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**NEW MEXICO
ENVIRONMENT DEPARTMENT**

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RYAN FLYNN
Cabinet Secretary
BUTCH TONGATE
Deputy Secretary

Certified Mail - Return Receipt Requested

December 19, 2014

Mr. Sam Blue
P.O. Box 176
Aztec, New Mexico 87410

Re: Sam Blue / Portion of Northeast Corner of 73.73 Acre Parcel, Road 3002, Aztec, New Mexico; Construction Stormwater; NPDES Compliance Evaluation Inspection; NMU001881; December 2, 2014

Dear Mr. Blue:

Enclosed please find a copy of the report for the referenced inspection at construction sites that the New Mexico Environment Department (NMED) conducted 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 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, MS, ET
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 (PSRS)
P.O. Box 5469
Santa Fe, New Mexico 87502

If you have any questions about this inspection report, please contact Erin Trujillo of PSRS staff at 505-827-0418 or at erin.trujillo@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-W) by e-mail
Gladys Gooden-Jackson, USEPA (6EN-WC) by e-mail
Carol Peters-Wagnon, USEPA (6EN-WM) by e-mail
Racquel Douglas, USEPA (6EN-WM) by e-mail
Robert Italiano, NMED District II by e-mail



Form Approved
OMB No. 2040-0003
Approval Expires 7-31-85

NPDES Compliance Inspection Report

Section A: National Data System Coding

Transaction Code	NPDES	yr/mo/day	Inspec. Type	Inspector	Fac Type
1 N 2 5 3 N M U 0 0 1 8 8 1 11 12 1 4 1 2 0 2 17 18 }				19 S 20	2
Remarks					
C O N S T R U C T I O N A C T I V I T Y ≥ 1 A C R E					
Inspection Work Days	Facility Evaluation Rating	BI	QA	Reserved	
67 69	70 2	71 N	72 N	73	74 75 80

Section B: Facility Data

Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number)	Entry Time /Date ~1250 hours / 12/02/2014	Permit Effective Date unpermitted 2012 CGP effective February 16, 2012
Portion of northeast corner of 73.73 acre parcel described as "vacant land," San Juan County Tax ID R4009206, Parcel Number 2065177059058, Road 3002, Aztec, New Mexico, 87410. San Juan County	Exit Time/Date ~1415 hours / 12/02/2014	Permit Expiration Date unpermitted 2012 CGP expires February 16, 2017
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)	Other Facility Data	
see below	Latitude 36.808569° Longitude -108.006308°	
Name, Address of Responsible Official/Title/Phone and Fax Number Mr. Sam Blue, P.O. Box 176, Aztec, New Mexico 87410 / Owner/Operator / 505-330-3620	Yes <input type="checkbox"/> * <input checked="" type="checkbox"/> No <input type="checkbox"/>	SIC (see further explanation)

Section C: Areas Evaluated During Inspection

(S = Satisfactory, M = Marginal, U = Unsatisfactory, N = Not Evaluated)

M	Permit	N	Flow Measurement	N	Operations & Maintenance	N	CSO/SSO
N	Records/Reports	N	Self-Monitoring Program	N	Sludge Handling/Disposal	N	Pollution Prevention
M	Facility Site Review	N	Compliance Schedules	N	Pretreatment	N	Multimedia
N	Effluent/Receiving Waters	N	Laboratory	M	Storm Water	N	Other:

Section D: Summary of Findings/Comments (Attach additional sheets if necessary)

1. A National Pollutant Discharge Elimination System (NPDES) Compliance Evaluation Inspection (CEI) was conducted on a portion the above-referenced parcel following receipt of a complaint that the site was unpermitted and did not have structural sediment or erosion control measures.
2. Sam Blue appeared to be an owner/operator of earth-disturbing activities (clearing) of 1 or more acres on a portion of the above-referenced parcel.
3. On the day of this CEI, Sam Blue had not completed a Stormwater Pollution Prevention Plan and had not submitted a Notice of Intent to obtain permit coverage for stormwater discharges under the USEPA 2012 Construction General Permit (CGP).
4. See attached further explanations and photo log.

Name(s) and Signature(s) of Inspector(s) Erin S. Trujillo /s/Erin S. Trujillo	Agency/Office/Telephone/Fax NMED/SWQB/505-827-0418	Date 12/19/2014
Signature of Management QA Reviewer Bruce J. Yurdin /s/Bruce J. Yurdin	Agency/Office/Telephone/Fax NMED/SWQB/505-827-2798	Date 12/19/2014

Sam Blue
Portion of Northeast Corner of 73.73 Acre Parcel
Road 3002, Aztec, New Mexico
NPDES Tracking No. NM001881
Compliance Evaluation Inspection
December 2, 2014

Further Explanations

Introduction

On December 2, 2014, Erin Trujillo of the New Mexico Environment Department (NMED) Surface Water Quality Bureau (SWQB) conducted a Compliance Evaluation Inspection (CEI) of a portion of the northeast corner of a 73.73 acre parcel owned by Sam Blue, described as “vacant land,” San Juan County Tax ID R4009206, Parcel Number 2065177059058, Road 3002, south of Aztec in San Juan County, New Mexico. This inspection followed NMED SWQB’s receipt of a complaint by telephone of possible unpermitted construction activity and no structural erosion or sediment control measures on November 14, 2014. The complaint indicated that disturbance had started approximately two weeks prior to November 14, 2014.

The purpose of this inspection was to document the site or facility’s status regarding the National Pollutant Discharge Elimination System (NPDES) storm water permit program and storm water regulations found at 40 Code of Federal Regulations (CFR) Section (§) 122.26. Stormwater discharges from construction activities (such as clearing, grading, excavating, and stockpiling) that disturb one or more acres, or smaller sites that are part of a larger common plan of development or sale, are regulated under USEPA’s NPDES stormwater program. Prior to discharging stormwater, construction operators must obtain coverage under an NPDES permit per 40 CFR § 122.26.

