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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

August 7, 2015

Mr. Robert E. Rivera, President
Robert Rivera Construction Company
HCR 69, Box 735
Santa Rosa, New Mexico 88435

RE: Robert Rivera Construction Company; Industrial Permit; SIC 1442 & 1373; NPDES Compliance Evaluation Inspection; NPDES NMU001897; July 7, 2015

Dear Mr. Rivera:

Enclosed please find a copy of the report 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.

Problems noted during this inspection are listed in the inspection report. You are encouraged to review the inspection report, required to correct any problems noted during the inspection, and 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 above) in writing within 30 days from the date of this letter. Further, notify in writing both USEPA (Racquel Douglas, USEPA (6EN), 1445 Ross Ave., Dallas, Texas, 75202), NMED regarding modifications and compliance schedules.

If you have any questions about this inspection report, please contact Daniel Valenta at 505-827-2575 or at daniel.valenta@state.nm.us.

Sincerely,

/s/Bruce 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
Darlene Whitten-Hill, USEPA (6EN) by e-mail
NMED District I, William Chavez by e-mail

**Multi-Sector General Permit
Compliance Evaluation Inspection
NPDES Permit NMU001897
Inspection Date: July 7, 2015**

Further Explanations

Introduction

On July 7, 2015, a Compliance Evaluation Inspection (CEI) was conducted at the Robert E. Rivera Construction Company owned and run by Mr. Robert E. Rivera. This inspection was prompted by a review of facilities operating along the Pecos River in the Santa Rosa area. The site inspection was conducted by Mr. Daniel Valenta, Ms. Erin Trujillo, and Intern Ms. Mariah Baldonado of the Surface Water Quality Bureau (SWQB) New Mexico Environmental Department (NMED). The purpose of this inspection was to document the facility's status regarding the National Pollutant Discharge Elimination System (NPDES) permit requirements for "stormwater discharges associated with industrial activity" under 40 Code of Federal Regulations (CFR) 122.26(b) (14).

The site has industrial activities being conducted that meet the descriptions in Sector J (Mineral Mining and Dressing) Section E (Glass, Clay, Cement and Gypsum Products) and Sector D (Asphalt Paving and Roofing Materials and Lubricants) of the 2015 Multi-Sector General Permit (MSGP) effective on June 4, 2015 and expiring at midnight on June 4, 2020. Additional information from the U.S. Environmental Protection Agency (USEPA) on the MSGP is available at:

<http://water.epa.gov/polwaste/npdes/stormwater/EPA-Multi-Sector-General-Permit-MSGP.cfm>

This CEI report is based on on-site observation by NMED personnel and verbal information provided by Mr. Rivera. The site is located approximately 1 mile northwest of Santa Rosa along the Pecos River in Segment 20.6.4.211 of the Pecos River Basin. *State of New Mexico Standards for Interstate and Intrastate Surface Waters, 20.6.4 New Mexico Administrative Code (NMAC)*. This segment includes the designated uses of fish culture, irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and primary contact.

An entrance interview was conducted at the facility office with Mr. Robert Rivera at approximately 1135 hours on July 7, 2015. Mr. Valenta, Lead Inspector, presented credentials and discussed the purpose of the inspection. The inspectors and Mr. Rivera toured part of the site. Upon completion an exit interview to discuss the preliminary findings of this inspection was conducted with Mr. Rivera at the facility office. The Inspectors left the site at approximately 1500 hours on July 7, 2015.

Background

Industrial stormwater has been regulated since the promulgation of EPA's 1990 stormwater regulations, which established NPDES permit requirements for "stormwater discharges associated with industrial activity." EPA issued the first MSGP for stormwater discharges associated with industrial activity on Sept. 29, 1995, and reissued in 2000, 2008, and 2015.

