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NEW MEXICO  
ENVIRONMENT DEPARTMENT

*Surface Water Quality Bureau*

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DAVE MARTIN  
Secretary

BUTCH TONGATE  
Acting Deputy Secretary

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September 30, 2011

Mr. Nicholas Montoya, Managing Partner  
Tierra Vista Investments, LLC  
2019 Galisteo St. Suite C-3  
Santa Fe, NM 87501

**RE: Construction Stormwater, SIC 1521, NPDES Compliance Evaluation Inspection, Tierra Vista Investments, LLC, Tierra Vista Subdivision Construction Project, NPDES Permit NMU001765, Santa Fe, New Mexico, September 27, 2011**

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 discussed 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.

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 e-mail)  
Samuel Bates, USEPA (6EN-AS) (by e-mail)  
Carol Peters-Wagnon, USEPA (6EN-AS) (by e-mail)  
Diana McDonald, USEPA (6EN-AS) (by e-mail)  
Darlene Whitten-Hill, USEPA (6EN-AS) (by e-mail)  
Bill Chavez, NMED District 1 Acting Manager (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   7   6   5   11   12   1   1   0   9   2   7   17   18   }   19   S   20   2					
Remarks					
C   O   N   S   T   R   U   C   T   I   O   N   ≥   5   A   C   R   E   S					
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) <b>TIERRA VISTA SUBDIVISION, SANTA FE, NM; SANTA FE COUNTY: FROM I-25, TAKE THE CERRILLOS EXIT. TURN LEFT ON AIRPORT RD. TURN RIGHT ON ZEPOL AND LEFT ON CALLE NUEVA VISTA. YOU WILL DRIVE INTO THE MIDDLE OF THE CONSTRUCTION SITE.</b>	Entry Time /Date <b>0900 hours / 9-27-2011</b>	Permit Effective Date 8-1-2008
	Exit Time/Date <b>1130 hours / 9-27-2011</b>	Permit Expiration Date 2-15-2012
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s) <b>MR. HERSON MONTOYA, SUPERINTENDENT MR. RICARDO ORDONES, ASST. SUPERINTENDENT</b>	Other Facility Data SIC 1521	
Name, Address of Responsible Official/Title/Phone and Fax Number <b>MR. NICHOLAS MONTOYA 2019 GALISTEO ST., SUITE C-3, SANTA FE, NM 87501</b>	Contacted Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> *	GPS: N. 35° 38.613" W. -106° 01.782"

**Section C: Areas Evaluated During Inspection**

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

U	Permit	N	Flow Measurement	M	Operations & Maintenance	N	CSO/SSO
U	Records/Reports	S	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	M	Storm Water	N	Other:

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

- INSPECTION WAS PROMPTED BY AN ANONYMOUS COMPLAINT.
- INSPECTOR ARRIVED ON SITE AND CONDUCTED AN ENTRANCE INTERVIEW WITH MR. RICARDO ORDONES, ASSISTANT SUPERINTENDENT. THE INSPECTOR MADE INTRODUCTIONS, PRESENTED CREDENTIALS AND EXPLAINED THE PURPOSE OF THE INSPECTION.
- INSPECTOR CONDUCTED AN EXIT INTERVIEW WITH MR. ORDONES AND MR. HERSON MONTOYA, SUPERINTENDENT, AT THE SITE AT APPROXIMATELY 1115 HOURS ON 9-27-2011.

