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NEW MEXICO
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Certified Mail - Return Receipt Requested

RYAN FLYNN
Cabinet Secretary
BUTCH TONGATE
Deputy Secretary

September 4, 2015

Mirtha E. Davalos, Organizer
El Bosque Builders LLC
3005 Betatakin Circle
Santa Fe, NM 87507

Re: El Bosque Builders LLC / 2077 Pinon Bluffs Drive, Santa Fe, NM 87501 (Lot 14 Pinon Bluffs Subdivision); Construction Stormwater; NPDES Compliance Evaluation Inspection; NMU001898; August 11, 2015

Dear Ms. Davalos,

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
Racquel Douglas, USEPA (6EN-WM) by e-mail
Robert Italiano, NMED District II by e-mail
Carol Peters-Wagnon, USEPA (6EN-WM) by e-mail
Darlene Whittten-Hill (6EN-WC) 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 9 8 11	12 1 5 0 8 1 1 17	18 }	19 S 20	2

Remarks

C O N S T R U C T I O N - C O M M O N P L A N

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	Permit Effective Date
Location at 2077 Pinon Bluffs Drive, Santa Fe, NM 87501 (Lot 14 Pinon Bluffs Subdivision). Santa Fe County	~1530 hours / 08/11/2015	unpermitted 2012 CGP effective February 16, 2012
	Exit Time/Date ~1605 hours / 08/11/2015	Permit Expiration Date unpermitted 2012 CGP expires February 16, 2017

Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)
Omar Sandoval, Project Manager/Foreman, El Bosque Builders LLC

Name, Address of Responsible Official/Title/Phone and Fax Number
Mirtha E. Davalos, Organizer, El Bosque Builders LLC, 3005 Betatakin Circle, Santa Fe, NM 87507 / 505-690-1167

Contacted: Yes [*] No [ ]

Other Facility Data
Approximate Entrance
Latitude 35.713387°,
Longitude -105.947821°

SIC 1521 (Single Family House)

Section C: Areas Evaluated During Inspection

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

U	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	U	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 at the above-referenced construction activity site, an approximate 0.6 acre lot in the common plan of development Pinon Bluffs Subdivision
2. Mr. Mathew Montoya (owner/operator) and El Bosque Builders LLC, Santa Fe, NM (general contractor) did not prepare or complete (sign/certify) a written Stormwater Pollution Prevention Plan (SWPPP) and did not submit a Notice of Intent (NOI) to obtain permit coverage for stormwater discharges under the USEPA 2012 Construction General Permit (CGP) prior to disturbance or on the day of this CEI.
3. Separate EPA Form 3560 and reports will be sent to owner and El Bosque Builders LLC, Santa Fe, New Mexico.
4. See attached further explanations and photo log.

Name(s) and Signature(s) of Inspector(s)	Agency/Office/Telephone/Fax	Date
Erin S. Trujillo */s/Erin S. Trujillo*	**NMED/SWQB/505-827-0418**	**09/01/2015**
Signature of Management QA Reviewer	**Agency/Office/Telephone/Fax**	**Date**
Sarah Holcomb */s/Sarah Holcomb*	**NMED/SWQB/505-827-2798**	**09/01/2015**

Single Family House Construction Activity
2077 Pinon Bluffs Drive Santa Fe, NM 87501 (Lot 14 Pinon Bluffs Subdivision)
Mathew Montoya, NPDES Tracking No. NMU001899
El Bosque Builders LLC, NPDES Tracking No. NMU001898
Compliance Evaluation Inspection
August 11, 2015

Further Explanations

Introduction

On August 11, 2015, Erin Trujillo of the New Mexico Environment Department (NMED) Surface Water Quality Bureau (SWQB) conducted a Compliance Evaluation Inspection (CEI) of the single-family house construction activity (disturbance) on the approximate one acre lot at 2077 Pinon Bluffs Drive Santa Fe, NM 87501 (Lot 14 Pinon Bluffs Subdivision), in Santa Fe County, New Mexico.

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 stormwater discharge, construction operators must obtain coverage under an NPDES permit per 40 CFR § 122.26.

Stormwater discharges to the City of Santa Fe small Municipal Separate Storm Sewer System (sMS4) and drainageways, thence approximately 0.5 miles to Cañada Rincon subject to unclassified Segment 20.6.4.98 NMAC (New Mexico Administrative Code), thence to an unnamed tributary (arroyo), thence to Santa Fe River approximately 1.5 miles south of the site in the Middle Rio Grande Basin.

Upon arrival at the site at approximately 1530 hours on the date of the CEI, the inspector made introductions, presented credentials and explained the purpose of the inspection to Mr. Omar Sandoval, Project Manager/Foreman, El Bosque Builders LLC, 3005 Betatakin Circle, Santa Fe, NM 87507. The inspector also contacted Ms. Mirtha E. Davalos, Organizer, El Bosque Builders LLC, 505-690-1167 by telephone, made introductions and explained the purpose of the inspection on the day of this CEI. Preliminary findings of the inspection were discussed with Mr. Sandoval on site. The inspector left the site at approximately 1605 hours on the day of the CEI.

