the only permissible signatures for the certification of the SWPPP, the inspection reports, and SWPPP amendments are Jorge Primo Planta as Vice President of Development for the owner (Boing US HoldCo, Inc) and Alan Stavinoha as the owner of the day-to-day control operator (Spinoff Construction), as they are the only listed operators on the SWPPP certification page (CGP Appendix G, Part G.11). The City will scrutinize the Delegation of Authority pages and any other required signatures in the SWPPP on a follow-up inspection to verify compliance with the CGP's signatory obligations. Please note that the EPA does not allow a Delegation of Authority to a third party, so any delegation to a third-party stormwater team (Inspections Plus) would be invalid.

History of Violations:

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

1. Posting - 12/5/24 (Level 1)
2. SWPPP – 11/27/23, 1/3/24, 1/25/24 12/5/24 (Level 3)
3. BMPs – 11/27/23, 1/3/24, 3/1/24 (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.

Per the previous Violation letter dated 3/1/2024, the City is assessing a fine of \$500 for the current level 3 violation, and the non-compliance is being reported to the EPA. This fine is for one day, 12/5/2024. 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.

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If you have any questions, contact me at 924-3325 or cenglish@cabq.gov.

Sincerely,
Chancellor English, CPESC

Chancellor English

Erosion and Sediment Control Specialist, Planning Dept.
Development and Review Services