Common requirements for coverage under an industrial stormwater permit include development of a written stormwater pollution prevention plan (SWPPP), implementation of control measures, and submittal of a request for permit coverage, usually referred to as the Notice of Intent or NOI. The SWPPP is a written assessment of potential sources of pollutants in stormwater runoff and control measures that will be implemented at your facility to minimize the discharge of these pollutants in runoff from the site.

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These control measures include site-specific best management practices (BMPs), maintenance plans, inspections, employee training, and reporting. The procedures detailed in the SWPPP must be implemented by the facility and updated as necessary, with a copy of the SWPPP kept on-site. The industrial stormwater permit also requires collection of visual, analytical, and/or compliance monitoring data to determine the effectiveness of implemented BMPs.

A SWPPP should include such things as:

- A description of potential pollutant sources-including a site map, an identification of the types of pollutants that are likely to be present in stormwater discharges, an inventory of the type of materials handles at the site that potentially may be exposed to precipitation, a list of significant spills and leaks of toxic or hazardous pollutants, sampling data, a narrative description of the potential pollutant sources from site activities and identification of specific potential pollutants; and
- A description of appropriate measures and controls – includes the type and location of existing and proposed non-structural and structural best management practices (BMPs) selected for each of the areas where industrial materials or activities are exposed to stormwater. Non-structural and structural BMP's to be described and implemented include such things as good housekeeping, preventive maintenance, spill prevention and response procedures, employee training, record keeping, non-stormwater evaluations and certifications, sediment and erosion controls, as well as implementation/maintenance of traditional stormwater management practices, where appropriate.

Finding

- *Section 301 (a) of the Federal Water Pollution Control Act (a.k.a. Clean Water Act) states that “Except as in compliance with this section and sections 302, 206, 207, 318, 402 and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.”*
- *40 Code of Federal Regulations Part 122.21 (a) Duty of 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.*

When questioned about having a MSGP Mr. Rivera knew about the permit and had in 2003 hired a consultant, INJ, LLC to prepare a SWPPP for the facility. An NOI was submitted February 10, 2003, certified by Robert E. Rivera, (see Attachment 1). Monitoring reports were submitted to the EPA per personnel letter dated November 17, 2005(see Attachment 2). It appears Mr. Rivera was aware of the required permit and the need for Routine Inspections and Quarterly Reports. The 2003 SWPPP was reviewed. It did not reflect changes at the facility and operating procedures (see photo 13). No permit coverage was obtained under the 2008 MSGP nor has he prepared to obtain coverage under the 2015 MSGP. The deadline for filing an NOI is September 2, 2015.

The inspection primarily focused on what appeared to be two sites where discharges had and were occurring to unnamed arroyos that discharge into the Pecos River. It appears at the time of the inspection that both of these areas are potentially ongoing sources of stream pollution. The site also contained an inactive asphalt plant, (see photo 12).

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1. Concrete washout area, N 34° 57' 03.58", W 104° 42' 22.90". A road from the asphalt plant goes to an unnamed arroyo which discharges to the Pecos River. This appears to be where cement trucks are discharging unused concrete and wash out water. Google earth was used to determine an approximate timeline of the activity occurring at the site. It appears the area was not in use in August 2009 but was by August 2011. See attached Google Earth Overviews.

While the Inspectors were at the site two cement trucks pulled up, one backed in and began to discharge. When the driver saw us taking pictures he made a phone call, stopped discharging and left. The second truck just circled and left. The site was still being used as of the date of this inspection. The Inspector followed the white discharge down the arroyo to the bottom where it drops into sand/gravel along the river. See attached photos detailing the area.

2. Stormwater sediment discharge, N 34° 57' 11.04", W 104° 42' 12.36". The facility has a sand/gravel wash area. Water is sprayed over these materials and flows into a settling area divided up into three interconnected basins. At the site no berms or other BMPs were present to deter or limit stormwater discharges to the arroyo. See Google Overview and Photos 9-11. At this time there is an inactive sand/gravel quarry next to the washing operation. This property does not belong to Mr. Rivera. The area did not appear to have any BMPs in place.

