

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

March 20, 2025

CFT NV Developments LLC – David Lou - David.Luo@CherngFT.com – 626-372-8526

**Site: Panda Express at 2040 Gibson Blvd SE (M15E021F) NMR100738 (SWQ-2025-00017)
Lot C-2 and Lot C-1 Lovelace Heights Addition**

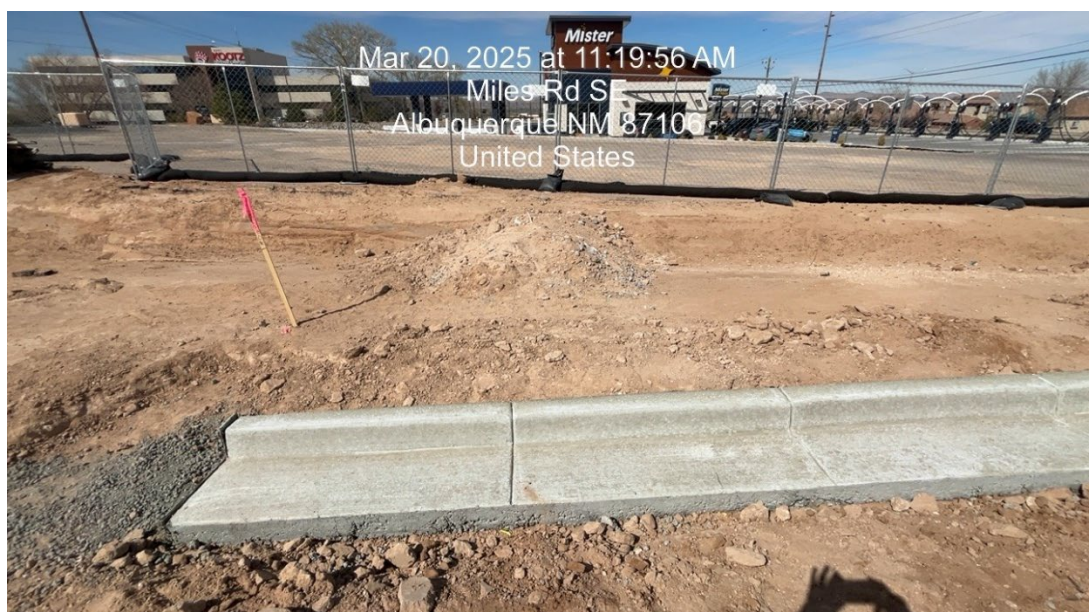
Re: Drainage Ordinance (14-5-2-11) Violations for Erosion and Sediment Control

Mr. Lou and Mr. Silverstein,

The Storm Water Quality (SWQ) Section of the City of Albuquerque conducted an Erosion and Sediment Control (ESC) inspection of the site on 3/20/25 to determine compliance with City Ordinance § 14-5-2-11 (attached) and the Environmental Protection Agency's (EPA's) Construction General Permit (CGP) [2022 Construction General Permit \(CGP\) | US EPA](#). The Panda Express site is part of a 6.5-acre Common Plan of Development or Sale (CPDOS). This was a follow-up to inspections conducted by the city on 2/13/25 and 3/12/25

The specific violations on 3/20/25 are as follows.

1. **Posting** - CGP coverage was not posted so it is visible from the public road nearest to the active part of the construction site, using a font large enough to be readily viewed from a public right-of-way in violation of CGP 1.5.
2. **SWPPP** The up-to-date SWPPP and /or self-inspection reports were unavailable on-site during the inspection in violation of CGP Parts 4.7.3 and 7.3. The superintendent was on-site, but could not provide the SWPPP.
3. **BMPs** – The silt fences downstream of the land-disturbing activities were lying on the ground, not attached to posts. A small berm diverted the drainage west along the north side of the site; however, there was no pond at the west end of the diversion. Another small, uncompacted berm blocked the offsite swale downstream of the south discharge point, but it wasn't constructed



according to the sediment trap details in the ESC Plan. Wattle was lying on the ground along the north and west edges of the site but wasn't staked in place. The controls shown on the ESC Plan were not installed in accordance with the standard specifications, in violation of CGP 2.1.2.



4. **Sediment** – Hard-packed sediment still remained on the adjacent paved parking lot, Lot C-1. Sediment was encroaching into the trail along Gibson.

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 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.
2. 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
3. **BMPs** – Construct on-site controls in accordance with the approved ESC Plan dated 3/17/25 and stabilize the disturbed portions of the adjacent property. 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. 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.
4. **Sediment - Sediment** - Where sediment has been tracked from your site onto adjacent pavement, 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 effective means of sediment removal. You are prohibited from hosing or sweeping sediment downstream per CGP 2.2.4.d.

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History of Violations:

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

1. **NOI** - 2/19/25, 3/12/25
2. **Posting** - 2/19/25, 3/12/25, 3/20/25 (Level 3)
3. **SWPPP** - 2/19/25, 3/12/25, 3/20/25 (Level 3)
4. **BMPs** - 2/19/25, 3/12/25, 3/20/25 (Level 4)
5. **Sediment** - 2/19/25, 3/12/25, 3/20/25 (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 dated 3/12/25, the city is assessing an additional fine of \$4,000 for the current level 4 violation, and the non-compliance is being reported to the EPA. This fine is for eight (8) days, 3/13/25 through 3/20/24. Additional days may be added if all violations aren't mitigated within 7 days. Progressive enforcement escalation procedures will be used and strictly enforced for recalcitrant or repeat offenders.

If you have any questions, contact me at 924-3420, jhughes@cabq.gov.

Sincerely,

James D. Hughes

James D. Hughes, P.E.
Principal Engineer, Hydrology/Stormwater Quality
Planning Dept.