

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

February 19, 2025

CFT NV Developments LLC – Derek Knight – derek.knight@pandarg.com – 626-799-9898

I25 & Gibson LLC – Wes Butero – wes@mdgrealestate.com – 505-228-2149

Site: Panda Express at 2040 Gibson Blvd SE (M15E021F)
Lot C-2 Plat of Lots C-1 and C-2 Lovelace Heights Addition (CFT NV Developments LLC)
And
Lot C-1 Plat of Lots C-1 and C-2 Lovelace Heights Addition (I25 & Gibson LLC)

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

Mr. Knight and Mr. Butero;

While inspecting active construction sites in the Lovelace Heights Addition on 2/13/25, the City Stormwater Quality Section (SWQ) observed that construction activities for a Panda Express located at 2040 Gibson Blvd SE had begun. The property is part of a Common Plan of Development or Sale (CPDOS) that totals approximately 6.5 acres in total area. City Ordinance §14-5-2-11 (attached) requires all of the owners of properties in a CPDOS greater than 1 acre to obtain Construction General Permit (CGP) coverage from the EPA and submit both the Notice of Intent (NOI) and an Erosion and Sediment Control (ESC) Plan to the City of Albuquerque Stormwater Quality Section (SWQ) for approval 14 days before beginning land-disturbing activities regardless of individual property size. The City also observed an exposed stockpile of bare dirt on the adjacent western property without stormwater or sediment controls. The stockpile is located on an asphalt lot that drains to a sidewalk culvert into the City's curb and gutter storm system.

The specific violations of City Ordinance §14-5-2-11 and the EPA's CGP observed by the City SWQ on 2/13/25 were as follows:

1. **NOI** - Construction activities began before the City SWQ approved the property owner's ESC Plan and NOI in violation of Albuquerque's City Ordinance § 14-5-2-11(a). Construction activities appear to be occurring on two properties, Lot C-1 and Lot C-2.
2. **BMPs** – Stormwater and/or sediment controls were not installed around a stockpile of exposed bare dirt on Lot C-1 in violation of CGP Part 2.1.3 and 2.2.3. This stockpile appears to be from the construction activities on the adjacent Lot C-2.



1Exposed stockpile on Lot C-1



2Inlet with no protection from the exposed stockpile

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Required Mitigation:

1. **NOI** – For projects that disturb one acre or more, or less than one acre but are part of a common plan of development exceeding one acre, the property owner is to provide the CGP Electronic Notice of Intent documentation that contains the property owner name and contact information a minimum of 14 days prior to earth disturbance and prior to obtaining Work Order or Building Permit approval per City Ordinance §14-5-2-11(A). A project will be approved for earth disturbance, work order, or building permit only upon approval of plans and conditions by the City Engineer per City Ordinance §14-5-2-11(B)(2). Construction activities include stockpiling dirt and equipment or materials storage that could lead to the generation of pollutants.
2. **BMPs** – Complete installation of stormwater controls by the time each phase of construction activities has begun per CGP Part 2.1.3. By the time construction activity in any given portion of the site begins, install and make operational any downgradient sediment controls (e.g. buffers, perimeter controls, exit point controls, storm drain inlet protection) that control discharges from the initial site clearing, grading, excavation, and other earth-disturbing activities. Install sediment controls along any perimeter areas of the site that are downslope from any exposed soil or other disturbed areas per CGP Part 2.2.3.

History of Violations:

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

1. NOI - 2/19/25 (Level 2)
2. BMPs - 2/19/25 (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. Two egregious violation types are considered automatic Level 2 violations: either starting land disturbance without approval from the City SWQ or starting land disturbance without BMPs.

If the Level 2 violations are not mitigated within seven days, the property owner will be subject to a fine of \$500/day per the City's Drainage Control Ordinance, and the non-compliance will be reported to the EPA. Recalcitrant or repeat offenders are also subject to a fine of \$500/day.

If you have any questions, contact me at 505-924-3325, cenglish@cabq.gov.

Sincerely,

Chancellor English

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