



SUSANA MARTINEZ  
Governor

JOHN A. SANCHEZ  
Lieutenant Governor

**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

***Surface Water Quality Bureau***

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DAVE MAKIIN  
Secretary

BUTCH TONGATE  
Deputy Secretary

JAMES H. DAVIS, Ph.D.  
Director  
Resource Protection Division

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**Certified Mail - Return Receipt Requested**

April 4, 2012

Mr. David Montoya  
David Montoya Construction, Inc.  
P.O. Box 10254  
Albuquerque, NM 87184

Re: Construction Stormwater, SIC 1623, NPDES Compliance Evaluation Inspection, David Montoya Construction Inc.,  
Osuna Road Channel Notch, NPDES Permit NMR10HM54, March 29, 2012

Dear Mr. Montoya,

Enclosed, please find a copy of the report for the referenced inspection that the New Mexico Environment Department (NMED) conducted at a construction site for which you may be an "operator" (see Appendix A in permit). The NMED conducted this inspection 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 noted in the checklist section of 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. Further, you are encouraged to notify in writing, both USEPA (Diana McDonald, USEPA (6EN-WT), 1445 Ross Ave., Dallas, Texas, 75202), NMED (at above address) regarding modifications and compliance schedules.

I want to thank you for the assistance of Mr. Robert Watson during this inspection. If you have any questions, please feel free to contact me at the above address or by telephone at (505) 222-9587.

Sincerely,

*/s/ Sarah Holcomb*

Sarah Holcomb  
Surface Water Quality Bureau

Cc: Marcia Gail Adams, USEPA (6EN-AS) by email  
Samuel Tates, USEPA (6EN-AS) by email  
Carol Peters-Wagnon (6EN-AS) by email  
Diana McDonald, USEPA (6EN-AS) by email  
Darlene Whitten-Hill, USEPA (6EN-AS) by email  
Bill Chavez, NMED District 1 Acting Manager, by email





### 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   R   1   0   H   M   5   4   11   12   1   2   0   3   2   9   17   18   }   19   S   20   2					
Remarks					
C   O   N   S   T   R   U   C   T   I   O   N   >   1   A   C   R   E					
Inspection Work Days	Facility Evaluation Rating	BI	QA	Reserved	
67         69	70   3	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) <b>OSUNA ROAD CHANNEL NOTCH, ALBUQUERQUE, NM, BERNALILLO COUNTY; FROM I-25, HEAD WEST ON OSUNA ROAD. TRAVEL ABOUT 1.25 MILES. PROJECT IS OCCURRING WITHIN THE NORTH DIVERSION CHANNEL NEAR CHAPPELL ROAD.</b>	Entry Time /Date 0925 HOURS/3-29-2012	Permit Effective Date 6-30-2008
	Exit Time/Date 1130 HOURS/3-29-2012	Permit Expiration Date 2-15-2012
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s) MR. ROBERT WATSON, PROJECT MANAGER, DAVID MONTOYA CONSTRUCTION INC. (505) 898-6330 MR. ADAM BERGSTRASSER, URBAN PROJ SUPERVISOR, CITY OF ALBUQUERQUE DMD (505) 924-3671	Other Facility Data SIC 1623	
Name, Address of Responsible Official/Title/Phone and Fax Number MR. DAVID MONTOYA, OWNER, DAVID MONTOYA CONSTRUCTION, INC. PO BOX 10254, ALBUQUERQUE, NM 87184 (505) 898-6330	Contacted Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	GPS: LAT 35.1536° LONG -106.6050°

#### Section C: Areas Evaluated During Inspection

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

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

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

- INSPECTOR ARRIVED ON SITE AT 0930 HOURS ON MARCH 29, 2012. CONDUCTED ENTRANCE INTERVIEW WITH MR. ADAM BERGSTRASSER, URBAN PROJECT MANAGER FOR CITY OF ALBUQUERQUE DEPARTMENT OF MUNICIPAL DEVELOPMENT, WHERE THE INSPECTOR PRESENTED HER CREDENTIALS, MADE INTRODUCTIONS AND DISCUSSED THE PURPOSE OF THE INSPECTION.
- PLEASE SEE THE CHECKLIST SECTION OF THE REPORT FOR FURTHER DETAILS.

