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BUTCH TONGATE
Cabinet Secretary
J. C. BORREGO
Acting Deputy Secretary

Certified Mail – Return Receipt Requested

October 20, 2016

Mr. Nicholas Montoya, CEO
Next Generation Contracting, Inc.
P.O. Box 28700
Santa Fe, NM 87592

Re: Next Generation Contracting Inc.; Casas Bonitas Subdivision, Santa Fe, Unpermitted Construction Stormwater; SIC 1521; NPDES Compliance Evaluation Inspection; NPDES NMU001923; September 21, 2016

Dear Mr. Montoya,

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

Introduction, permit requirements and guidance, site observations and findings noted during this inspection are discussed in the “Further Explanations” section of the inspection report.

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

Racquel Douglas
US Environmental Protection Agency, Region 6
Enforcement Branch (6EN-WM)
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

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

If you have any questions about this inspection report, please contact Erin Trujillo at 505-827-0418 or erin.trujillo@state.nm.us.

Mr. Montoya, Casas Bonitas, NMU001923

October 20, 2016

Page 2 of 2

Sincerely,

/s/Sarah Holcomb

Sarah Holcomb
Acting Program Manager
Point Source Regulation Section
Surface Water Quality Bureau

cc: Carol Peters-Wagnon, USEPA (6EN-WM) by e-mail
Robert Houston, USEPA (6EN) by e-mail
Darlene Whittten-Hill, USEPA (6EN) 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 9 2 3 11 12 1 6 0 9 2 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 > 5 a c					
Inspection Work Days	Facility Evaluation Rating	BI	QA	Reserved	
67 69	70 1	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) Casas Bonitas Subdivision construction activity, residential subdivision with disturbance approximately 7.5 of 8.02 acres, at 5360 Rufina, Santa Fe, New Mexico. Santa Fe County	Entry Time /Date ~0930 hours / 09/21/2016 ~0830 hours / 09/27/2016	Permit Effective Date Unpermitted 2012 CGP effective February 16, 2012
	Exit Time/Date ~1100 hours / 09/21/2016 ~0900 hours / 09/27/2016	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 Approximate Entrance Latitude 35.643804° Longitude -106.031616°	
Name, Address of Responsible Official/Title/Phone and Fax Number Mr. Nicholas Montoya, CEO, Next Generation Contracting Inc., P.O. Box 28700, Santa Fe, NM 87592 / 505-780-1135	Contacted Yes <input type="checkbox"/> * No <input type="checkbox"/>	SIC 1521 (General Contractors-Single-Family Houses)

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
U	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)

- See attached further explanations and photo log.
- A separate EPA Form 3560 and report will be completed for Infinite Ambitions, LLC that had permit coverage under the USEPA Industrial Stormwater 2012 Construction General Permit (Active NPDES Tracking No. NMR12AJ95) on the day of this Compliance Evaluation Inspection (CEI).

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 10/20/2016
Signature of Management QA Reviewer Sarah Holcomb /s/Sarah Holcomb	Agency/Office/Telephone/Fax NMED/SWQB/505-827-2798	Date 10/20/2016

Casas Bonitas Subdivision, Santa Fe, New Mexico
Next Generation Contracting Inc. (NPDES Tracking No. NMU001923)
Compliance Evaluation Inspection
September 21, 2016

Further Explanations

Introduction

On September 21, 2016, Erin Trujillo of the New Mexico Environment Department (NMED) Surface Water Quality Bureau (SWQB) conducted a Compliance Evaluation Inspection (CEI) of the approximate 8.02 acre Casas Bonitas Subdivision construction activity at 5360 Rufina, Santa Fe, New Mexico in Santa Fe County, New Mexico (see Figure 1 and 2).

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.

Upon arrival at the site at approximately 0930 hours on September 21, 2016, the inspector made introductions, presented credentials and explained purpose of the inspection to Mr. Efrain Cuebas, Plumber, Next Generation Contracting, Inc., 505-629-8959. Mr. Cuebas provided the name and contact information for Next Generation, Inc. The inspector made introductions and explained purpose of the inspection by telephone to Mr. Nicholas Montoya, CEO, Next Generation Contracting, Inc. Mr. Montoya stated that he was not in Santa Fe and that there was no other local contact. After a tour of the open areas of the site, the inspector left the site at approximately 1100 hours on the day of this CEI. The inspector made introductions, presented credentials and explained the purpose of the inspection to Mr. Montoya at Next Generation, Inc. offices at 21C Bisbee Court, Santa Fe, New Mexico on September 27, 2016 from approximately 0830 to 0900 hours. Mr. Montoya provided a brief history of the site and an engineering drawing (grading and drainage plan) showing individual lots for Casas Bonitas Subdivision (see Figure 3). Mr. Montoya described that Next Generation, Inc. re-started construction activities at the site in July of 2016.