Name(s) and Signature(s) of Inspector(s) <b>Sarah Holcomb /s/ Sarah Holcomb</b>	Agency/Office/Telephone/Fax <b>NMED/SWQB 505-222-9587</b>	Date <b>9-30-2011</b>
Signature of Management QA Reviewer <b>Richard Powell /s/ Richard Powell</b>	Agency/Office/Phone and Fax Numbers <b>NMED/SWQB 505-827-2798</b>	Date <b>9-30-2011</b>

## **Introduction**

On September 27, 2011, a Compliance Evaluation Inspection was conducted at a  $\geq 5$  acre construction site located in Santa Fe, New Mexico. The inspection was conducted by Sarah Holcomb of the NMED/SWQB, accompanied by Sandra Gabaldón (also of NMED SWQB). The current construction project consists of two subdivision developments, Vista Bonitas (11.75 disturbed acres) and Tierra Vista (4.75 disturbed acres). Tierra Vista is awaiting clearing and grubbing work, while Vista Bonitas has been cleared and graded, and construction on three homes has been started. The purpose of this inspection was to document the facility's status regarding the NPDES storm water permit program and storm water regulations at **40 Code of Federal Regulations Part 122.26**.

This report is based on review of files maintained by NMED, on-site observation by NMED personnel, and verbal information provided by the facility's representatives, Mr. Herson Montoya and Mr. Ricardo Ordonez. This site is located adjacent to the Santa Fe River. Storm water runoff from this site discharges to the Santa Fe MS4, thence to the Santa Fe River (20.6.4.113 NMAC).

The inspector arrived at the site at 0900 hours on September 27, 2011. The inspector conducted an entrance interview with Mr. Montoya and Mr. Ordonez, where she made introductions, explained the purpose of the inspection, and presented credentials. A formal exit interview to discuss the preliminary findings of the inspection was conducted on site with Mr. Montoya and Mr. Ordonez at approximately 1115 hours on 9-27-2011. A follow up phone call to obtain more information was made to Mr. Martin Montoya, Vice President of Advantage Asphalt, around 1400 hours on 9-27-2011.

## **Findings**

*Section 301 (a) of the Federal Water Pollution Control Act states that "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."*

*Per 40 CFR Part 122.26, storm water discharges associated with construction activity are required to obtain coverage under an NPDES permit. Large construction activity is defined in 40 CFR Part 122.26(b)(14)(x), as follows: "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 part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more."*

*In addition, beginning on March 10, 2003, storm water discharges associated with small construction activity became regulated according to 40 CFR Part 122.26(b)(15)(i) for "[c]onstruction 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 acre and less than five acres."*

*40 Code of Federal Regulations Part 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."*

According to the facility's representative, and based on a review of the EPA storm water permit database, it has been determined that this owner did not have NPDES construction general storm water permit coverage on the date of this inspection. Tierra Vista Investments LLC is the owner/developer who has operational control over project specifications, where Advantage Asphalt is the general contractor who has day-to-day operational control of those activities at the construction project. Advantage Asphalt would be responsible for site maintenance which is necessary to ensure compliance with the storm water pollution prevention plan (SWPPP) (if one had been prepared) and other permit conditions.

There was not a pollution prevention plan prepared in written form available at the site for the inspection and adequate stabilization measures were not being implemented at the site. A SWPPP should include the following:

- Site Description
- Description of interim and permanent stabilization practices (e.g., seeding, mulching, etc.)
- Structural Practices (e.g., silt fences, check dams, sediment traps, earth dikes, subsurface drains, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins, etc.)
- Storm Water Management Controls (e.g., detention or retention structures, vegetated swales, etc.) to be installed during the construction process to reduce pollutants in storm water discharged from the site after construction has been completed
- Description of other controls (e.g., waste disposal, procedures to minimize off-site vehicle tracking, dust control, etc.)
- Maintenance and inspection procedures
- Appropriate certifications
- Address New Mexico condition on sediment yield/flow velocity in Part 10.C.1.b of the CGP

If not properly managed or treated in accordance with an NPDES permit, the construction activities at this site represent a potential threat to water quality through storm water discharges.

The facility's representative was informed of the requirements under the NPDES storm water program regarding permitting requirements, preparation of a SWPPP, and installation of appropriate storm water runoff control practices (per the SWPPP) during the exit interview conducted with Mr. Montoya on 9-27-2011. Preliminary findings of the inspection were also discussed during the exit interview.