Attachment 1

2008 Industrial Multi-Sector General Permit Notice of Intent Details

Details for NMR05B220

General Information

Date Submitted: 02/10/2003

Current Status: Expired

Permit Type: MSGP

Operator Information

Name: ROBERT RIVERA CONSTRUCTION CO

Street: HCR 69 BOX 735

Street 2: N/A

City: SANTA ROSA

State: NM

Zip Code: 88435

Phone Number: 505-472-3891

IRS EIN: N/A

Email: N/A

Fax: N/A

Project / Facility Information

Project / Site Name: RIVERA CONSTRUCTION CO PLANTS

Street: HCR 69 BOX 735

Street 2: N/A

City: SANTA ROSA

State: NM

County: Guadalupe

Zip Code: 88435

Latitude / Longitude Type: Degrees/Minutes/Seconds

Latitude: 34,57,11

Longitude: 104,42,43

Latitude / Longitude Source: MSGP Migration, No Method Specified

If you used a USGS topographic map, what was the scale? N/A

Is your facility located on Indian Country Lands? N/A

Reservation Name: N/A

Is this a federal facility? No

Have stormwater discharges from your site been covered previously under an NPDES permit? N/A

Estimated area of industrial activity at your site exposed to stormwater (acres): N/A

Discharge Information

Does your facility discharge into a Municipal Separate Storm Sewer System (MS4)? No
 If yes, name of MS4 Operator: N/A
 Primary SIC Code: 2951
 Primary Activity Code: N/A
 Is the site presently inactive and unstaffed? N/A
 If yes, is your site expected to be inactive and unstaffed for the entire permit term? N/A
 If "no," indicate the length of time that you expect your facility to be inactive and unstaffed: N/A

The sector(s) or industrial activity, including co-located industrial activity, for which you are requesting permit coverage:

Receiving water(s):

What is the name(s) of your receiving water(s) that receive stormwater directly and/or through an MS4?	Are any of your discharges directly into any segment of an "impaired" water?	What pollutant(s) are causing the impairment?	Are those pollutants present in your discharge?	Has a TMDL been completed for the pollutant(s) causing the impairment?
BLANK				

Water Quality Standards (for new dischargers only)

Are any of your discharges into any portion of a receiving water designated by the state or tribal authority under its antidegradation policy as a Tier 2 (or Tier 2.5) water? N/A
 Has the receiving water(s) been designated by the state or tribal authority under its antidegradation policy as a Tier 3 water? N/A

Federal Effluent Limitation Guidelines and Sector-Specific Requirements

If you are a Sector S (Air Transportation) facility, do you anticipate using more than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average annual basis? N/A

Which effluent limitation guidelines apply to your stormwater discharges?

40 CFR Part/Subpart	Eligible Discharges	Affected MSGP Sector
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SWPPP Contact Information

SWPPP Point of Contact: Robert E Rivera
 Phone: N/A
 Email: N/A

Historic Preservation

Using the instructions in Appendix F of the MSGP, under which criterion listed in Part 1.1.46 are you eligible for coverage under this permit? N/A

Endangered Species Protection

Under which criterion are you eligible for coverage under this permit?
 - N/A

Certification Information

Name: Robert E Rivera
 Title: N/A
 Email: N/A
 Certification Date: 02/10/2003

Correspondence Documents

Attachment 2

Robert E.
Rivera
Construction, Inc.

November 17, 2005

U.S. EPA
MASP-DMR
Mail Code: 4203M
1200 Pennsylvania Ave. NW
Washington, DC 20460

FACILITY : Rivera Construction Co. Plants
PERMIT NO.: NMR05B220

Enclosed you will find the monitoring reports for this permit. The permit was issued on March 4, 2003. We have had minimal activity at the Asphalt plant and the Crusher Plant is not on site. Enclosed are:

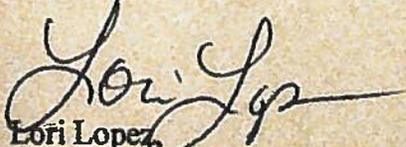
SWPPP Routine Inspection Summary dated August 25, 2003
October 14, 2003
November 26, 2003
April 04, 2004
August 08, 2004

Quarterly Report dated August 26, 2003
November 30, 2003
March 31, 2004
May 10, 2004
September 04, 2004

SWPPP Annual Report dated August 25, 2004

Please contact me, if additional information is required.