Name(s) and Signature(s) of Inspector(s) Sarah Holcomb /s/ Sarah Holcomb	Agency/Office/Telephone/Fax 505-222-9587	Date 4-4-2012
Signature of Management QA Reviewer Richard Powell /s/ Richard Powell	Agency/Office/Phone and Fax Numbers 505-827-2798	Date 4-4-2012

<b>National Database Information</b>		<b>General</b>	
Inspection Type	Compliance Evaluation	Inspector Name	Sarah Holcomb
NPDES ID Number	NMR10HM54 NMR10HN13	Telephone	505-222-9587
Inspection Date	3-29-2012	Entry Time	0925 hours
Inspector Type (circle one)	EPA <input type="checkbox"/> State <input type="checkbox"/> EPA Oversight	Exit Time	1130 hours
Facility Type (circle one)	Commercial/ Industrial Residential <input checked="" type="checkbox"/> Municipal	Signature	/s/ Sarah Holcomb

<b>Facility Location Information</b>					
Name/Location/ Mailing Address	Osuna Road Channel Notch Project Near Osuna and Chappell, Albuquerque, NM Mailing address: (David Montoya Construction) PO Box 10254, Albuquerque, NM 87184				
GPS Coordinates	Latitude	35.1536°	Longitude	-106.6050°	
Receiving Water(s)	Albuquerque MS4 (North Diversion Channel) thence to the Rio Grande in 20.6.4.105 NMAC				
Disturbed Area	1.0 acres	Start Date	1-16-2012	Stop Date	7-31-2012

<b>Contact Information</b>		
	Name(s)	Telephone
Name(s) and Role(s) of All Parties Meeting the Definition of Operator	City of Albuquerque DMD – owner (CoA) David Montoya Construction – operator (DMC)	
Facility Contact	Adam Bergstrasser, CoA Robert Watson, DMC	505-924-3671 505-898-6330
Authorized Official(s)	Robert Perry, CAO, CoA David Montoya, DMC	505-768-2000 505-898-6330

<b>Site Information:</b> (circle all that apply)							
Nature of Project	Residential	<input checked="" type="checkbox"/> Commercial/ <input checked="" type="checkbox"/> Industrial	Roadway	Private	Federal	<input checked="" type="checkbox"/> State/ <input checked="" type="checkbox"/> Municipal	Other
Construction Stage	Clearing/ Grubbing	Rough Grading	Infrastructure	Building Const.	<input checked="" type="checkbox"/> Final <input checked="" type="checkbox"/> Grading	<input checked="" type="checkbox"/> Final <input checked="" type="checkbox"/> Stabilization	

<b>Basic Permit Information</b>			<b>Basic SWPPP Information</b>		
Permit Coverage <i>ESO Element 3 &amp; 4</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SWPPP Prepared & Available <i>ESO Element 5 &amp; 30</i>	<input checked="" type="checkbox"/>	N
Permit Type	<input checked="" type="checkbox"/> General	Individual	SWPPP Contents Satisfactory <i>ESO Elements 5 - 31</i>	Y	<input type="checkbox"/>
Permit notice/sign visibly posted including: copy of NOI, contact name & phone number, location of SWPPP <i>ESO Element 41</i>	Y	<input type="checkbox"/>	SWPPP Implementation Satisfactory <i>ESO Elements 32 - 48</i>	Y	<input type="checkbox"/>
NOI Date	12-27-2011DMC 1-19-2012CoA		SWPPP Date	12-20-2011	
If applicable, is waiver certification & approval on file?	Y	N	<i>Intentionally left blank</i>		

<b>SWPPP Review (can be completed in office)</b>					
<b>General</b>			<b>Notes:</b>		
Is there a SWPPP? <i>ESO Element 5</i>	<input checked="" type="checkbox"/>	N	SWPPP prepared by Indigo Engineering		
SWPPP completed prior to NOI submission? <i>ESO Element 6</i>	<input checked="" type="checkbox"/>	N			
Copy of permit language? <i>ESO Element 25</i>	<input checked="" type="checkbox"/>	N			
Is SWPPP consistent with state/tribal/local regulations and permits? <i>ESO Element 26</i>	Y	<input type="checkbox"/>	No modeling calculations were included in the SWPPP to show appropriate BMPs were used for the site.		
SWPPP updated to incorporate changes to State, Tribal, Local erosion plans? <i>ESO Element 27</i>	Y	<input type="checkbox"/>			
Have copies of inspection reports/all other documentation been retained as part of the SWPPP for 3 years from date permit coverage expires? <i>ESO Element 28</i>	Y	<input type="checkbox"/>			
Is a copy of the SWPPP on site or made available? <i>ESO Element 30</i>	<input checked="" type="checkbox"/>	N			
Did all "operators" sign/certify the SWPPP? <i>ESO Element 31</i>	Y	<input type="checkbox"/>	David Montoya signed for DMC and Melissa Lozoya signed for CoA. Ms. Lozoya does not appear to have the proper signatory authority to sign the SWPPP/NOI for the City.		