This report is based on a review of the USEPA online notice of intent (eNOI) database query at http://ofmpub.epa.gov/apex/aps/f?p=CGP_2012:Home:0::::: and available on-line information; review of files maintained by NMED; on-site observation by NMED personnel; and verbal information provided by the owner/operator representatives. Parcel information was obtained from City of Santa Fe mapping available at http://www.santafenm.gov/gis. Corporation information was obtained from the on-line Office of the Secretary of the State, Business Services Division web site at https://portal.sos.state.nm.us/Corps/. Readily available precipitation data was obtained from Weather Underground at http://www.wunderground.com.

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."*

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 (Part 7), 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).

Among other things, Part 7.2.10.1 Stormwater Control Measures to be Used During Construction Activity states "*The SWPPP must describe all stormwater control measures that are or will be installed and maintained at your site to meet the requirements of Part 2. For each stormwater control measure, you must document: a. Information on the type of stormwater control measure to be installed and maintained, including design information; b. What specific sediment controls will be installed and made operational prior to conducting earth-disturbing activities in any given portion of your site to meet the requirement of Part 2.1.2.2a; c. For exit points on your site, document stabilization techniques you will use and any additional controls that are planned to remove sediment prior to vehicle exit consistent with Part 2.1.2.3….*"

Appendix A (Definitions) of the 2012 CGP state:

> "*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.*
>
> "*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.

"Construction Site" – the land or water area where construction activities will occur and where stormwater controls will be installed and maintained. The construction site includes construction support activities, which may be located at a different part of the property from where the primary construction activity will take place, or on a different piece of property altogether. The construction site is often a smaller subset of the lot or parcel within which the project is taking place.

"Construction Support Activities" – a construction-related activity that specifically supports the construction activity and involves earth disturbance or pollutant-generating activities of its own, and can include activities associated with concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, and borrow areas.

"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.

"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.

"Steep Slopes" – where a state, Tribe, local government, or industry technical manual (e.g., stormwater BMP manual) has defined what is to be considered a "steep slope", this permit's definition automatically adopts that definition. Where no such definition exists, steep slopes are automatically defined as those that are 15 percent or greater in grade.

USEPA Guidance

More information 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.

The 2012 CGP Fact Sheet at *http://water.epa.gov/polwaste/npdes/stormwater/upload/cgp2012_finalfactsheet.pdf* states:

Part 1.1 specifies that when there are multiple operators associated with the same project, all operators are required to obtain permit coverage. If one operator has control over plans and specifications and a different operator has control over activities at the project site, they may divide responsibility for compliance with the terms of this permit as long as they develop a group SWPPP, which documents which operator has responsibility for each requirement of the permit.

Available Precipitation Information

The on-site sign for the City of Santa Fe Notice of Construction Permit indicated a date of June 24, 2015. Between June 24, 2015 and the day of this CEI, the following precipitation 0.25 inches or greater was recorded at weather station KNMSANTA52, North Hills, Santa Fe, NM (Latitude 35.700°, Longitude -105.944°, Elevation 7080 feet), approximately one mile southeast of the site:

Date	Recorded Precipitation (inches)
2015-06-29	0.65
2015-07-06	0.89
2015-07-07	0.41
2015-07-08	0.58
2015-07-20	0.53
2015-07-29	0.64
2015-07-31	0.52
2015-08-01	0.37

Findings

Mathew Montoya, a property owner building a single-family house, may meet one or both of the definitions of "operator" for construction activity (earth-disturbing or land-disturbing activity) in a common plan of development. Mr. Montoya had not prepared or completed (signed/certified) a SWPPP in written form and had not submitted a NOI to obtain permit coverage prior to disturbance for stormwater discharges under the USEPA 2012 CGP on the day of this CEI.

El Bosque Builders, LLC, general contractor, with a date of incorporation of June 22, 2005 in the State of New Mexico, may meet the definition of "operator" for construction activity. El Bosque Builders LLC had not prepared or completed (signed/certified) a SWPPP in written form and had not submitted a NOI to obtain permit coverage prior to disturbance for stormwater discharges under the USEPA 2012 CGP on the day of this CEI.

On the day of this CEI, sediment erosion control measures (perimeter entrenched silt fence) was observed. No blowing dust was observed. Portable toilets appeared to be located in a relatively flat area of the site. The on-site El Bosque Builders, LLC representative described that trash was collected, removed, and disposed off-site daily. Inspection, maintenance, and corrective action appeared needed on the day of the CEI:

- Some accumulated soil remained on the Pinon Bluffs sidewalk and cul-de-sac near City of Santa Fe MS4 storm sewer drop inlet. According to the on-site El Bosque Builders, LLC representative, soil was used as a curb ramp for heavy equipment to enter the site. The area appeared swept, but soil was still visible. Gravel at site entrance did not continue or span all exposed soil at the entrance. Additional measures to minimize sediment track out (e.g., use of less erodible materials like wood or other material instead of soil for ramps, additional gravel or larger sized cobble at the entrance, additional sweeping) may be needed as construction vehicles continue to enter the site (see Part 2.1.2.3 Minimize Sediment Track-Out of the 2012 CGP).

