



SUSANA MARTINEZ  
Governor

JOHN A. SANCHEZ  
Lieutenant Governor

NEW MEXICO  
ENVIRONMENT DEPARTMENT

*Surface Water Quality Bureau*

Harold Runnels Building, N2050  
1190 South St. Francis Drive (87505)  
P.O. Box 5469, Santa Fe, NM 87502-5469  
Phone (505) 827-0187 Fax (505) 827-0160  
[www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)



RYAN FLYNN  
Secretary-Designate

BUTCH TONGATE  
Deputy Secretary

ERIKA SCHWENDER  
Director  
Resource Protection Division

---

**Certified Mail - Return Receipt Requested**

February 20, 2014

Mayor Tom Swisstack  
City of Rio Rancho  
3200 Civic Center Circle  
Rio Rancho, NM 87144

**Re: Saratoga Road Retention Pond Construction, Minor, General Permit; SIC 1629; NPDES Compliance Evaluation Inspection; NMU0001872; February 14, 2014**

Dear Mayor Swisstack:

Enclosed please find a copy of the report and check list for the referenced inspection that the New Mexico Environment Department (NMED) conducted at your facility on behalf of the U.S. Environmental Protection Agency (USEPA). This inspection report will be sent to the USEPA in Dallas for their review. These inspections are used by USEPA to determine compliance with the National Pollutant Discharge Elimination System (NPDES) permitting program in accordance with requirements of the federal Clean Water Act.

Introduction, treatment scheme, and problems noted during this inspection are discussed in the "Further Explanations" section of the inspection report.

You are encouraged to review the inspection report, required to correct any problems noted during the inspection, and advised to modify your operational and/or administrative procedures, as appropriate. If you have comments on or concerns with the basis for the findings in the NMED inspection report, please contact us (see the address below) in writing within 30 days from the date of this letter. Further, you are encouraged to notify in writing both the USEPA and NMED regarding modifications and compliance schedules at the addresses below:

Racquel Douglas  
US Environmental Protection Agency, Region VI  
Enforcement Branch (6EN-WM)  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Bruce Yurdin  
New Mexico Environment Department  
Surface Water Quality Bureau  
Point Source Regulation Section  
P.O. Box 5469  
Santa Fe, New Mexico 87502

If you have any questions about this inspection report, please contact Sarah Holcomb at 505-827-2798 or at [sarah.holcomb@state.nm.us](mailto:sarah.holcomb@state.nm.us).

Sincerely,

*/s/ Bruce J. Yurdin*

Bruce J. Yurdin  
Program Manager  
Point Source Regulation Section  
Surface Water Quality Bureau

cc: Rashida Bowlin, USEPA (6EN-AS) by e-mail  
Carol Peters-Wagnon, USEPA (6EN-WM) by e-mail  
Racquel Douglas, USEPA (6EN-WM) by e-mail  
Brent Larsen, USEPA (6WQ-PP) by e-mail  
Gladys Gooden-Jackson, USEPA (6EN-WC) by e-mail  
NMED District 1, William Chavez by e-mail  
Mr. Xavier Pettes, NPDES Project Manager, City of Rio Rancho, by e-mail



NPDES Compliance Evaluation Inspection  
Saratoga Road Retention Pond Construction Project  
Permit No. NMU001872  
February 14, 2014

## **Introduction**

On February 14, 2014, a Compliance Evaluation Inspection was conducted at a >1 acre construction site located in Rio Rancho, New Mexico. The inspection was conducted by Sarah Holcomb of the NMED/SWQB. The current construction project consists of the grading and construction of a storm water retention pond to mitigate storm damage caused by monsoon rain events in September 2013. The purpose of this inspection was to document the facility's status regarding the NPDES storm water permit program and storm water regulations at **40 Code of Federal Regulations Part 122.26**.

This report is based on review of files maintained by NMED, on-site observation by NMED personnel, and verbal information provided by the facility's representative, Mr. Thomas Farrell, Manager of the City of Rio Rancho Streets and Right-of-Ways Division. Storm water runoff from this site discharges to the Rio Rancho MS4 (Arroyo de las Lomitas Negras), thence to the Rio Grande (20.6.4.105 NMAC).

