

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

January 10, 2024

1321 Flightway, LLC. – Sean Jariwala – 817 Central Ave NE, Albuquerque, NM 87102

Site: 1321 Flightway Avenue NE

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

To Sean Jariwala;

This letter is the third Notice of Violation (NOV#3) of the ESC Ordinance § 14-5-2-11 and the EPA's Construction General Permit (CGP). Previously, NOV#1 was mailed to you on 9/15/23, and NOV#2 was mailed on 10/25/23. A city inspection report was emailed to you with a list of the Violations on 12/27/23 in which the only progress noted was the installation of silt fence, some in the wrong location and some in disrepair. The violations listed on 12/27/23 included: NOI, Posting, SWPPP, and BMPs. I received your NOI on 12/28/23, so I sent an email granting additional time to mitigate the remaining violations on 12/28/23.

At a follow-up inspection on 1/8/24, about half of the disturbed area had been seeded and mulched, and there was new construction activity in the northeast corner of the site where earthwork was underway on part of the newly seeded portion of this site. Dirt was also being moved from 1321 Flightway Ave. to 1341 Flightway Ave. in preparation for the construction of a new building at Garcia and Garcia Air Cargo Delivery Service, Inc. with James P. and Rosemary Garcia as the property owners, making the construction on that adjacent property part of a this "Common Plan of Development or Sale" as defined in Appendix 'A' of the CGP. The NPDES coverage had been Posted on a sign, and the Silt Fence had been repaired, thus mitigating two of the previous Violations. The following violations were noted during the inspection on 1/8/24.

1. The ESC Plan, NOI, and Information Form had not been submitted to the City, along with the inspection and review fees, in violation of the ESC Ordinance § 14-5-2-11.
2. The SWPPP was not up-to-date in violation of CGP 7.3.
 - a. The Operator didn't sign the Certification Statement in violation of CGP G.11.1 & G.11.4
 - b. The Operators' areas of control weren't identified in violation of CGP 7.2.1
 - c. The stormwater team members' form in SWPPP Appendix I was blank in violation of CGP Parts 6.1 and 7.2.2.
 - d. The NOI was missing in violation of CGP 7.2.11
 - e. The SWPPP map didn't have any of the required information in violation of CGP 7.2.4.

Albuquerque's Erosion and Sediment Control (ESC) ordinance § 14-5-2-11 (attached) requires the property owner to provide an ESC Plan and the EPA's Notice of Intent (NOI) to the city for review and approval prior to issuing construction permits and prior to any land-disturbing activity. It also requires compliance with the Construction General Permit (CGP) [2022 Construction General Permit \(CGP\) | US EPA](https://www.cabq.gov/planning/development-review-services/stormwater-quality-section).

<https://www.cabq.gov/planning/development-review-services/stormwater-quality-section>

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Required Mitigation:

1. The property owner's NOI and ESC plan must be submitted to the City of Albuquerque per Ordinance § 14-5-2-11, along with the application forms and fees.
2. The SWPPP, including the SWPPP Map, Self-Inspection Reports, and Corrective Action Reports, must be kept up-to-date per CGP 7.1

History of Violations:

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

1. NOI – 9/15/23, 10/25/23 (Level 3) 1/10/24 (Level 4)
2. Posting – 9/15/23, 10/25/23 (Level 2)
3. SWPPP – 9/15/23, 10/25/23 (Level 3) 1/10/24 (Level 4)
4. BMPs – 9/15/23, 10/25/23 (Level 3)
5. Stabilization – 9/15/23, 10/25/23 (Level 2)
6. Sediment – 10/25/23 (Level 1)

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

Per the previous NOV#2 sent on 10/25/23, the additional time email sent 12/28/23, the City is assessing a fine of \$7,000 for the level 4 violations, and the non-compliance is being reported to the EPA. This fine is for fourteen days, 12/28/23 thru 1/10/24. Additional days may be added if the violation is not mitigated within seven days. Progressive enforcement escalation procedures will be used and strictly enforced for recalcitrant or repeat offenders. Repeat violations are also subject to a fine of \$500/day.

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

Sincerely,

James D. Hughes

James D. Hughes, P.E., CPESC, CFM
Principal Engineer, Stormwater Quality
Planning Dept.