<u>Site Description</u>		<b>Notes:</b>	
SWPPP identifies potential sources of pollution? <i>ESO Element 7</i>	<input checked="" type="checkbox"/>	N	Clearing/grubbing, excavation of materials, installation of erosion/sediment control measures.
SWPPP identifies all operators and their areas of control? <i>ESO Element 8</i>	<input checked="" type="checkbox"/>	N	
Is there a site description? <i>ESO Element 9</i>	<input checked="" type="checkbox"/>	N	
Nature/sequence of construction activity? <i>ESO Element 9A - 9B</i>	Y	<input checked="" type="checkbox"/>	Only estimated dates were contained in the SWPPP.
Total area of site and total area to be disturbed? <i>ESO Element 9C</i>	<input checked="" type="checkbox"/>	N	1.0 acres total/1.0 acres disturbed.
Is there a general location map? <i>ESO Element 9D</i>	<input checked="" type="checkbox"/>	N	
Is there a site map? <i>ESO Element 9E</i>	<input checked="" type="checkbox"/>	N	However, the site map did not accurately reflect the on site conditions.
Drainage patterns/outfalls on site map? <i>ESO Element 9F</i>	<input checked="" type="checkbox"/>	N	
Area of soil disturbance on site map? <i>ESO Element 9F</i>	Y	<input checked="" type="checkbox"/>	
Location of major structural controls on site map? <i>ESO Element 9F</i>	Y	<input checked="" type="checkbox"/>	Portolets not on map, concrete washout missing, tarping used overnight not shown.
Location of storm water discharges to a surface water on site map? <i>ESO Element 9F</i>	<input checked="" type="checkbox"/>	N	
Location of materials or equipment storage on site map (on-site or off-site)? <i>ESO Element 9F</i>	Y	<input checked="" type="checkbox"/>	
Location/description industrial activities? <i>ESO Element 9G</i>	Y	N	N/A
Name of Receiving water(s) or MS4 listed?	Y	<input checked="" type="checkbox"/>	<i>Note: Indicate whether receiving water is 303(d) listed.</i> <b>Rio Grande, doesn't mention 303(d) status or TMDL listings.</b>
Does the SWPPP include dates of major grading activities, temporary/permanent construction cessation, and initiation of stabilization practices? <i>ESO Element 14</i>	Y	<input checked="" type="checkbox"/>	
Endangered Species Documentation? <i>ESO Element 23</i>	Y	<input checked="" type="checkbox"/>	Certified Criterion A and only contains list of endangered species as documentation.

<b>Controls to Reduce Pollutants</b>		<b>Notes:</b>	
Does the SWPPP include a description of all pollution control measures (BMPs) that will be implemented to control pollutants in storm water discharges, including sequence and which operator responsible for implementation? <i>ESO Element 10 A – C</i>	<input checked="" type="checkbox"/> Y	N	
Does the SWPPP include a description of interim and permanent <i>stabilization practices</i> (e.g., seeding, mulching, riprap for the site)? <i>ESO Element 11; 12</i>	Y	<input checked="" type="checkbox"/> N	No temporary stabilization measures are listed. Permanent stabilization lists mulching, seeding, which will comprise about 10% of the stabilization.
Does the SWPPP identify the contractor(s) and timing by which <i>stabilization practices</i> will be implemented? <i>ESO Element 13</i>	<input checked="" type="checkbox"/> Y	N	
Does the SWPPP include a description of <i>structural practices</i> (e.g., vehicle track-out, silt fences, sediment traps, storm drain inlet protection) for the site? <i>ESO Element 15</i>	<input checked="" type="checkbox"/> Y	N	
Does the SWPPP identify the contractor(s) and timing by which <i>structural practices</i> will be implemented? <i>ESO Element 10B - 10C</i>	Y	<input checked="" type="checkbox"/> N	Timing is not noted.
Does the SWPPP identify storm water management measures to address storm water runoff once the construction is completed (e.g., retention ponds, velocity dissipation controls)? <i>ESO Element 16</i>	Y	N	N/A
Does SWPPP describe measures to prevent discharge of dredge/fill materials to waters of the U.S.? Does site have 404 permit? <i>ESO Element 17</i>	Y	N	N/A
Does SWPPP describe measures to minimize off-site vehicle tracking and generation of dust? <i>ESO Element 18</i>	<input checked="" type="checkbox"/> Y	N	
Does SWPPP describe controls for pollutants from storage of construction or waste materials? <i>ESO Element 19</i>	Y	<input checked="" type="checkbox"/> N	Vague description contained in the SWPPP.
Does the SWPPP describe controls for pollutants from non-construction activities? <i>ESO Element 20</i>	Y	N	N/A
Does SWPPP identify allowable non-storm water discharges? <i>ESO Element 21</i>	<input checked="" type="checkbox"/> Y	N	Dust control, pavement wash waters.