Sincerely,


Lori Lopez
Quality Control Manager

**NMED/SWQB
Official Photograph Log**

Photo # 1

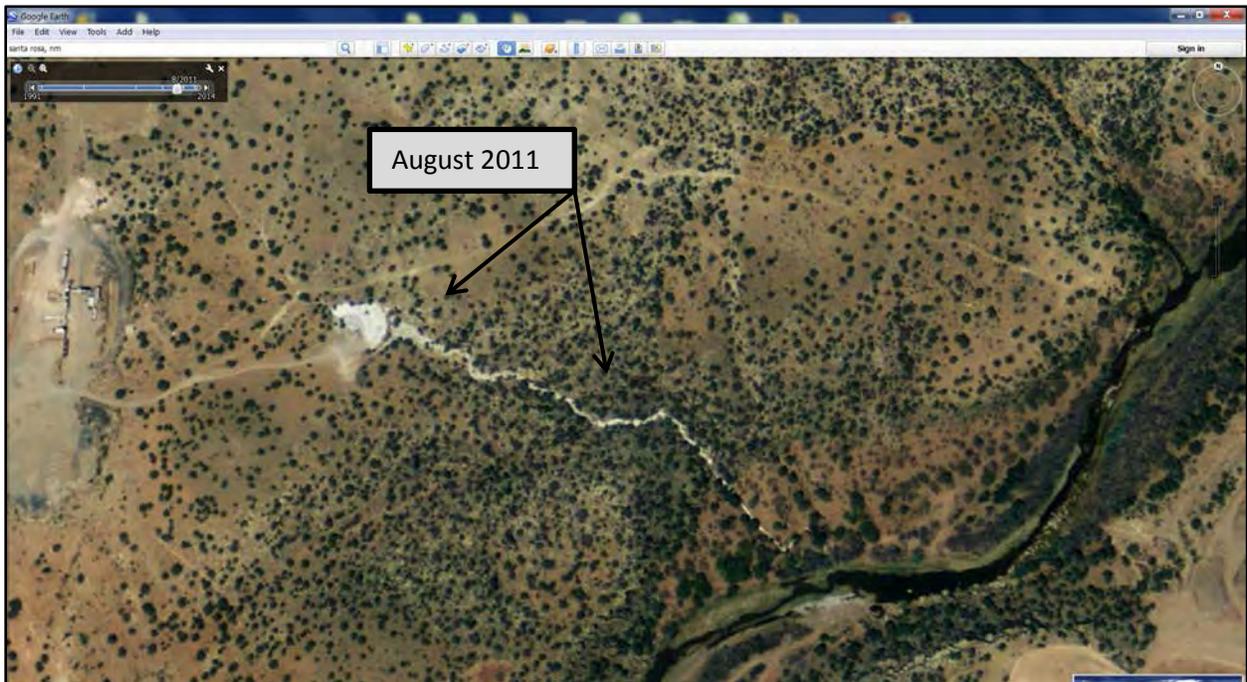
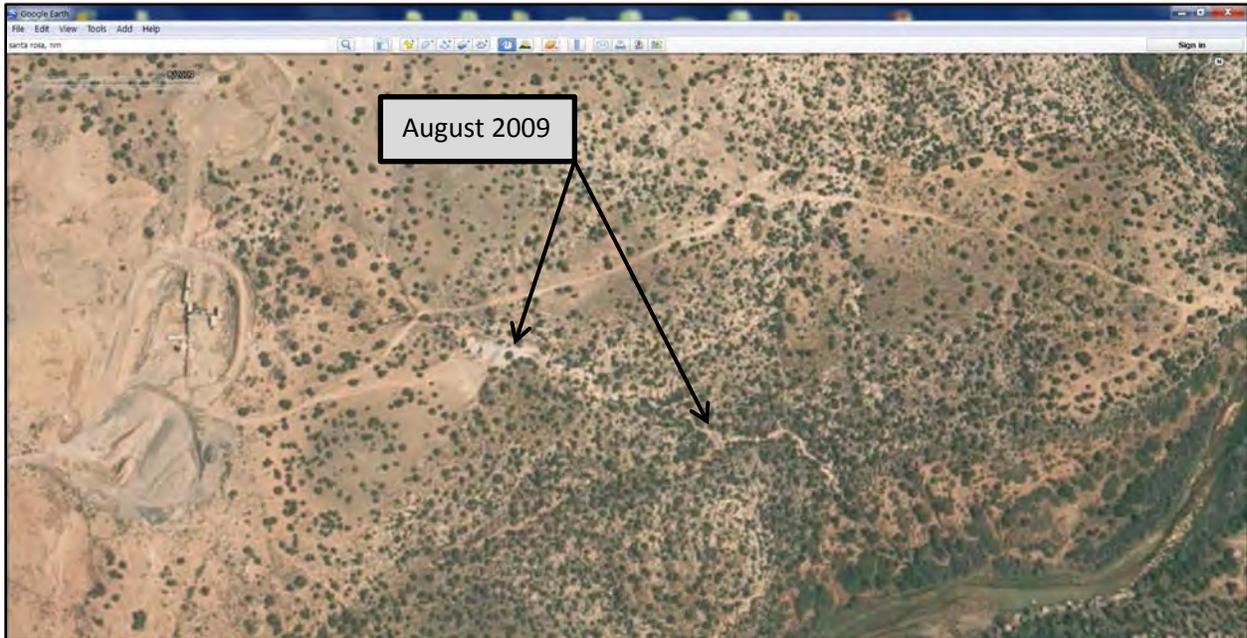
Photographer: Daniel Valenta	Date: 7/7/2015	Time: 1420 hours
City/County: Santa Rosa/ Guadalupe County		
Location: 1261Rivera Road facing northeast.		
Subject: Loading operation of Robert E. Rivera Construction, Inc.		