- Measures to ensure that the portable toilet remain secure and would not be tipped or knocked over as construction continues may be needed (see Part 2.3.3.3 Storage, Handling, and Disposal of Construction Products, Materials, and Wastes of the 2012 CGP).

- In one area of the entrenched silt fence at the northern perimeter, soil had accumulated and maintenance appeared needed to minimize stormwater from overtopping or damaging the control measure. Maintenance requirements in Part 2.1.2.2 (Install Perimeter Controls) of the 2012 CGP states *"You must remove sediment before it has accumulated to one-half of the above-ground height of any perimeter control."*

- In one area of the silt fence at the southern perimeter, the silt fence was not entrenched. An erosion feature existed downgradient of the fence gap. Maintenance and/or corrective action (e.g., re-installation or re-trenching, repair, modify, or replace) of the stormwater erosion and sediment control in this one area appeared needed (see Part 7.2.12. Procedures for Inspection, Maintenance, and Corrective Action of the 2012 CGP).

Slopes at the site were disturbed and stabilization had not been designed according to the on-site El Bosque Builders, LLC representative (see Part 2.2 of the 2012 CGP for vegetative and/or non-vegetative stabilization deadlines and criteria). Part 2.1.2.6 of the 2012 CGP states *"The permit does not prevent or prohibit disturbance on steep slopes. For some projects, disturbance on steep slopes may be necessary for construction…minimizing the disturbances to steep slopes consistent with this requirement can be accomplished through the implementation of a number of standard erosion and sediment control practices, such as by phasing disturbances to these areas and using stabilization practices designed to be used on steep grades."*

NMED/SWQB Official Photograph Log Photo # 1		
Photographer: Erin S. Trujillo	Date: 08/11/2015	Time: 1542 hours
City/County: Santa Fe / Santa Fe County		State: New Mexico
Location: 2077 Pinon Bluffs Drive Santa Fe, NM 87501 (Lot 14 Pinon Bluffs Subdivision)		
Subject: Sign for City of Santa Fe Notice of Construction Permit dated 6-24-2015		

NMED/SWQB Official Photograph Log Photo # 2		
Photographer: Erin S. Trujillo	Date: 08/11/2015	Time: 1547 hours
City/County: Santa Fe / Santa Fe County		State: New Mexico
Location: 2077 Pinon Bluffs Drive Santa Fe, NM 87501 (Lot 14 Pinon Bluffs Subdivision)		
Subject: Accumulated soil existed on Pinon Bluffs sidewalk and cul-de-sac. Arrow points to City of Santa Fe MS4 storm sewer drop inlet.		

NMED/SWQB Official Photograph Log Photo # 3		
Photographer: Erin S. Trujillo	Date: 08/11/2015	Time: 1549 hours
City/County: Santa Fe / Santa Fe County		State: New Mexico
Location: 2077 Pinon Bluffs Drive Santa Fe, NM 87501 (Lot 14 Pinon Bluffs Subdivision)		
Subject: Gravel at site entrance did not continue or span all exposed soil.		

NMED/SWQB Official Photograph Log Photo # 4		
Photographer: Erin S. Trujillo	Date: 08/11/2015	Time: 1551 hours
City/County: Santa Fe / Santa Fe County		State: New Mexico
Location: 2077 Pinon Bluffs Drive Santa Fe, NM 87501 (Lot 14 Pinon Bluffs Subdivision)		
Subject: Looking generally north at entrenched silt fence at northern perimeter. Accumulated soil was near the top of the fence.		

NMED/SWQB Official Photograph Log Photo # 5		
Photographer: Erin S. Trujillo	Date: 08/11/2015	Time: 1553 hours
City/County: Santa Fe / Santa Fe County		State: New Mexico
Location: 2077 Pinon Bluffs Drive Santa Fe, NM 87501 (Lot 14 Pinon Bluffs Subdivision)		
Subject: Looking generally west at disturbance (exposed soils) of site, including steep slopes. Arrow points to portable toilet (pollution prevention control).		

NMED/SWQB Official Photograph Log Photo # 6		
Photographer: Erin S. Trujillo	Date: 08/11/2015	Time: 1557 hours
City/County: Santa Fe / Santa Fe County		State: New Mexico
Location: 2077 Pinon Bluffs Drive Santa Fe, NM 87501 (Lot 14 Pinon Bluffs Subdivision)		
Subject: Looking generally south, arrow points to gap in silt fence control measure downslope at site southern perimeter. Silt fence was not entrenched at this location. An erosion feature existed downgradient of fence gap.		