Storm water runoff from the site would be to the north-northwest toward a drainageway and dirt access road / Road 3003 that crosses over Lower Animas Ditch. Lower Animas Ditch is an irrigation ditch that crosses beneath tributaries of the Animas River. The site is approximately 0.5 miles south-southwest of Williams Arroyo and approximately one mile south of Animas River in Segment 20.6.4.403 *State of New Mexico Standards for Interstate and Intrastate Surface Waters, 20.6.4 New Mexico Administrative Code (NMAC)*. Williams Arroyo (non-perennial unclassified waters of the state) is subject to Segment 20.6.4.98 NMAC and has designated uses of livestock watering, wildlife habitat, marginal warmwater aquatic life and primary contact. The Animas River (Assessment Unit NM-2403.A_00) from its confluence with the San Juan upstream to Estes Arroyo has the following designated uses: public water supply, industrial water supply, irrigation, livestock watering, wildlife habitat, marginal coldwater aquatic life, primary contact and warmwater aquatic life. Animas River does not support aquatic life and primary contact uses (State of New Mexico Clean Water Act §303(d)/§305(b) Integrated List & Report 2014-2016). Listed causes are nutrient/eutrophication, E. coli bacteria and temperature. Listed probable sources include, but are not limited to, site clearance (new development or infill); illegal dumps or other inappropriate waste disposal; impervious surface/parking lot runoff and urban runoff/storm sewers.

Upon arrival at the site, the inspector did not observe an owner/operator representative at areas that appeared to be recently disturbed on Road 3002. The inspector contacted the property owner, Sam Blue, by telephone. Upon Mr. Blue’s arrival, the inspector made introductions, presented credentials and explained the purpose of the inspection. The inspector and Mr. Blue toured a portion (site) of the northeast corner of a larger 73.73 acre parcel owned by Mr. Blue that appeared to be recently disturbed—vacant land with exposed soils, vehicle tracks, and generally level. The inspector conducted an exit interview on site that included preliminary findings of the inspection.

This report is based on a review of the USEPA online notice of intent (eNOI) database query and available on-line information (e.g., San Juan County Assessor’s Office parcel maps); review of files maintained by NMED; on-site observation by NMED personnel; and verbal information provided by the owner. Additional information provided by Mr. Blue following this inspection is provided as an attachment to this report.

Federal Clean Water Act and NPDES Requirements

Section 301 (a) of the Federal Water Pollution Control Act states “*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.*”

Note: Per 40 CFR § 122.3 (Exclusions) states “*The following discharges do not require NPDES permits: (e) Any introduction of pollutants from non point-source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands....*”

40 CFR § 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.*”

Large construction activity is defined in 40 CFR Part 122.26(b)(14)(x) as “*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 a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more.*”

Beginning on March 10, 2003, 40 CFR § 122.26 (b)(15) states “*Storm water discharge associated with small construction activity means the discharge of storm water from: (i) Construction 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 and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.*”

USEPA Construction General Permit

USEPA Construction General Permit (CGP) was re-issued effective February 16, 2012 (Federal Register/Vol. 77, No. 40/Wednesday, February 29, 2012, pg. 12286) replacing the 2008 CGP which expired on February 15, 2012 which replaced the 2003 CGP. Construction operators intending to seek coverage under USEPA CGP must submit a Notice of Intent (NOI) certifying that they have met the permit’s eligibility conditions and that they will comply with the permit’s effluent limits and other requirements. Permit coverage is required from the “commencement of earth-disturbing activities” until “final stabilization” (see Appendix A Definitions and Part 2.2 of the 2012 CGP). Part 1.4 of the 2012 CGP states, “*...if you have not previously obtained coverage under an NPDES permit, you must submit your NOI immediately.*”

A site-specific storm water pollution prevention plan (SWPPP) is required to be completed prior to submitting a NOI. Among other things, the 2012 CGP requires compliance with effluent limits and other permit requirements, such as the development of a SWPPP, inspection, maintenance, and corrective action. Part 2 of the 2012 CGP (effluent limitations applicable to all discharges from construction sites and/or from construction support activities) includes the following types of requirements: erosion and sediment control requirements (Part 2.1), stabilization requirements (Part 2.2), and pollution prevention requirements (Part 2.3).

Appendix A (Definitions) of the 2012 CGP state:

“Agricultural Land” - cropland, grassland, rangeland, pasture, and other agricultural land, on which agricultural and forest-related products or livestock are produced and resource concerns may be addressed. Agricultural lands include cropped woodland, marshes, incidental areas included in the agricultural operation, and other types of agricultural land used for the production of livestock.

“Earth-Disturbing Activity” or “Land-Disturbing Activity” – actions taken to alter the existing vegetation and/or underlying soil of a site, such as clearing, grading, site preparation (e.g., excavating, cutting, and filling), soil compaction, and movement and stockpiling of top soils.

“Final Stabilization” – on areas not covered by permanent structures, either (1) vegetation has been established, or for arid or semi-arid areas, will be established that provides a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the natural background vegetative cover, or (2) non-vegetative stabilization methods have been implemented to provide effective cover for exposed portions of the site.

“Operator” – for the purpose of this permit and in the context of stormwater discharges associated with construction activity, any party associated with a construction project that meets either of the following two criteria: 1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or 2. The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit). This definition is provided to inform permittees of EPA’s interpretation of how the regulatory definitions of “owner or operator” and “facility or activity” are applied to discharges of stormwater associated with construction activity.

“Site” – for construction activities, the land or water area where earth-disturbing activities take place, including construction support activities.

“Temporary Stabilization” – a condition where exposed soils or disturbed areas are provided a temporary vegetative and/or non-vegetative protective cover to prevent erosion and sediment loss. Temporary stabilization may include temporary seeding, geotextiles, mulches, and other techniques to reduce or eliminate erosion until either final stabilization can be achieved or until further construction activities take place to re-disturb this area.

USEPA Guidance

More information and fact sheets on the CGP, electronic NOI system and SWPPP guidance is available at <http://cfpub.epa.gov/npdes/stormwater/cgp.cfm#final2012cgp>.

USEPA 2003 CGP Fact Sheet at http://water.epa.gov/polwaste/npdes/stormwater/upload/cgp2003_fs.pdf states:

“Common plan” is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot.

