

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

January 14, 2026

Whataburger Restaurants LLC – James G Turcotte, harcher@wbhq.com – 210-665-0098

**Sites: Whataburger – Albuquerque, NM (Gibson & Yale) - 2060 Gibson Blvd SE (M15E021A) - NMR1006PS
Lot D Plat of Lots A Thru F Lovelace Heights Addition**

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

The City conducted an ESC Inspection on 1/12/2026 to verify the mitigation of previous violations and compliance with the Construction General Permit (CGP). The City inspected the site on 9/23/2025 and reported that the site was missing your permit coverage posting, the Stormwater Pollution Prevention Plan (SWPPP), and a stabilized construction exit. The construction exit was corrected, but the on-site SWPPP and posting for the contractor are deficient or unacceptable. The specific violations found during the ESC inspection on 1/12/26 are as follows:

- 1. Posting** – The permit coverage posting with required information was missing in violation of CGP Part 1.5. The City considers QR codes for postings to be inadequate for the CGP requirement.
- 2. SWPPP** – It appears that the owner’s SWPPP and self-inspection reports were still missing at the time of inspection in violation of CGP Parts 4.7.3 and 7.3. The contractor had a SWPPP on-site for the inspection, which was found to be deficient in violation of CGP Part 7.2. These deficiencies include, but are not limited to, the following:
 - a.** The SWPPP map was not the owner’s ESC Plan approved by the City, and it did not include identifiable stormwater controls. (CGP Part 7.2.4)
 - b.** The list of operators, including their areas of responsibility, was missing. (CGP Part 7.2.1)
 - c.** The Notice of Intent (NOI) for each operator was missing. (CGP Part 7.2.11)
 - d.** The Stormwater Team was not identified. (CGP Part 7.2.2)

3. **Washout** – Concrete washout was found on bare soil near the site discharge point in violation of CGP Part 2.3.4.



4. **Sediment** – Dirt/mud has been tracked-out of the site onto Miles Rd SE in violation of CGP Part 2.2.4.



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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 per CGP Part 1.5. 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. At a minimum, it must include the NPDES ID, a contact name and phone number, and how to contact the EPA for the SWPPP or to report stormwater pollutants.
- 2. SWPPP** – You must keep a copy of the current SWPPP and each inspection report 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 Parts 4.7.3 and 7.3. You may share a SWPPP with the contractor, but the SWPPP will need to be corrected and include the required information listed in CGP Part 7.2.
- 3. Washout** – Direct wash water into a leak-proof container or a leak-proof and lined pit designed so no overflows can occur due to inadequate sizing or precipitation per CGP Part 2.3.4. Do not allow liquid wastes to be disposed of through infiltration or to otherwise be disposed of on the ground. Locate any washout or cleanout activities as far away as possible from receiving waters, constructed or natural site drainage features, and storm drain inlets.
- 4. Sediment** – Where sediment has been tracked-out from your site onto paved roads, sidewalks, or other paved areas outside of your site, remove the deposited sediment by the end of the same business day in which the track-out occurs or by the end of the next business day if the track-out occurs on a non-business day per CGP Part 2.2.4.

History of violations:

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

- | | |
|---------------|----------------------------|
| 1. Posting – | 9/24/25, 1/14/26 (Level 2) |
| 2. SWPPP – | 9/24/25, 1/14/26 (Level 2) |
| 3. BMPs – | 9/24/26 (Level 1) |
| 4. Washout – | 1/14/26 (Level 1) |
| 5. Sediment – | 1/14/26 (Level 1) |

The City Escalation Process (attached) describes four levels of escalation based on the number of repeats and/or recalcitrant violations of each type.

If the Level 2 violations are not mitigated within seven days, 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 505-924-3325 or cenglish@cabq.gov.

Sincerely,

Chancellor English

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