



NEW MEXICO
 ENVIRONMENT DEPARTMENT
Surface Water Quality Bureau



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DAVE MARTIN
 Secretary

BUTCH TONGATE
 Deputy Secretary

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

October 16, 2012

Luis and Monica Florian
 67 Calle de Oro
 Rancho Mirage, CA 92270

RE: Construction Storm Water, SIC 1521, NPDES Compliance Evaluation Inspection, Luis and Monica Florian / Lot 70 Monte Sereno, NMU001802, October 2, 2012

Mr. and Ms. Florian:

Enclosed, please find a copy of the report for the referenced inspection that the New Mexico Environment Department (NMED) conducted at a construction support activity site for which you may be an "operator" (see 2012 Construction General Permit (CGP), Definitions, Appendix A). 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 Further Explanations of the report. You are encouraged to review the inspection report; and 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 regarding modifications and compliance schedules both the USEPA (Diana McDonald, USEPA (6EN-WM), 1445 Ross Avenue, Dallas, Texas 75202-2733) and the NMED Surface Water Quality Bureau Program Manager (at the address above).

If you have any questions about this inspection report, please contact me at 505-827-0418.

Sincerely,

/s/ Erin S. Trujillo

Erin S. Trujillo
 Surface Water Quality Bureau

- cc: Rashida Bowlin, USEPA (6EN) by e-mail
 Hannah Branning, USEPA (6EN-WC) by e-mail
 Darlene Whitten-Hill, USEPA (6EN-WC) by e-mail
 Carol Peters-Wagnon, USEPA (6EN-WM) by e-mail
 Diana McDonald, USEPA (6EN-WM) by e-mail
 Robert Italiano, NMED District II Santa Fe by e-mail
 Bryan Marsh, Marsh Homes, Incorporated 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 0 2 11 12 1 2 1 0 0 2 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 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) Florian Residence at 3305 Monte Sereno, Santa Fe, NM 87505 (Lot 70 of the approximately 600-acre Monte Sereno residential subdivision). Santa Fe County	Entry Time /Date 1200 hrs / 10/02/2012	Permit Effective Date February 16, 2012
	Exit Time/Date 1545 hrs / 10/02/2012	Permit Expiration Date February 16, 2017
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s) -Francis Gingras, Site Superintendent, Marsh Homes, Incorporated, 505-780-0077 -John D. Schumaker, Santa Fe Environmental Inc., 505-204-0067 -Bryan Marsh, President, Marsh Homes, Incorporated, 505-989-7075	Other Facility Data GPS Latitude 35.742140° Longitude -105.944950°	
Name, Address of Responsible Official/Title/Phone and Fax Number Luis and Monica Florian, 67 Calle de Oro, Rancho Mirage, CA 92270 / 760-328-9791	Contacted Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> *	SIC 1521

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
U	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)

- Owner/Operator = Luis and Monica Florian
General Contractor/Operator = Marsh Homes, Incorporated
- Luis and Monica Florian appear to be the owner/operator of the above-referenced construction activity that is part of a greater common plan of development greater than 5 acres and, and did not obtain permit coverage under the USEPA 2008 Construction General Permit (CGP); or the 2012 CGP by the deadline of May 16, 2012, or by the date of this inspection.
- An on-site Stormwater Water Pollution Prevention Plan (SWPPP) was made available, but the plan was not complete (signed/certified) by the operators or a duly authorized representative of those persons; and the documentation, including site map, was not updated for all applicable permit conditions of the 2012 CGP. Required inspection and corrective action reports were also not signed/certified by the operators or a duly authorized representative of those persons as required in Appendix I of the 2012 CGP.
- See further explanations. A separate checklist report and photo log under a separate USEPA Form 3560 was sent to Marsh Homes, Incorporated (NPDES Tracking No. NMR12A4707).