USEPA publication EPA-833-R-06-004 “Developing Your Stormwater Pollution Prevention Plan A Guide for Construction Sites” dated May 2007 available on-line at http://www.epa.gov/npdes/pubs/sw_swppp_guide.pdf states *“Generally, permit coverage is not required for activities that are considered routine maintenance, such as landscaping, road maintenance, and maintaining stormwater BMPs.”*

USEPA 2003 CGP Fact Sheet states construction *“does not include routine earth disturbing activities that are part of the normal day-to-day operation of a completed facility (e.g., daily cover for landfills, maintenance of gravel roads or parking areas, landscape maintenance, etc). Also, it does not include activities under a State or Federal reclamation program to return an abandoned property into an agricultural or open land use.”*

USEPA 2003 CGP Fact Sheet also states *“If all of the storm water from the construction activity is captured on-site and allowed to evaporate, soak into the ground on-site, or is used for irrigation, you do not need coverage under*

this permit. Under the Clean Water Act, it is illegal to have a point source discharge of pollutants to a water of the United States that is not authorized by a permit. If there is a potential for a discharge, you need to apply for coverage under this permit. Many local governments have separate requirements for soil and erosion control from construction projects. There maybe other federal, state, tribal, or local requirements concerning discharges to ground water or impoundment of runoff (e.g., water rights)."

Site Observations/History/Area of Disturbance

The recently disturbed area (site) in the northeast corner of the 73.73 acre parcel west of Road 3002, Aztec, New Mexico (see Site Location Map below) is located south of a single family residence on a separate 2.78 acre parcel also owned by Mr. Blue. Mr. Blue indicated that the site was not agricultural land on the day of this CEI. Dirt access roads on site and the larger 73.73 acre parcel were associated with field activities or operations associated with oil and gas exploration.

Based on information from Mr. Blue and aerial images, the site had been previously disturbed (see images of on-line San Juan County Assessor's Office Parcel Map Imagery, Aerial Images #1 and #2 below). Mr. Blue indicated that the recent earth disturbance in a portion of the northeast corner of the 73.73 acre parcel was for the purpose of removing invasive weed species, trash and debris, minimize potential for trespassing and illegal activity, and for fire suppression. Mr. Blue indicated that the recent earth disturbance was conducted by other parties with his knowledge. Brush clearing or cutting, and land clearing are establishment and contractor activities described in Standard Industrial Classification (SIC) 1629 (Heavy Construction, Not Elsewhere Classified).

Recent disturbance of the site was not surveyed. ArcMap measurement tools were used to estimate that the area of recent disturbance (see Aerial Images #3 thru #5 below) was greater than 1 acre. Dirt access roads on or adjacent to the site, and field activities or operations associated with oil and gas exploration on the remaining portion of the 73.73 acre parcel were not included in this CEI or estimates of disturbance.

Available On-Line Precipitation Information

Precipitation was recorded at weather station KNMAZTEC5, Aztec, NM 87410 (Latitude 36.82°, Longitude - 107.99°, Elevation 5682 feet (Source: Weather Underground at <http://www.wunderground.com>) for the following dates from October 1, 2014 (approximately two weeks prior to November 14, 2014) to the date of this CEI:

11/01/2014	0.02 inches
11/02/2014	0.20 inches
11/03/2014	0.01 inches
11/14/2014	0.18 inches
11/15/2014	0.03 inches
11/16/2014	0.04 inches
11/22/2014	0.02 inches

Following this inspection on 12/04/2014, precipitation greater than 0.25 inches was recorded at weather station KNMAZTEC5 (0.50 inches).

Findings

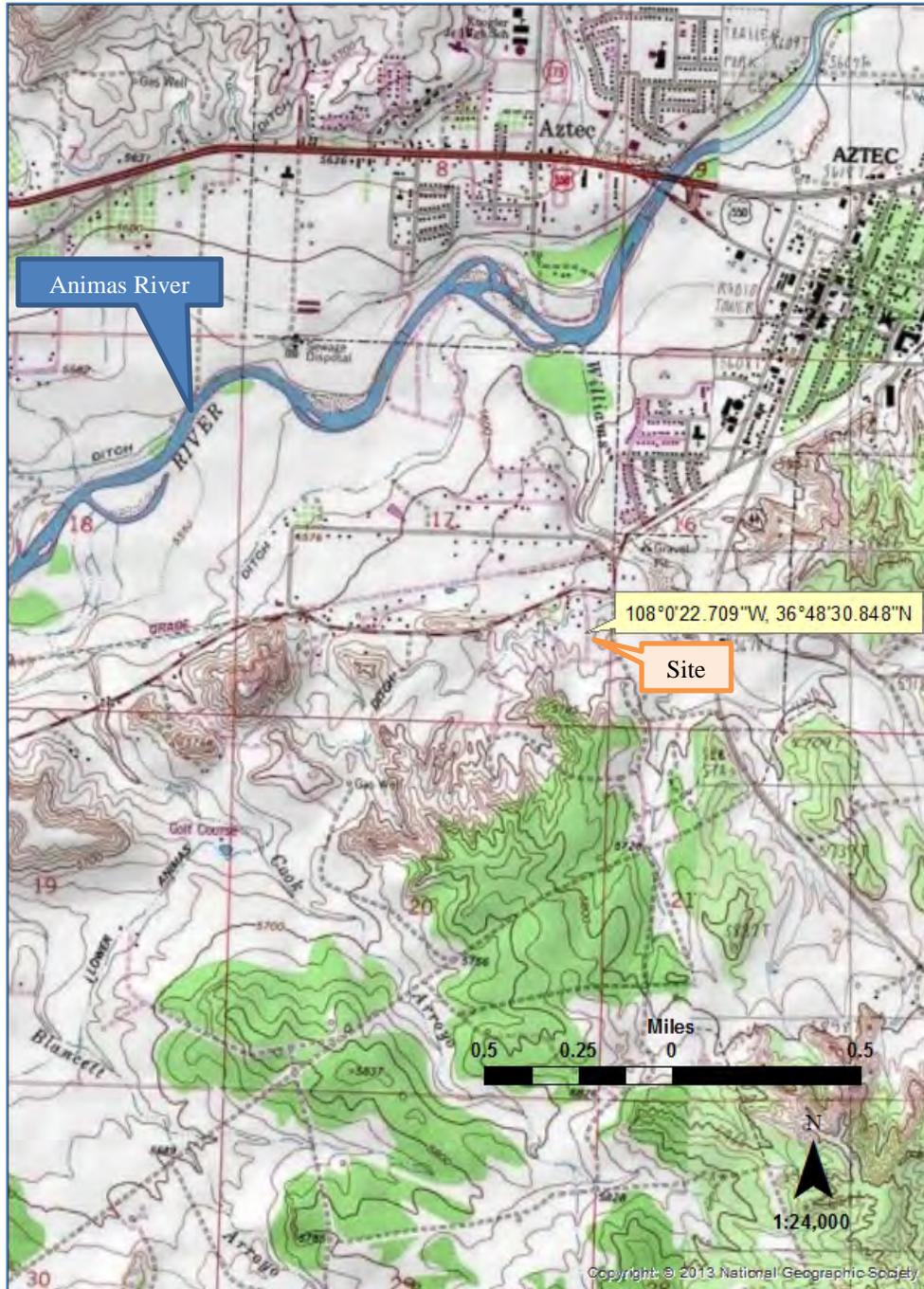
On the day of this CEI, vegetation and underlying soil appeared recently disturbed (cleared) on a portion of the northeast corner of a 73.73 acre parcel on Road 3002, Aztec, New Mexico. Mr. Blue is a property owner who appears to meet one or both of the definitions of "Operator" for construction activity (earth-disturbing or land-disturbing activity) of one (1) or more acres.