<b>Controls to Reduce Pollutants (cont'd)</b>		<b>Notes:</b>
Does SWPPP ensure implementation of pollution prevention measures for non-storm water discharges? <i>ESO Element 22</i>	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	
Is SWPPP revised when BMPs added/modified within 7 days after inspection reveals problems? <i>ESO Element 29</i>	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	No inspections contained in the SWPPP noted any problems at the site.

<b>Inspections</b>		<b>Notes:</b>
Inspections performed once every 14 days and within 24 hours of a rain event greater 0.5"? <i>ESO Element 32</i>	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	
Inspections performed by qualified personnel? <i>ESO Element 33</i>	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	
All disturbed areas and/or used for storage and exposed to rain inspected? <i>ESO Element 34</i>	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	
All pollution control measures inspected to ensure proper operation? <i>ESO Element 35</i>	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	
All discharge locations inspected if accessible, or if not accessible, are nearby downstream locations inspected? <i>ESO Element 36; 37</i>	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	
Entrance/exit inspected for off-site tracking? <i>ESO Element 38</i>	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	
Inspection report contain all required items and certified? <i>ESO Element 39; 40</i>	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	

## Notes on SWPPP Review

### **Site Description:**

The Osuna Channel Notch project involves the installation of a bike path underneath Osuna Road in the North Diversion Channel to allow bicyclists to avoid crossing the road. The project requires the demolition of the concrete sides of the channel and the installation of a ledge crossing underneath the bridge. The City is the project owner (working within the AMAFCA right of way) and David Montoya Construction is the general contractor for this project. The SWPPP was developed by Indigo Engineering and Indigo is also performing inspections on behalf of both the City and DMC.

The NOIs for both the City and David Montoya Construction (DMC) were not readily displayed at the site. The permit states that the NOIs must be publicly visible. Also, the City filed their NOI 3 days after the start of the project.

Ms. Melissa Lozoya signed the NOI for the City. Her title is listed as the Engineering Division Manager. It does not appear that Ms. Lozoya has the proper authority to sign NOIs on behalf of the City. The permit states in Appendix G.11.A.3: *For a municipality, state, federal or other public agency: By either a principal executive officer or ranking elected official.* Also, Ms. Lozoya signed the SWPPP, and did not have an authorization letter from the correct signatory authority to do so. There was also no authorization letter contained in the SWPPP to allow Indigo Engineering to sign inspection reports on behalf of the City.

The SWPPP did not contain modeling calculations as required in the state certification to the permit in Part 10.E.1.b. This is essential to ensure that the proper BMPs were selected to control pollutants from leaving the construction site.

The site map was missing accurate information to reflect the BMPs currently used at the construction site, as well as the current progress of the project. Specific BMPs were missing from the map, including the concrete washout, portolets located on site, and the tarping used to cover the exposed soil area each night. The site map also did not indicate the water quality impairments in the Rio Grande.

The Endangered Species Act documentation contained in the SWPPP was not appropriate to the Criterion A certification that both entities included on their NOIs. There was only a list of endangered species within Bernalillo County. The permit requires that the "project area" is assessed when determining permit eligibility for ESA purposes. The project area includes the areas downstream of the site. The North Diversion Channel discharges directly to the Rio Grande, where there are endangered species and critical habitat. Criterion A states that there are none within the project area.

There were only two inspections contained in the SWPPP for the duration of the project (2-10-2012 and 2-24-2012). Upon review of those inspection reports, it did not seem that the inspector was accurately reflecting the conditions on site. The inspection indicated that there were no problems at the site, and according to on site representatives, there have been issues with BMPs during the project. Please see photographs at the end of the report for documentation of possible BMP issues as well.



