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RYAN FLYNN
Cabinet Secretary
BUTCH TONGATE
Deputy Secretary

September 4, 2015

Joseph C de Baca
P.O. Box 2693
Española, NM 87532

Re: 2068 South Ridgetop Road, Santa Fe, NM 87501 (Lot 1 Pinon Bluffs Subdivision); Construction Stormwater; NPDES Compliance Evaluation Inspection; NMU001900; August 11, 2015

Dear Mr. C de Baca,

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 Whitten-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 9 0 0 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 ~1512 hours / 08/11/2015	Permit Effective Date unpermitted 2012 CGP effective February 16, 2012
Location at 2068 South Ridgetop Road, Santa Fe, NM 87501 (Lot 1 Pinon Bluffs Subdivision). Santa Fe County	Exit Time/Date ~1525 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) No on-site representative on day of inspection / Not applicable	Other Facility Data Approximate Entrance Latitude 35.714345°, Longitude -105.950844° SIC 1521 (Single Family House)	
Name, Address of Responsible Official/Title/Phone and Fax Number Joseph C de Baca, P.O. Box 2693, Española, NM 87532 / 505-795-5643 or 505-412-7620	Contacted Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	

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 from public right of way at the above-referenced approximately one acre lot in the common plan of development Pinon Bluffs Subdivision.
2. Based on telephone conversations with the owner/operators, Mr. C de Baca (owner/operator) 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 completed and sent to Mr. C de Baca and Picasso Builders, LLC (general contractor). Picasso Builders, LLC, had submitted a NOI to obtain permit coverage on August 1, 2014 and had active permit coverage on the day of this CEI (NPDES Tracking No. NMR12AY27).
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 08/31/2015
Signature of Management QA Reviewer Sarah Holcomb /s/Sarah Holcomb	Agency/Office/Telephone/Fax NMED/SWQB/505-827-2798	Date 08/31/2015

Single Family House Construction Activity
2068 South Ridgetop Road, Santa Fe, NM 87501 (Lot 1 Pinon Bluffs Subdivision)
Joseph C de Baca, NPDES Tracking No. NMU001902
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 a portion of the approximately one acre lot at 2068 South Ridgetop Road, Santa Fe, New Mexico 87501, Lot 1 Pinon Bluffs Subdivision, in Santa Fe County, New Mexico. This inspection followed NMED SWQB's receipt of an inquiry on August 6, 2015 on the site's compliance with stormwater regulations indicating that there were no stormwater controls.

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 Rio Grande Basin.

Upon arrival at the site at approximately 1512 hours on the day of this CEI, the inspector did not observe an owner/operator representative at the above-referenced construction activity (disturbance). There was no sign observed that indicated operators of the construction activity had permit coverage under the USEPA 2012 CGP. Photos of the site were obtained from the driveway and public rights of way. Contact information was not legible from an on-site City of Santa Fe sign. The inspector left the site at approximately 1525 hours on the day of the CEI. Construction permit staff at the City of Santa Fe were contacted to obtain owner and operator names which was received on August 13, 2015. The inspector contacted Mr. Joseph C de Baca (owner/operator) and Mr. Chris G. Martinez, Organizer, Picasso Builders, LLC, Albuquerque, NM 87114, 505-720-0627, made introductions, explained the purpose of the inspection and provided preliminary findings of the inspection by telephone on August 13 and August 20, 2015.

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. Lot 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, 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:

“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.

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 August 5, 2014. Picasso Builders, LLC 2012 CGP NOI states that the estimated project start date was August 15, 2014. Between August 15, 2014 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:

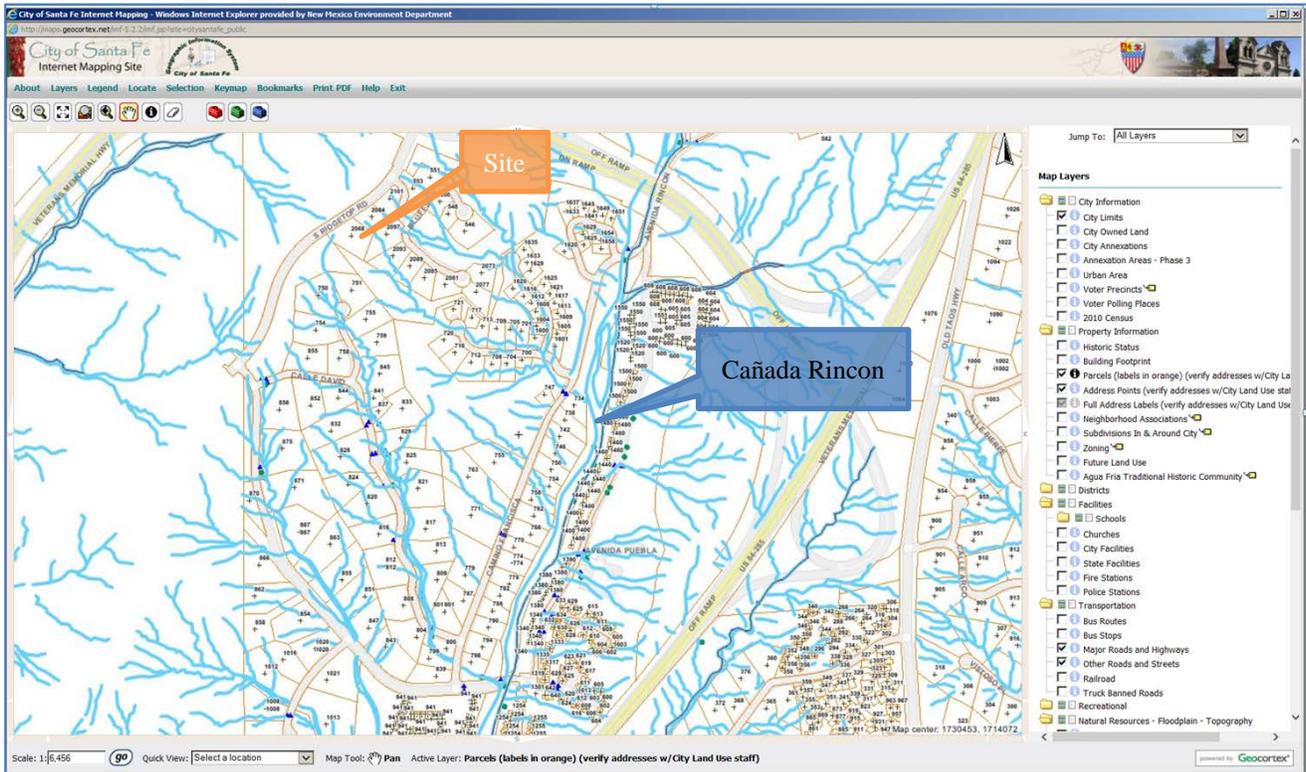
<u>Date</u>	<u>Recorded Precipitation (inches)</u>
2014-08-26	0.72
2014-08-27	0.47
2014-09-22	0.57
2014-10-10	0.47
2014-11-02	0.52
2014-12-04	0.67
2015-02-28	0.28
2015-03-19	0.44
2015-04-18	0.28
2015-04-26	0.28
2015-05-05	0.25
2015-05-13	0.25
2015-05-15	0.55
2015-05-19	0.51
2015-05-21	0.44
2015-06-16	0.25
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

Joseph C de Baca, 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 on the day of disturbance and the day of this CEI. Mr. C de Baca 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, construction activities appeared to be on-going. Materials storage was on site. Portions of the site that were not covered by permanent structures had exposed soil (were not vegetated). No structural sediment or erosion control measures for disturbance outside the site southern perimeter wall were observed. Cobble-size rock at the driveway entrance appeared to provide erosion control; but, accumulated sediment in the rock cobble indicated that periodic inspection and maintenance (e.g., sweeping, re-installation, adding more rock, etc.) may be needed.

Figure 1: Site Map showing Surface Hydrology (Drainageways)
Source: City of Santa Fe Internet Mapping Site



NMED/SWQB
Official Photograph Log
Photo # 1

Photographer: Erin S. Trujillo	Date: 08/11/2015	Time: 1512 hours
City/County: Santa Fe / Santa Fe County		State: New Mexico
Location: 2068 South Ridgetop Road, Santa Fe, NM 87501 (Lot 1 Pinon Bluffs Subdivision)		
Subject: Sign for City of Santa Fe Notice of Construction Permit dated 8-5-2014		



**NMED/SWQB
Official Photograph Log
Photo # 2**

Photographer: Erin S. Trujillo

Date: 08/11/2015

Time: 1518 hours

City/County: Santa Fe / Santa Fe County

State: New Mexico

Location: 2068 South Ridgetop Road, Santa Fe, NM 87501 (Lot 1 Pinon Bluffs Subdivision)

Subject: Cobble-sized rock at entrance spanned most, but not all, of the curb cut at the site entrance. Accumulated soil existed in the control measure. Little to no tracking was observed on South Ridgetop Road.



NMED/SWQB
Official Photograph Log
Photo # 3

Photographer: Erin S. Trujillo

Date: 08/11/2015

Time: 1520 hours

City/County: Santa Fe / Santa Fe County

State: New Mexico

Location: 2068 South Ridgetop Road, Santa Fe, NM 87501 (Lot 1 Pinon Bluffs Subdivision)

Subject: Looking generally southeast, disturbed soil and steep slope was observed south of block wall near construction material storage.



**NMED/SWQB
Official Photograph Log
Photo # 4**

Photographer: Erin S. Trujillo

Date: 08/11/2015

Time: 1520 hours

City/County: Santa Fe / Santa Fe County

State: New Mexico

Location: 2068 South Ridgetop Road, Santa Fe, NM 87501 (Lot 1 Pinon Bluffs Subdivision)

Subject: Looking generally southeast, construction materials and portable toilet were on-site.



**NMED/SWQB
Official Photograph Log
Photo # 5**

Photographer: Erin S. Trujillo

Date: 08/11/2015

Time: 1521 hours

City/County: Santa Fe / Santa Fe County

State: New Mexico

Location: 2068 South Ridgetop Road, Santa Fe, NM 87501 (Lot 1 Pinon Bluffs Subdivision)

Subject: Looking generally northeast, disturbed soils exist at the west corner of the constructed house.



NMED/SWQB
Official Photograph Log
Photo # 6

Photographer: Erin S. Trujillo

Date: 08/11/2015

Time: 1521 hours

City/County: Santa Fe / Santa Fe County

State: New Mexico

Location: 2068 South Ridgetop Road, Santa Fe, NM 87501 (Lot 1 Pinon Bluffs Subdivision)

Subject: Looking generally east, disturbed soil exists at the east corner of the constructed house.