NMED/SWQB

Google Earth Overview 1
N 34° 57' 08.67", W -104° 42' 36.31"

Subject: Discharge appears to have started sometime between August 2009 and August 2011.



**NMED/SWQB
Official Photograph Log**

Photo # 2

Photographer: Daniel Valenta	Date: 7/7/2015	Time: 1354 hours
City/County: Santa Rosa/ Guadalupe County		
Location: Robert Rivera Construction Inc. 1261Rivera Road, east of the asphalt plant, facing northeast.		
Subject: Cement waste disposal area, truck backing in to discharge into the arroyo.		



**NMED/SWQB
Official Photograph Log**

Photo # 3

Photographer: Daniel Valenta	Date: 7/7/2015	Time: 1332 hours
City/County: Santa Rosa/Guadalupe County		
Location: Robert Rivera Construction Inc. 1261Rivera Road, east of the asphalt plant, facing southwest.		
Subject: Cement waste disposal area, waste flows downhill following the arroyo to the river.		



**NMED/SWQB
Official Photograph Log**

Photo # 4

Photographer: Daniel Valenta	Date: 7/7/2015	Time: 1331 hours
City/County: Santa Rosa/Guadalupe County		
Location: Robert Rivera Construction Inc. 1261 Rivera Road, east of the asphalt plant, facing southwest.		
Subject: Cement waste disposal area, waste flows downhill following the arroyo to the river.		