Mr. Blue had not completed or prepared a SWPPP in written form and had not submitted a NOI to obtain permit coverage for stormwater discharges under the USEPA 2012 CGP on the day of this CEI.

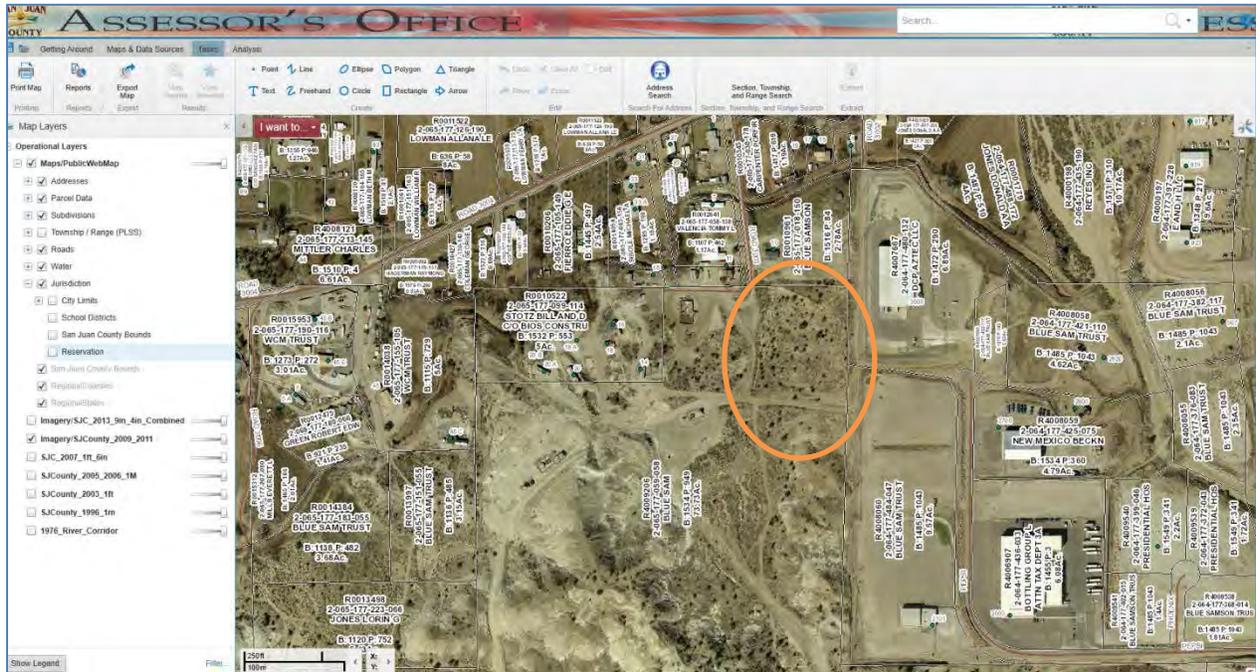
Note: Mr. Blue indicated that he was unaware that an NPDES permit was required for stormwater discharges from the earth disturbance conducted on site.

No stabilization control measures to minimize discharge of potential pollutant sources was observed on the site on the day of this CEI. The generally level disturbed area on much of the site observed on the day of this CEI may provide temporary stormwater control to spread stormwater flow uniformly over the ground surface as sheet flow to prevent concentrated, erosive flows from occurring (see Appendix A, Definition for Level Spreader, 2012 CGP). Mr. Blue's e-mail dated 12/10/2014 describes a built *“horse shoe shaped berm down stream that will now capture and hold that watershed in a controlled fashion then allowing natural evaporation.”*