<b><u>Stabilization Practices</u></b>	
<p><b>List and describe stabilization practices</b> ESO Element 43, 48</p>	<p><i>(e.g., seeding, mulching, geotextiles, sod stabilization)</i></p> <p>None at the time of this inspection. Concrete was being poured while NMED was present.</p>
<p><b>Are stabilization measures initiated no more than 14 days after temporary or permanent construction cessation?</b> ESO Element 46</p>	<p><i>(e.g., indicate “yes” or “no”; if “yes”, how long without stabilization measures?)</i></p> <p>The SWPPP and the onsite representatives did not indicate that construction had ceased for more than two weeks on this project.</p>

<b><u>Structural Practices</u></b>	
<p><b>List and describe structural controls</b> ESO Element 42, 43, 47</p>	<p><i>(e.g., silt fences, hay bales, storm drain inlet protection, sedimentation pond, rip rap, check dam, diversion structure, off-site vehicle track-out)</i></p> <ol style="list-style-type: none"> <li>1. Erosion control socks – located at the bottom of the North Diversion Channel. Socks were in need of repair in a few places, and had also had concrete poured over them, further into the channel.</li> <li>2. Stabilized entrances provided at the entry to the channel, located north of the actual construction.</li> <li>3. Concrete washout – located near the entrance to the channel.</li> </ol>
<b><u>Non-Structural Practices</u></b>	
<p><b>Street Cleaning</b> ESO Element 44</p>	<p><i>(e.g., describe measures taken to remove offsite accumulation of sediment)</i></p> <p>N/A</p>
<p><b>Good Housekeeping &amp; Waste Disposal Practices</b> ESO Element 45</p>	<p><i>(e.g., describe measures taken to prevent litter and debris from becoming a pollutant source)</i></p> <p>Two portolets are located at either end of the construction site. Trash pick up occurs weekly. Excavated soil is placed in the bottom of the channel and is hauled out at the end of each workday to the Pino Yards.</p>
<p><b>Equipment Wash/Maintenance Area</b> ESO Elements 43</p>	<p><i>(provide brief description)</i></p> <p>Equipment is not washed onsite. Equipment maintenance may occur on site. No spill kits were noted during this inspection.</p>

<p><b>Concrete Washout Areas</b> <i>ESO Elements 43</i></p>	<p><i>(provide brief description)</i></p> <p>Concrete washout is located north of the actual construction site. Pit is lined and looks to be well maintained, although it did appear to be close to needing maintenance of the day of this inspection.</p>
<p><b><u>Miscellaneous</u></b></p>	
<p><b>Evidence of Sediment Deposition to Surface Waters</b> <i>*ESO Eligibility - if "yes," site not eligible for ESO</i></p>	<p><i>(e.g., significant turbidity observed in a receiving water body)</i></p> <p>Due to the fact that the BMPs needed repair in some places, it did appear that some sediment was making it into the non-stormwater flow that was in the NDC on the day of this inspection. Please see photographs.</p>
<p><b>Pollution prevention measures for non-storm water discharges?</b> <i>*ESO Eligibility - If evidence of non-allowable non-storm water discharges, site not eligible for ESO</i></p>	<p><i>(provide brief description and determine whether/if non-storm water discharges allowable)</i></p> <p>No non-stormwater discharges were observed from the construction site on the day of this inspection.</p>
<p><b>Has implementation of additional/modified BMPs been completed before next anticipated storm event?</b> <i>ESO Element 43.C.1</i></p>	<p><i>(provide brief description)</i></p> <p>The onsite representative indicated that he had just replaced the erosion control sock in the channel in the prior couple of weeks to this inspection. There was no documentation of that in the SWPPP.</p>

NMED/SWQB

**Official Photograph Log**

Photo # 1

Photographer: Sarah Holcomb	Date: 3-29-2012	Time: 0841 hours
City/County: Albuquerque/Bernalillo County		
Location: North Diversion Channel near Osuna Road.		
Subject: BMPs along the channel in need of maintenance/repair.		



NMED/SWQB

**Official Photograph Log**

Photo # 2

Photographer: Sarah Holcomb	Date: 3-29-2012	Time: 0840 hours
City/County: Albuquerque/Bernalillo County		
Location: North Diversion Channel near Osuna Road.		
Subject: Southern end of the project.		





NMED/SWQB

**Official Photograph Log**

Photo # 3

Photographer: Sarah Holcomb	Date: 3-29-2012	Time: 0905 hours
City/County: Albuquerque/Bernalillo County		
Location: North Diversion Channel near Osuna Road.		
Subject: Northern end of the project. Tarp is in place to cover exposed soil overnight.		