**NMED/SWQB
Official Photograph Log**

Photo # 5

Photographer: Daniel Valenta	Date: 7/7/2015	Time: 1335 hours
City/County: Santa Rosa/Guadalupe County		
Location: Robert Rivera Construction Inc. 1261Rivera Road, east of the asphalt plant, facing west.		
Subject: Cement waste disposal area, arroyo to the Pecos River.		



**NMED/SWQB
Official Photograph Log**

Photo # 6

Photographer: Daniel Valenta	Date: 7/7/2015	Time: 1340 hours
City/County: Santa Rosa/Guadalupe County		
Location: Robert Rivera Construction Inc. 1261Rivera Road, east of the asphalt plant, facing west.		
Subject: Below the cement waste disposal area, arroyo to the Pecos River.		



**NMED/SWQB
Official Photograph Log**

Photo # 7

Photographer: Daniel Valenta	Date: 7/7/2015	Time: 1341 hours
City/County: Santa Rosa/Guadalupe County		
Location: Robert Rivera Construction Inc. 1261Rivera Road, east of the asphalt plant, facing east.		
Subject: Just above the drop off into the Pecos River sand/gravel bank. Note height of stains on the channel rocks.		



**NMED/SWQB
Official Photograph Log**

Photo # 8

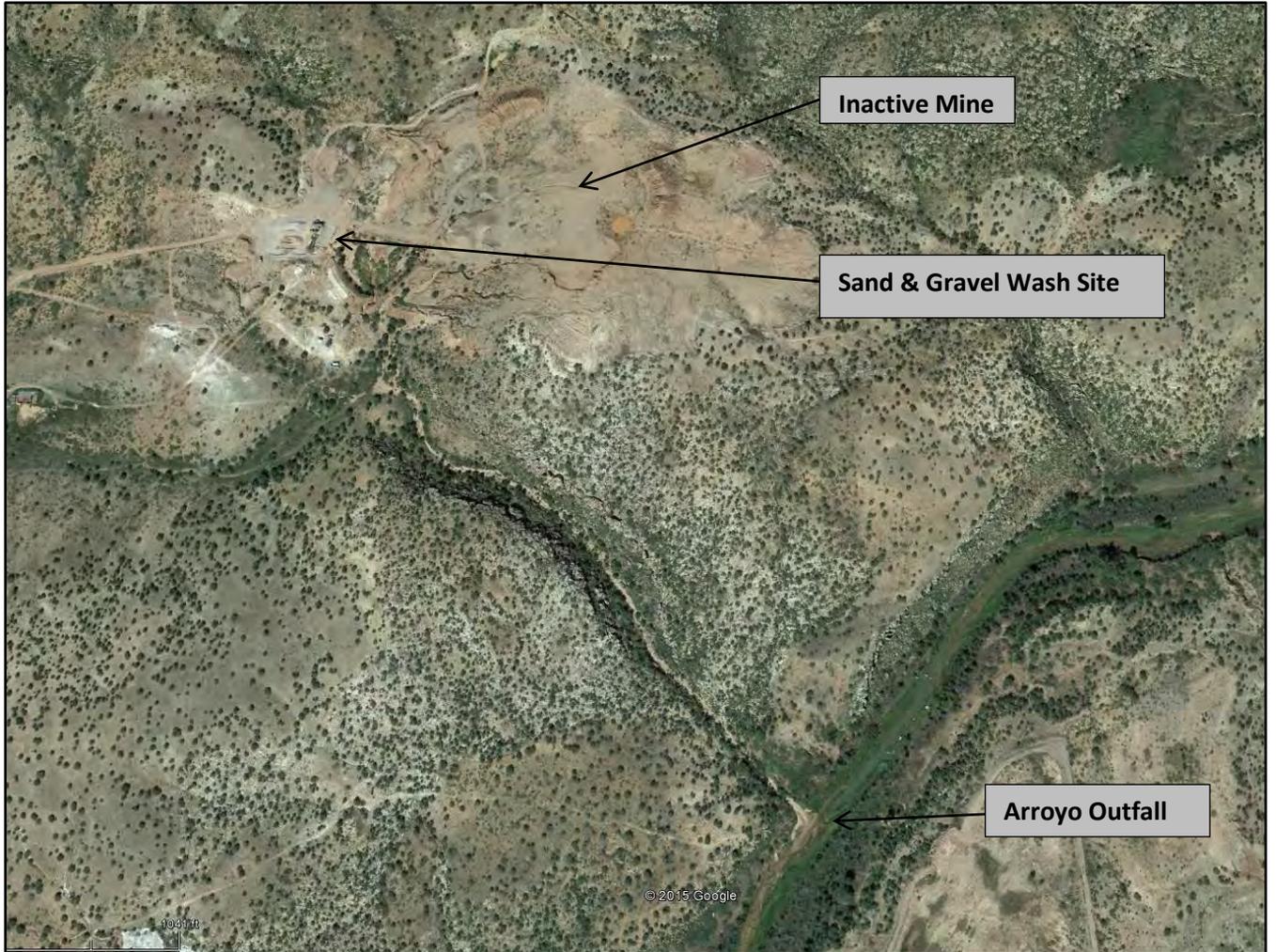
Photographer: Daniel Valenta	Date: 7/7/2015	Time: 1343 hours
City/County: Santa Rosa/Guadalupe County		
Location: Robert Rivera Construction Inc. 1261Rivera Road, east of the asphalt plant, facing east.		
Subject: Sand/gravel at bottom of arroyo along the river		