Site Location Map

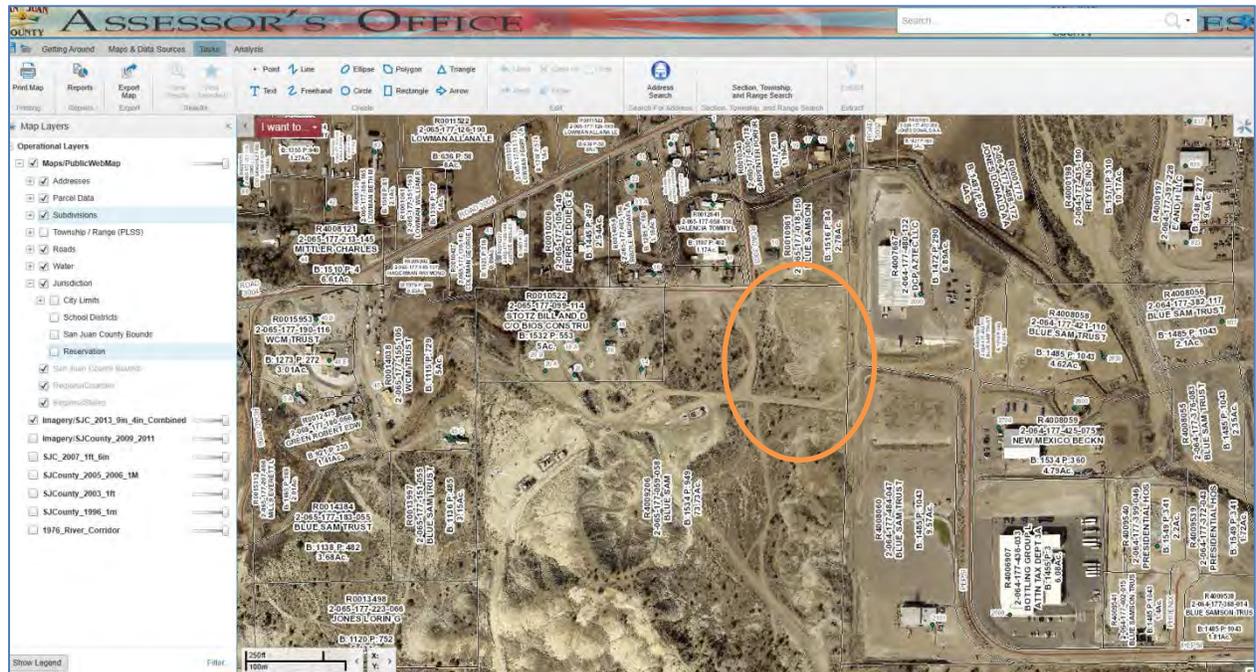


Aerial Image #1: San Juan County Assessor's Office Parcel Map Imagery Labeled 2009 to 2011



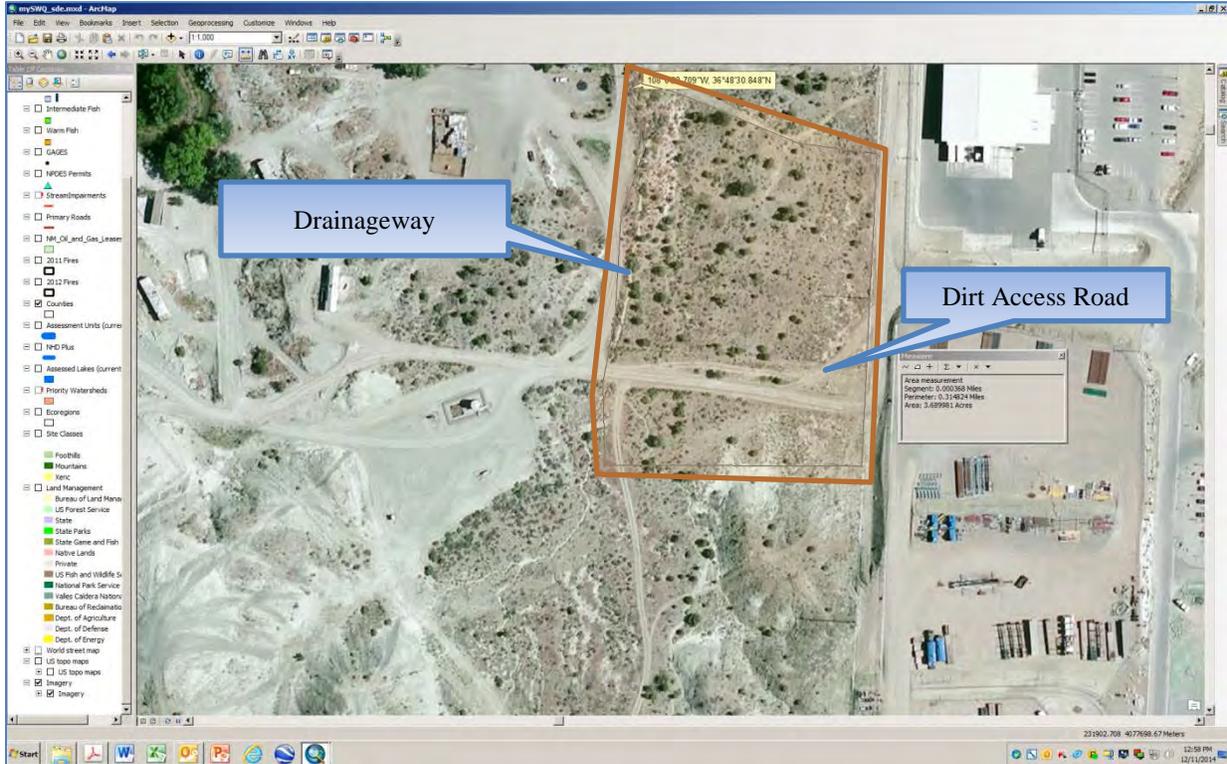
Notes: San Juan County Assessor's Office imagery labeled 2009_2011 shows scattered vegetation in northeast corner of the 73.73 acre parcel owned by Sam Blue at Road 3002, Aztec, New Mexico 87410.

Aerial Image 2: San Juan County Assessor's Office Parcel Map Imagery Labeled 2013



Notes: San Juan County Assessor's Office imagery labeled 2013 shows disturbance in the northeast corner of the 73.73 acre parcel owned by Sam Blue at Road 3002, Aztec, New Mexico 87410.

Aerial Image #3: General Area



Note: ArcMap measurement tool (thin line inside highlighted area) was used to estimate the general area of the northeast corner of the 73.73 acre parcel (approximately 3.7 acres).

Aerial Image #4: General Area of Site Disturbance, North of Dirt Access Road > 1 acre on day of this CEI



Note: ArcMap measurement tool (thin line inside highlighted area) was used to show an approximate 1 acre area. More than 1 acre was observed to be disturbed on the day of this CEI.