Stormwater sewer drop inlets exist along Bonitas Loop within the subdivision and Rufina Street north of the subdivision. Storm water discharges are to the City of Santa Fe small Municipal Separate Storm Sewer System (sSMS4), thence to Santa Fe River from Santa Fe Waste Water Treatment Plant (WWTP) to Guadalupe Street, now in classified Segment 20.6.4.136 NMAC, in the Rio Grande Basin. Santa Fe River is impaired with the following listed causes: aluminum, PCB in water column, and E.coli Bacteria (see Figure 4).

This report is based on a review of the USEPA online notice of intent (eNOI) database query 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 representative. 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 stormwater 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 states:

“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.

USEPA Guidance

More information on USEPA's 2012 CGP; electronic NOI system; and tools and resources; including SWPPP guidance, is available at <https://www.epa.gov/npdes/stormwater-discharges-construction-activities#overview>. Answers to Frequently Asked Questions are available at <https://www.epa.gov/npdes/stormwater-discharges-construction-activities#faq>.

Available Precipitation Information

The following precipitation, 0.25 inches or greater, was recorded for Santa Fe Municipal Airport (KSAF), which is approximately 3.5 miles southwest of the site:

8/2/2016	0.30	Rain-Thunderstorm
8/4/2016	0.28	Rain-Thunderstorm
8/5/2016	0.51	Rain-Thunderstorm
8/6/2016	0.37	Rain-Thunderstorm
8/13/2016	0.80	Rain-Thunderstorm
8/21/2016	0.28	Rain-Thunderstorm
9/6/2016	0.34	Rain-Thunderstorm

Findings

Prior to and on the day of this CEI, Next Generation, Inc. 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. Next Generation Construction, Inc. has a date of incorporation filed August 8, 2011 based on State of New Mexico Secretary of State corporation on-line query.

Additional Notes: According to Mr. Montoya, the original owner of the construction activity developing the site under a real estate contract was Infinite Ambitions, LLC. Mr. Montoya was a managing member of Infinite Ambitions, LLC (see NPDES Tracking No NMR12AJ95). The limited liability corporation filed a dissolution with the State of New Mexico on March 2, 2015 (processed March 17, 2015). Mr. Montoya described that Next Generation, Inc. was currently both developer and general contractor.

USEPA's 2012 CGP requires compliance with effluent limits (erosion and sediment control, pollution prevention, and site stabilization requirements) including the development of a SWPPP. Next Generation Construction, Inc. did not update an existing or prepare a new; and did not complete (sign/certify) a Stormwater Pollution Prevention Plan (SWPPP) in written form prior to disturbance or re-disturbance at the site. Next Generation Construction, Inc. did not sign/certify/submit a Notice of Intent (NOI) to obtain permit coverage for stormwater discharges under the USEPA 2012 CGP before or after July 2016 or by the day of this CEI.

Stormwater discharges from construction activities on site may impact water quality. Stormwater flowing over the construction site may pick up pollutants (e.g., trash, construction materials, sediment, debris, and chemicals) and transport them to the SMS4 then surface waters. Plastic and paper trash was observed on site. Potential sources of pollutants also include fuel storage and portable toilet. Vegetation and underlying soil was disturbed (cleared) on portions of the site; and in those remaining disturbed areas, including stockpiles, no stabilization or structural control measures to minimize erosion were observed. One curb-cut entrance had gravel which may provide some sediment and erosion control. However, no other vehicle track out controls were observed at other curb cuts within the subdivision. Observed control measures were not maintained and/or damaged.