NMED/SWQB

Google Earth Overview 2
N 34° 57' 11.04", W 104° 42' 12.36"

Subject: Rivera sand/gravel wash area and surrounding features, 09/30/2014. It is approximately 0.5 miles from the wash area to the river.



NMED/SWQB

Google Earth Overview 3
N 34° 57' 11.04", W 104° 42' 12.36"

Subject: Arroyo outfall to the Pecos River, 09/30/2014



Google Earth Overview 4
N 34° 57' 31.45", W 104° 42' 29.86"

Subject: Rivera sand/gravel wash area, 09/30/2014



**NMED/SWQB
Official Photograph Log**

Photo # 9

Photographer: Erin Trujillo	Date: 7/7/2015	Time: 1249 hours
City/County: Santa Rosa/ Guadalupe County		
Location: Sand & gravel wash facility, Robert Rivera Construction Inc. facing southeast.		
Subject: Sediment settling basins.		



**NMED/SWQB
Official Photograph Log**

Photo # 10

Photographer: Daniel Valenta	Date: 7/7/2015	Time: 1233 hours
City/County: Santa Rosa/ Guadalupe County		
Location: Sand & gravel wash facility, Robert Rivera Construction Inc. facing northeast.		
Subject: Stormwater erosion next to the sand/gravel wash basins.		



**NMED/SWQB
Official Photograph Log**

Photo # 11

Photographer: Erin Trujillo	Date: 7/7/2015	Time: 1249 hours
City/County: Santa Rosa/ Guadalupe County		
Location: Sand & gravel wash facility, Robert Rivera Construction Inc.		
Subject: Stormwater erosion next to the sand/gravel wash basins.		



**NMED/SWQB
Official Photograph Log**

Photo # 12

Photographer: Erin Trujillo	Date: 7/7/2015	Time: 1404 hours
City/County: Santa Rosa/ Guadalupe County		
Location: Sand & gravel wash facility, Robert Rivera Construction Inc.		
Subject: Inactive asphalt plant, west of the concrete waste dump, (see Google Overview 1).		



NMED/SWQB
Official Photograph Log

Photo # 13

Photographer: Erin Trujillo	Date: 7/7/2015	Time: 1152 hours
City/County: Santa Rosa/ Guadalupe County		
Location: Sand & gravel wash facility, Robert Rivera Construction Inc.		
Subject: Map of site from the 2003 SWPPP. SWPPP did not reflect current conditions.		