Aerial Image 5: General Area of Site Disturbance, South of Dirt Access Road ~ 0.6 acres on day of this CEI



Note: ArcMap measurement tool (thin line inside highlighted area) was used to estimate that approximately 0.6 acres south of the access road was observed to be disturbed on the day of this CEI.

NMED/SWQB Official Photograph Log Photo # 1		
Photographer: Erin S. Trujillo	Date: 12/02/2014	Time: 1344 hours (adj. to standard time)
City/County: South of Aztec / San Juan County		State: New Mexico
Location: Property Owned by Sam Blue / Portion of Northeast Corner of 73.73 Acre Parcel, Road 3002, Aztec, New Mexico 87410		
Subject: Looking west from dirt road 3002, northern boundary of site was generally level with vehicle tracks and no vegetation. Slope on right side of photo, had some vegetation and did not appear to be recently disturbed.		

Generally level ground surface with vehicle tracks



Slope with scattered vegetation

NMED/SWQB Official Photograph Log Photo # 2		
Photographer: Erin S. Trujillo	Date: 12/02/2014	Time: 1346 hours (adj. to standard time)
City/County: South of Aztec / San Juan County		State: New Mexico
Location: Property Owned by Sam Blue / Portion of Northeast Corner of 73.73 Acre Parcel, Road 3002, Aztec, New Mexico 87410		
Subject: Looking west from dirt road 3002 (south of previous photo), site is generally level with vehicle tracks and no vegetation. Vegetation remained along Road 3002 and utility pole.		

Generally level ground surface with vehicle tracks



Remaining vegetation along Road 3002 and above-ground utility pole

NMED/SWQB Official Photograph Log Photo # 3		
Photographer: Erin S. Trujillo	Date: 12/02/2014	Time: 1347 hours (adj. to standard time)
City/County: South of Aztec / San Juan County		State: New Mexico
Location: Property Owned by Sam Blue / Portion of Northeast Corner of 73.73 Acre Parcel, Road 3002, Aztec, New Mexico 87410		
Subject: Looking south from Road 3002 at south portion of site. Arrow points to extent of area that appeared recently disturbed.		



Dirt access road shown on aerial image 3 above

NMED/SWQB Official Photograph Log Photo # 4		
Photographer: Erin S. Trujillo	Date: 12/02/2014	Time: 1350 hours (adj. to standard time)
City/County: South of Aztec / San Juan County		State: New Mexico
Location: Property Owned by Sam Blue / Portion of Northeast Corner of 73.73 Acre Parcel, Road 3002, Aztec, New Mexico 87410		
Subject: Looking north at drainageway. East of drainageway, vegetation and soil appeared recently disturbed (cleared).		



Dirt access road along west boundary of site to Road 3003

Drainageway

Vehicle tracks in area east of drainageway

NMED/SWQB Official Photograph Log Photo # 5		
Photographer: Erin S. Trujillo	Date: 12/02/2014	Time: 1351 hours (adj. to standard time)
City/County: South of Aztec / San Juan County		State: New Mexico
Location: Property Owned by Sam Blue / Portion of Northeast Corner of 73.73 Acre Parcel, Road 3002, Aztec, New Mexico 87410		
Subject: Looking south from dirt access road at recent disturbance. Dirt access road outside recently disturbed area is in background of photo.		

Dirt access road outside recently disturbed site



Generally level ground surface with vehicle tracks

NMED/SWQB Official Photograph Log Photo # 6		
Photographer: Erin S. Trujillo	Date: 12/02/2014	Time: 1351 hours (adj. to standard time)
City/County: South of Aztec / San Juan County		State: New Mexico
Location: Property Owned by Sam Blue / Portion of Northeast Corner of 73.73 Acre Parcel, Road 3002, Aztec, New Mexico 87410		
Subject: From dirt access road, inlet for culvert crossing for drainageway. Culvert outlet area is shown in Photo #4.		



Attachment

From: [Sam Blue](#)
To: [Trujillo, Erin S, NMENV](#)
Cc: ["Doug Mize"](#); dex.lewis@soudermiller.com; [Pat Simpson](#); [Mayor Sally Burbridge](#)
Subject: FW: NMED reconsiders finding & supporting documentation
Date: Wednesday, December 10, 2014 6:24:17 PM
Attachments: [NMED map under 1 ac.pdf](#)
[NMED Map notes under 1 ac.pdf](#)
[SJC 1st notice violation CR 3002.pdf](#)

From: Sam Blue [mailto:acedevelopment@qwestoffice.net]
Sent: Wednesday, December 10, 2014 5:57 PM
To: 'erin.trujillo@state.nm.us'
Cc: 'Doug Mize'; 'dex.lewis@soudermiller.com'; Pat Simpson (patricia@simpsonlawoffice.com); Mayor Sally Burbridge (sburbridge@gpotential.com)
Subject: NMED reconsiders finding & supporting documentation

Mrs. Erin Trujillo

In response to your initial visit and follow up call that you would keep me posted as to your preliminary finding is my response and additional documentation. I will attempt to recap our communications, the main issue at hand our position, requests and feasible remedy so all the parties are on the same page. I will in advance advise you that my adamant position that we are currently compliant is not to be confrontational or uncooperative. I am simply providing supporting information as I believe the facts to be. With that said we acknowledge that your recommendation and advice is the path of least resistance and based on good faith efforts I am going to have SMA and legal to file for a SWP3 immediately.