Figure 1: General Area (Source: Google Earth Imagery Dated 11/01/2015)



Figure 2: Casas Bonitas Subdivision Site Map (Source: Google Earth Imagery Dated 11/01/2015)



Figure 4: List of Impairments (Source: NMED at <https://www.env.nm.gov/swqb/303d-305b/2016-2018/documents/EPA-APPROVED2016APPA--IntegratedList.pdf>)

2016 - 2018 State of New Mexico Clean Water Act §303(d)/§305(b) Integrated List.					
Santa Fe River (Santa Fe WWTP to Guadalupe St)			IR CATEGORY	LOCATION DESCRIPTION	
			5/5A	13020201 - Rio Grande-Santa Fe	
AU ID	WQS REF	WATER TYPE	SIZE	ASSESSED	MONITORING SCHEDULE
NM-9000.A_061	20.6.4.136	EPHEMERAL STREAM	10 MILES	2016	2021
USE	ATTAINMENT	CAUSE(S)	FIRST LISTED	TMDL DATE	PROBABLE SOURCE(S)
IRR	Fully Supporting				<ul style="list-style-type: none"> Source Unknown
LAL	Not Supporting	Aluminum, total rec -- acute	2016	2016 (est.)	
		Aluminum, total rec - chronic	2016	2016 (est.)	
		PCB in Water Column	2006	2016 (est.)	
LW	Fully Supporting				
PC	Not Supporting	E. coli	2010	2015 (est.)	
WH	Not Supporting	PCB in Water Column	2006	2016 (est.)	
AU Comment: None.					

**NMED/SWQB
Official Photograph Log
Photo # 1**

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1009 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Looking west from eastern entrance of subdivision, small rock was located at one curb cut of disturbed lot.



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

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1014 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Disturbed areas and material stockpiles in northeast corner of site. Example where no vehicle trackout control measures were observed for curb cut.



NMED/SWQB
Official Photograph Log
Photo # 3

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1017 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Disturbed areas and rock sorting was in northeast corner of site. Example where no vehicle trackout control measures were observed for curb cut.



NMED/SWQB
Official Photograph Log
Photo # 4

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1018 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Area where silt fence was damaged (no longer trenched) at northern property boundary of site.



NMED/SWQB
Official Photograph Log
Photo # 5

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1020 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject Looking south from northwest corner of site, example of weed vegetation in previously disturbed areas.



NMED/SWQB
Official Photograph Log
Photo # 6

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1027 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Disturbed area and material stockpile near northwest corner of site. Arrow points to trash (e.g., plastic containers, plastic, paper).



NMED/SWQB
Official Photograph Log
Photo # 7

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1029 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Arrow points to excavated area described as sediment pond. Bonitas Loop within subdivision was paved, and had curb & gutter and stormwater sewer drop inlets.



NMED/SWQB
Official Photograph Log
Photo # 8

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1030 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Disturbed area and stockpile in center of subdivision. Some vegetation, but no structural controls were observed to prevent trackout or access at curb cut.



NMED/SWQB
Official Photograph Log
Photo # 9

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1033 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Looking east, more asphalt and material stockpiles were in center of subdivision. No vehicle trackout controls were observed for curb cut. Arrow points to inlet.



NMED/SWQB
Official Photograph Log
Photo # 10

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1036 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Accumulated sediment and concrete material solids were observed along street's curb and gutter at western entrance to subdivision.



NMED/SWQB
Official Photograph Log
Photo # 11

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1038 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Looking south, disturbed areas in southwest portion of site. Portions of sit fence were damaged and/or missing.



NMED/SWQB
Official Photograph Log
Photo # 12

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1039 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Plastic and aluminum can trash on site.



NMED/SWQB
Official Photograph Log
Photo # 13

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1040 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Plastic bottle trash on site.



NMED/SWQB
Official Photograph Log
Photo # 14

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1040 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Contractor support area (e.g., heavy equipment, mobile home, shipping containers, fuel storage, and material storage) was located in southeast portion of site.



NMED/SWQB
Official Photograph Log
Photo # 15

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1044 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Portable toilet at contractor support area appeared to be protected from vehicle traffic.



NMED/SWQB
Official Photograph Log
Photo # 16

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1045 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Looking west from southeast corner of site, material were stored above shipping/storage containers were exposed to precipitation (see arrows).



NMED/SWQB
Official Photograph Log
Photo # 17

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1047 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: No structural pollutant control measures (e.g., excavated pit) were observed at area where sign indicated concrete washout.



NMED/SWQB
Official Photograph Log
Photo # 18

Photographer: Erin S. Trujillo

Date: 09/21/2016

Time: 1048 hours

City/County: Santa Fe / Santa Fe

State: New Mexico

Location: Casas Bonitas Subdivision, Santa Fe, NM

Subject: Arrow points to excavated area below/near fuel storage. Liner below tanks was not in good condition and may not allow any spills from entering containment.