Name(s) and Signature(s) of Inspector(s) Erin S. Trujillo /s/Erin S. Trujillo	Agency/Office/Telephone and Fax Numbers NMED/SWQB/505-827-0418/505-827-0160	Date 10/16/2012
Signature of Management QA Reviewer Richard E. Powell /s/Richard E. Powell	Agency/Office/Telephone and Fax Numbers NMED/SWQB/505-827-2798/505-827-0160	Date 10/16/2012

NPDES Construction Storm Water Compliance Evaluation Inspection
Luis and Monica Florian / Lot 70 Monte Sereno
NMU001802
October 2, 2012

Further Explanations

Introduction

On October 2, 2012, a Compliance Evaluation Inspection (CEI) was conducted by Erin Trujillo of the New Mexico Environment Department (NMED) Surface Water Quality Bureau (SWQB) at a construction site at 3305 Monte Sereno, Santa Fe, NM 87505 (Lot 70 of the approximately 600-acre Monte Sereno residential subdivision) in Santa Fe County, New Mexico. This inspection followed the receipt of a complaint to NMED about non-compliance with conditions of the USEPA construction general permit at the Monte Sereno subdivision. This inspector selected a construction site at the subdivision that did not have current permit coverage posted and that had some accumulated sediment and oil stains on the paved subdivision road that appeared to be from construction vehicles from the adjacent residential lot construction site. The purpose of this inspection was to document the facility's status regarding the National Pollutant Discharge Elimination System (NPDES) stormwater permit program and storm water regulations at 40 Code of Federal Regulations Part 122.26.

Stormwater discharges are to unnamed tributaries, unclassified segment 20.6.4.97 *State of New Mexico Standards for Interstate and Intrastate Surface Waters, 20.6.4 New Mexico Administrative Code (NMAC)*, thence to the following with portions on tribal land, Rio Tesuque, then Pojoaque River, then Rio Grande.

The inspector, Ms. Trujillo, contacted Bryan Marsh, President, Marsh Homes, Incorporated by telephone upon arrival. Upon arrival of Francis Gingras, Site Superintendent, Marsh Homes, Incorporated, the inspector made introductions, explained the purpose of the inspection and presented credentials. The inspector, Mr. Gingras, John Schumaker, Santa Fe Environmental Inc. and Mr. Marsh toured the site. The inspector provided a brief summary of preliminary findings following the tour. This report is based on review of files maintained by the USEPA eNOI processing center and NMED, on-site observation by NMED personnel, and verbal information provided by the operator on-site representatives.

Clean Water Act and Construction General Permit Requirements

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 a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more.

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.”*

2012 Construction General Permit (CGP)

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 the National Pollutant Discharge Elimination System (NPDES) stormwater program. Prior to discharging stormwater, construction operators must obtain coverage under an NPDES permit, which in the State of New Mexico, is administered by the USEPA.

USEPA Construction General Permit (CGP) was re-issued effective February 16, 2012 (Federal Register/Vol. 77, No. 40/Wednesday, February 29, 2012, pg. 12286) and replaced the 2008 CGP which expired on February 15, 2012. Appendix A (Definitions) of the 2012 CGP states:

“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).

The construction general permit (CGP) requires compliance with effluent limits and other permit requirements, such as the development of a storm water pollution prevention plan (SWPPP), inspection, maintenance, and corrective action. 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 and Part 2.2 of the 2012 CGP). A site’s SWPPP is required to be developed prior to submitting a NOI. 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.” Information on the 2012 CGP, and the electronic NOI system is available at <http://cfpub.epa.gov/npdes/stormwater/cgp.cfm#final2012cgp>.

Findings

According to operator on-site representatives, Luis and Monica Florian contracted Marsh Homes, Incorporated to construct an individual single-family residence on the above-referenced lot in a common plan of development greater than 5 acres; and did not obtain permit coverage under either the USEPA 2008 CGP or the 2012 CGP by the deadline of May 16, 2012 or by the day of this inspection.

SWPPP contents and implementation were not satisfactory. The on-site SWPPP prepared by Santa Fe Environmental Inc. was not signed/certified by the owner or Marsh Homes, Incorporated responsible corporate officer; or duly authorized representative of those persons. A written authorization from the owner to sign reports, in this case the SWPPP, and inspection and corrective action reports, was not contained in the SWPPP. The plan, including site map, was not updated for all applicable permit conditions of the 2012 CGP. A separate checklist report and photo log under a separate USEPA Form 3560 form was sent to Marsh Homes, Incorporated (NPDES Tracking No. NMR12A4707).