

# CITY OF ALBUQUERQUE

Planning Department  
Alan Varela, Director



Mayor Timothy M. Keller

April 21, 2023

Victor Salazar Jr. and Lupe Salazar (Estate)

500 Aliso Dr. SE

Albuquerque NM 87106

LGI Homes - Eddie Loven, Regional Construction Manager, [Eloven@lgihomes.com](mailto:Eloven@lgihomes.com),

LGI Homes - Eric Berman, [eric.berman@lgihomes.com](mailto:eric.berman@lgihomes.com)

LGI Homes – Greg Mayfield, [greg.mayfield@lgihomes.com](mailto:greg.mayfield@lgihomes.com)

**Site: Desert Sands Subdivision – 3000 98th Street SW - offsite pond on Tract 13-D-1  
Lands of Salazar Family Trust; NMR1000BE; N09E014**

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

Mr Salazar,

The purpose of this letter is to provide legal notice to you, the property owner, that the following ordinance violations were observed while inspecting the pond and stockpile at your property on 4/13/2023.

1. LGI Homes' coverage under the EPA's Construction General Permit (CGP) with NPDES ID NMR1000BE, was terminated By Eddie Loven on 3/21/22 without satisfying the Final Stabilization Criteria of CGP 2.2.14.c. Both Albuquerque's Erosion and Sediment Control (ESC) ordinance § 14-5-2-11 at link [https://codelibrary.amlegal.com/codes/albuquerque/latest/albuquerque\\_nm/0-0-0-19897](https://codelibrary.amlegal.com/codes/albuquerque/latest/albuquerque_nm/0-0-0-19897) and the EPA's CGP at [2022 Construction General Permit \(CGP\) | US EPA](#) require the property owner to maintain coverage under the Construction General Permit until the Final Stabilization criteria of CGP 2.2.14.c has been satisfied. So both City and the EPA hold the property owner, Victor and Lupe Salazar responsible for compliance with the CGP, unless control of the disturbed site has been legally transferred to LGI Homes by a lease or easement that requires LGI Homes to comply. See the required mitigation at the end of this letter.
2. LGI Homes developed Desert Sands Subdivision which included the construction of an offsite pond on their downstream neighbor's property (Salazar's property) where vegetative stabilization attempts have failed. The disturbed area is still bare dirt despite LGI's attempts to grow vegetative cover to satisfy the Final Stabilization Criteria of CGP 2.2.14c. So the property owner must provide stabilization per CGP 2.2.14. LGI brought the site into compliance in June 2021 when they provided temporary stabilization in the form of seed and hydromulch, posted permit coverage, reset silt fence around the perimeter, and made their SWPPP and inspection reports available on site. Then in October 2022 the City informed LGI that the stabilization had failed, and that they needed to either apply Final Stabilization immediately or renew their permit coverage and reapply temporary stabilization. See attached email to Eddie Loven on 10/18/22 discussing the two options. Greg Mayfield

replied to the email by phone saying that LGI would provide some kind of rock cover to satisfy the Final Stabilization Criteria per CGP 2.2.14.c.

3. Increased flows from the Desert Sands development are causing streambank erosion at the discharge point on the downstream neighbor's property in violation of CGP 2.2.11. Rip Rap there has failed twice now. The perimeter BMPs, Silt Fence, are falling down and missing.
4. NPDES coverage is not posted for safe public viewing.
5. The SWPPP and self-inspection reports were not available on site and there wasn't any sign posted to provide the plan's location.





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## Required Mitigation:

1. You must submit the property owner's NOI(s) and the Erosion and Sediment Control Plan to the City for approval.
2. You must implement and maintain stabilization measures in areas that remain inactive for 14 days or more. Measures must be initiated within 14 days and complete the installation not later than 7 days. **Stabilize the inactive disturbed areas.** Keep record of the stabilization methods, materials, rates and dates of each application with the SWPPP and provide copies.
3. You must repair eroded streambank downstream of the discharge point, repair and replace rip-rap outlet protection, and replace silt fences. Install, inspect and maintain BMPs, including rip-rap outlet protection and silt fences. Ensure that all stormwater controls (BMPs) are maintained and remain in effective operating condition during permit coverage per CGP 2.1.4. 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.
4. 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.
5. You must keep the SWPPP including Self Inspection Reports and Corrective Action Reports 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, you must post notice of the plan's location near the main entrance of your construction site per CGP 7.3. You must conduct self-inspections once every 14 calendar days and within 24 hours of the occurrence of a storm event of 0.25 inches or greater per CGP 4.2 and City ESC Ordinance § 14-5-2-11(C)(1) until final acceptance of site stabilization by the city.

If the violations are not mitigated within 10 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.

If you have any questions, you can contact me at 924-3420, [jhughes@cabq.gov](mailto:jhughes@cabq.gov).

Sincerely,

*James D. Hughes*

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