In your further evaluation & joint cooperation we hope NMED will reconsider that there should not be a derogatory finding submitted to the EPA/ Federal side for their review. This request for further consideration is based on the above first two attachments. When you lay a grid over the area in question and subtract the surface area that has an extensive history of prior surface alterations we are well under the 1 acre regulation. Please look over the map I submitted and more importantly refer to the PDF file labeled " NMED notes under 1 ac. " When you subtract out the items numbered 1 to 4 you will see this property prior to my ownership had been grossly violated by the public for several years. Also attached is photographic evidence that will support my notes. I understand and don't criticize your cursory impression based on a Google earth image but implore you to base your calculation using the "Physical on site" documentation as the most accurate method & source. The above 3rd attachment is 2nd party documentation that the area in question had surface disturbance as I have tried to articulate & diagram. Please keep in mind and consider that you can have extensive surface disturbance that is almost immediately camouflage by fast growing and thick invasive vegetation such as tumble weeds and so forth. Also refer to the exhibit picture labeled "NMED 6 Dig Pit" you will see there is a gouging of the earth to remove soil, erosion takes place and then medium sized rabbit brush matures in the erosion line this would mask the previous surface disturbance prior to my ownership.

Speaking of prior ownership this land was obtained from the BLM and was determined to be in gross neglect for the above cited conditions I have described therefore being land that the BLM wanted to

dispose of. This was determined by a physical onsite inspection by senior officials and then recommend to eliminate from their inventory due to it being a "public nuisance property" as I best recall the terminology. As you may know it's extremely rare if not unprecedented for the sale of public lands unless there was substantial issues. Also the map provided that has an area labeled number 5 proposed trail ARTS (Aztec Recreational Trail Systems) is a City of Aztec project where we are going to grant easement and or deed property to the city for public usage contingent the area is restored to something safe/ presentable. This last point once again being three agencies (BLM, County & City of Aztec) independently would be parallel with my reporting of the preexisting sites condition. Once again I understand your interpretation based on Google aerials can present a reasonable argument at first impression but please give considerable weight to the sources, and info provided that suggest otherwise. Also to factor in is the immediate public safety issue (see 3rd attachment) i.e. hypodermic needles, piercing rebar sticking up, gas containers and endless glass/ metal shards. (see pictures 1 to 6)

While controversial issues are generally not well received news I greatly appreciate how sincere, professional and patient you where upon your field visit and follow up call. This was paramount in me understanding the issues at hand, submitting my follow up and offering resolution. Please advise me if we can close this matter with NMED as I have requested and believe my documents/ notes justifies to do so. Feel to call or email if you have any question or need additional clarification. Once again your patience, fairness for **all** parties and guidance has been helpful & very appreciated.

Respectfully Submitted,

Sam Blue
505-330-3620

From: Dex Lewis [<mailto:dex.lewis@soudermiller.com>]
Sent: Tuesday, December 2, 2014 1:48 PM
To: 'Sam Blue'
Subject: New Mexico Environmental Department Surface Water Quality Bureau

Hello Sam,

Erin Trujillo with the Surface Water Quality Bureau NMED called and left a voice mail for me. She indicated she would like you to contact her. She left the following numbers 505-827-0418 and 505-670-6135. She also indicated she is working on a project on County Road 3002, that is pretty much all the information that she provided.

Thanks,
Dex

Dex Lewis
Project Engineer
Souder, Miller & Associates
401 Broadway Ave.
Farmington, NM 87401
(505) 325-7535-P
(505) 326-0045-F
dex.lewis@soudermiller.com

From: [Sam Blue](#)
To: [Trujillo, Erin S. \(NMEM\)](#)
Cc: ["Doug Mize"](#); dex.lewis@soudermiller.com; Mayor Sally Burbridge; [Pat Simpson](#)
Subject: FW: SMA update & assistant fund inquiry
Date: Wednesday, December 10, 2014 9:38:14 PM

From: Sam Blue [mailto:acedevelopment@qwestoffice.net]
Sent: Wednesday, December 10, 2014 9:19 PM
To: 'erin.trujillo@state.nm.us'
Cc: 'Doug Mize'; 'dex.lewis@soudermiller.com'; Mayor Sally Burbridge (sburbridge@gpotential.com); Pat Simpson (patricia@simpsonlawoffice.com)
Subject: SMA update & assistant fund inquiry

Mrs. Trujillo

I meet with SMA representative Dex Lewis today at 2pm and gave verbal authorization to file for a SWP3. As you pointed out even if the site was determined not to need one & compliant "now" it would be wise long term planning to do so anyways. In retrospect I believe that is the best thing to do as we don't want to be stressed, burden our self's or any other agencies (such as yours) every time there is an inquiry as to my activities. Additionally to address your most significant field observation and comment being: the culvert area and low topography running North would probably be a substantial source of water flow that needs to be managed. To mitigate this we built a horse shoe shaped berm down stream that will now capture and hold that water shed in a controlled fashion then allowing natural evaporation.

Not to overstate our defense but this is a perfect example of the pre existing conditions we inherited prior to any of our activity. This comment is based on the fact that the subject property in question had ATV paths that acted as ditches funneling precipitation North to the resident that is labeled number 7 in the previously provided map. These trails and water shed problem have been present for at least 10 years as the long term resident in house 7 confided to me. Once again we feel this type of witness statement and on ground visual knowledge should prevail and be more accurate than less detailed Google earth images.