This inspection was prompted by a complaint regarding dust control issues from the activities at this site. According to the facility representatives, construction and grading started at the site approximately on January 27, 2014. As of the time of this inspection, facility representatives indicated that the construction should be finished and hydromulch should be applied to the site for stabilization within the next two weeks.

No Best Management Practices (BMPs) were being implemented at the time of this inspection. No erosion control measures, sediment trackout measures, or temporary stabilization measures were present at the time of this inspection. Water was being applied to control dust while the inspector was present, and according to facility representatives, it is applied during working hours approximately every 45 minutes.

Dirt excavated from the site was being hauled to a city-owned borrow pit located near Kim Road and Loma Colorado. When a SWPPP is developed for this site, the borrow pit should also be addressed in the plan.

The inspector arrived at the site at 1040 hours on February 14, 2014. The inspector conducted an entrance interview with Mr. Thomas Farrell, where she made introductions, presented credentials, and explained the purpose of the inspection. A formal exit interview to discuss the preliminary findings of the inspection was conducted with Mr. Farrell at the site at approximately 1100 hours on 2-14-2014.

## **Findings**

*Section 301 (a) of the Federal Water Pollution Control Act states that "Except as in compliance with this section and sections 302, 306, 307, 318, 402 and 404 of this Act, the discharge of any pollutant by any person shall be unlawful."*

*Per 40 CFR Part 122.26, storm water discharges associated with construction activity are required to obtain coverage under an NPDES permit. Large construction activity is defined in 40 CFR Part 122.26(b)(14)(x), as follows: "Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more."*

*In addition, beginning on March 10, 2003, storm water discharges associated with small construction activity became regulated according to 40 CFR Part 122.26(b)(15)(i) for "[c]onstruction activities including clearing, grading and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre and less than five acres."*

*40 Code of Federal Regulations Part 122.21(a) Duty to apply (1) states "Any person who discharges or proposes to discharge pollutants ...must submit a complete application to the Director in accordance with this section and part 124 of this chapter."*

According to the facility's representative, and based on a review of the EPA storm water permit database, it has been determined that this owner and operator did not have NPDES construction general storm water permit coverage on the date of this inspection. The City of Rio Rancho is the owner/developer who has operational control over project specifications and onsite implementation. The City of Rio Rancho is responsible for site maintenance which is necessary to ensure compliance with the storm water pollution prevention plan (SWPPP) (if one had been prepared) and other permit conditions.

There was not a pollution prevention plan prepared in written form available at the site for the inspection and adequate stabilization measures were not being implemented at the site. A SWPPP should include the following:

- Site Description
- Description of interim and permanent stabilization practices (e.g., seeding, mulching, etc.)
- Structural Practices (e.g., silt fences, check dams, sediment traps, earth dikes, subsurface drains, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins, etc.)
- Storm Water Management Controls (e.g., detention or retention structures, vegetated swales, etc.) to be installed during the construction process to reduce pollutants in storm water discharged from the site after construction has been completed
- Description of other controls (e.g., waste disposal, procedures to minimize off-site vehicle tracking, dust control, etc.)
- Maintenance and inspection procedures
- Appropriate certifications
- Address New Mexico condition on sediment yield/flow velocity in Part 9.4.1.1 of the CGP

If not properly managed or treated in accordance with an NPDES permit, the construction activities at this site represent a potential threat to water quality through storm water discharges.

The facility's representative was informed of the requirements under the NPDES storm water program regarding permitting requirements, preparation of a SWPPP, and installation of appropriate storm water runoff control practices (per the SWPPP) during the exit interview conducted with Mr. Farrell on 2-14-2014. Preliminary findings of the inspection were also discussed during the exit interview. The inspector also spoke with Mr. Xavier Pettes (NPDES Project Manager for the City of Rio Rancho) to inform him of the inspection and discuss requirements with him as well.

NMED/SWQB

**Official Photograph Log**

Photo # 1

Photographer: Sarah Holcomb	Date: 2-14-2014	Time: 1112 hours
City/County: Rio Rancho, Sandoval County		
Location: Saratoga Rd. in Rio Rancho		
Subject: Overall view of the construction site. Two residential lots had been cleared for this project, resulting in a disturbance of approximately 1.5 acres.		