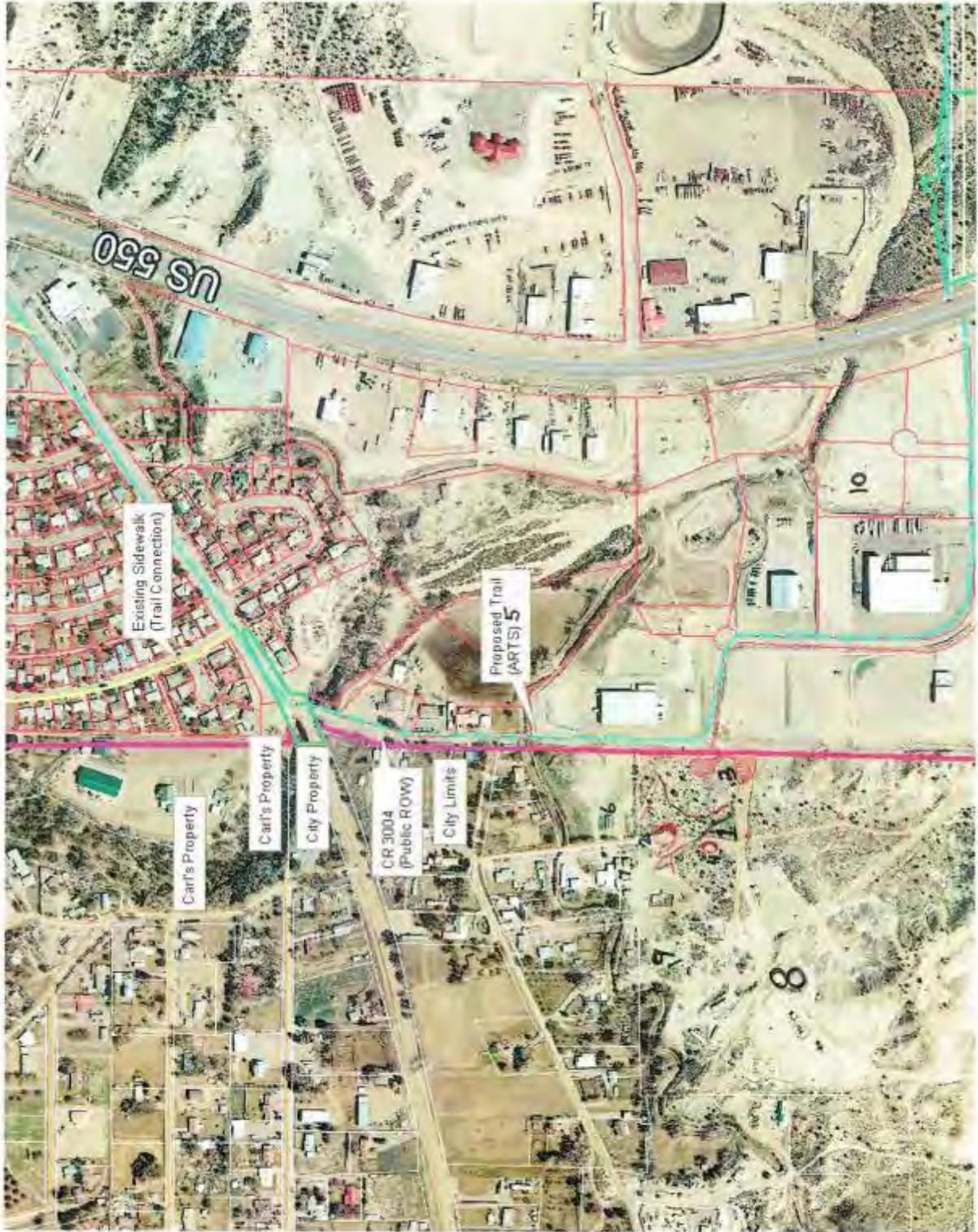
On a second topic you previously asked if we has received any grants or funds from BLM due to the conditions and issues of the property and I replied "no" during that conversation. I know there's funds available to assist people who inherit such issues typically associated with gas stations and they were not the owner- operators. Since this is your general field of knowledge and expertise do you know if there is any similar funds or programs available for a scenario such as the one I inherited from BLM ?? and if so could we get you assistance, contact info or point us in the right direction?? For your assurance we intend to continue forward with the associated expenses and course of remedy regardless but any assistance will be appreciated.

I hope the update and proactive steps recently taken helps your agency in the decision making process to close this matter with NMED.

Sincerely,

Sam Blue

505-330-3620



1



THE SUBJECT PROPERTY SURFACE SCARRED WITH ATV/MOTORCYCLE TRAILS
ACTING AS A DITCH & CAUSING ALL WATER SHEED TO TARGET MY HOUSE
AND THE NEIGHBORS

2



THE SUBJECT PROPERTY DIG PIT & RACKING OF TOP SOIL
THIS MINING INTO THE PROPERTY LEFT A SWAMP LIKE/DAMP AREA
THAT OMITED A ROTTEN SMELL

3



THE SURFACE AREA REMOVED OF TREES
THE SURFACE AREA ALTERED VIA CAMP & TRASH FIRES
THE SURFACE AREA CONTAMINATED W/ DISCARDED OIL

4



THE SURFACE STRIPPED OF TOP SOIL & A DEEP DIG PIT
SEVERAL OTHER PIT LOCATION APPEAR TO BE TRANSIATE
SHELTERS ALONG W/ HYPERDERMIC NEEDLES & CAMPFIRE REMNATS



Kim Carpenter
County Executive Officer

Mike Stark
County Operations Officer

Linda Thompson
Assistant CEO for
Project Development/Finance



Larry Hathaway
General Services/
Community Development
Administrator

**COMMUNITY DEVELOPMENT
CODE COMPLIANCE**

209 South Oliver Drive
Aztec, New Mexico 87410
Phone: 505-333-3130; Fax: 505-334-4561
www.sjcounty.net

NOTICE OF VIOLATION

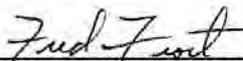
October 2, 2013

Sam Blue
Post Office Box 176
Aztec, New Mexico 87410

Dear Mr. Blue:

1. You are hereby notified that you are in violation of the San Juan County Code:
 - **#72.4: JUNK, JUNKED VEHICLES AND HOMES GENERALLY**
 - **#73: TRASH AND REFUSE DISPOSAL**
2. Ordinances #72.4 and #73 to be corrected no later than **November 4, 2013**
3. It is requested that you comply with San Juan County Ordinance(s):
 - **BY REMOVING ALL JUNK, JUNKED VEHICLES OR JUNK MOBILE HOMES FROM PROPERTY OR SCREEN FROM VIEW (refer to ordinance for details)**
 - **BY REMOVING ALL REFUSE, LITTER, SOLID WASTE AND GARBAGE FROM PROPERTY**
4. The property upon which this violation is occurring is located at **Road 3002; Aztec, NM; Parcel # 2-065-177-059-058.**
5. If you are unable to correct this matter in the allotted time, please contact me at 505-333-3130 (office) or 505-320-2352 (cell phone) to see if you meet the criteria for assistance.
6. Further information is available regarding the Ordinances on our website at www.sjcounty.net

Thank you for your cooperation in this matter.


Fred Frost, Code Compliance Officer

Enclosure: Brochure