



NEW MEXICO
ENVIRONMENT DEPARTMENT



Surface Water Quality Bureau

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Resource Protection Division

Certified Mail-Return Receipt Requested

February 26, 2013

Mr. Tomas Campos, County Manager
Rio Arriba County
1122 Industrial Park
Española, New Mexico 87532

RE: Construction Storm Water, SIC 1611, NPDES Compliance Evaluation Inspection, Rio Arriba
County, NMU001849, February 7, 2013

Dear Mr. Campos:

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 (Definitions) Construction General Permit (CGP)). 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 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) and NMED (at the above address) regarding modifications and compliance schedules.

I appreciate your cooperation during this inspection. If you have any questions about this inspection report, please contact me at 505-827-2575.

Sincerely,

/s/Daniel Valenta

Daniel Valenta
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
NMED District II Santa Fe by e-mail
William.M.Oberle, ACOE 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 | 4 | 9 | 11 | 12 | 1 | 3 | 0 | 2 | 0 | 7 | 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 | | | | | | 70 | | | | | | 71 | | 72 | | 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) CR 198 Bridge Project, 24 miles north of Espanola on US 84 to Junction of US 84 & SR 96, go 3.6 miles west on SR 96 to Canones turnoff on CR 194, go 2.6 miles south on CR 194 to the Junction of CR 194 & CR 198, go 1 mile south on CR 198 to Canones creek crossing. Rio Arriba County | Entry Time /Date 1403/2-7-2013 | Permit Effective Date 2-16-2012 |
| | Exit Time/Date 1505/2-7-2013 | Permit Expiration Date 2-16-2017 |
| Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s) No construction activity or personnel were present at the project site, CR 198. | Other Facility Data LAT 36° 10' 28.95" N LONG 106° 26' 35.93" W SIC 1611 | |
| Name, Address of Responsible Official/Title/Phone and Fax Number Mr. Tomas Campos, 1122 Industrial Park, Espanola, NM 87532/ Rio Arriba County Manager/ 505-753-2992 fax 505-753-9397 | 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 | U | Operations & Maintenance | N | CSO/SSO |
| U | Records/Reports | U | 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)

- Inspectors Daniel Valenta and Sandra Gabaldon of the New Mexico Environment Department (NMED), Surface Water Quality Bureau (SWQB) arrived on site at 1403 on 2/7/2013, activity construction on the road was finished.
- No personnel were present at the road construction site. All pictures and observations were made from the public road. The construction project had ACOE permit SPA-2009-00406-ABQ, contact William M. Oberle 505-342-3284 Army Corp of Engineers for permit compliance.
- Inspectors met with the County Manager, Mr. Campos, and the Project Manager, Mr. Valdez, at county offices in Espanola at 1045 on 2/12/2013. Mr. Valenta showed credentials and explained the purpose of the inspection. A brief exit interview to discuss the preliminary findings of this inspection was provided to Mr. Valdez at 1135 at the end of the meeting.
- This report is based on a review of the files maintained by the permittee and NMED, on-site observations by NMED personnel, and verbal information provided by the facility's representative.

| | | |
|--|---|-----------------------|
| Name(s) and Signature(s) of Inspector(s) Daniel Valenta /s/Daniel Valenta | Agency/Office/Telephone/Fax NMED/SWQB 505-827-2575 | Date 2/25/2013 |
| Signature of Management QA Reviewer Bruce Yurdin /s/Bruce Yurdin | Agency/Office/Phone and Fax Numbers NMED/SWQB 505-827-2795 | Date 2/25/2013 |

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Further Explanations

On February 7, 2013, a Compliance Evaluation Inspection (CEI) was conducted by Daniel Valenta and Sandra Gabaldon of the New Mexico Environment Department (NMED) Surface Water Quality Bureau (SWQB) at the approximately 3.12 mile road rehabilitation project on CR 198 south of Canones, New Mexico.

This inspection followed a citizen complaint to NMED SWQB regarding non-compliance with Construction General Permit (CGP) conditions. The purpose of this inspection was to document the site's status regarding the National Pollutant Discharge Elimination System (NPDES) permit program, including storm water regulations at 40 Code of Federal Regulations Part 122.26.

Under the federal Clean Water Act, §303(d)(1), states are required to develop a list of waters within the state that are not supporting their designated uses established in the Water Quality Standards (WQS) and to establish a Total Maximum Daily Load (TMDL) for each pollutant in those "impaired waters." A TMDL includes consideration of existing pollutant loads and reasonably foreseeable increases in pollutant loads. **Canones Creek has a TMDL for chronic aluminum, turbidity, and fecal coliform.**

Stormwater discharges from this project are to Canones Creek, NM-2116.A_010, and thence to Abiquiu Reservoir in the Rio Grande Basin 20.6.4.119 *State of New Mexico Standards for Interstate and Intrastate Surface Waters, 20.6.4 New Mexico Administrative Code (NMAC)*. Designated Uses are domestic water supply, fish culture, high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat and primary contact; and public water supply on the Rio Brazos and Rio Chama.

A permit was acquired from the Army Corp of Engineers (ACOE) to work within the creek. ACOE permit, SPA-2009-00406-ABQ lists Conones Creek as **Critical Designated Resource Area for the Rio Grande Cutthroat Trout** and as such added special conditions on the ACOE permit.

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.

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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.”

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).

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). 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.” For a new operator of a new or existing project – an operator that through transfer of ownership and/or operation replaces the operator of an already permitted construction project – “You must submit your NOI at least 14 calendar days before the date the transfer to the new operator will take place (see Part 1.4.2 of the 2012 CGP).

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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).

In the 2012 CGP are listed conditions for discharging to an impaired water body.

Per the CGP 3.2.2. Requirements for Discharges to Sediment or Nutrient-Impaired Waters.

If you discharge to a surface water that is impaired for (1) sediment or a sediment related parameter (*e.g., total suspended solids (TSS) or turbidity*) and/or (2) nutrients (*e.g., nitrogen and/or phosphorus*), including impaired waters for which a TMDL has been approved or established for the impairment, you are required to comply with the following stormwater control requirements, which supplement the requirements applicable to your site in other corresponding parts of the permit

3.2.2.1 Frequency of Site Inspection. You must conduct inspections at the frequency specified in Part 4.1.3.

4.1.3. Increase in Inspection Frequency for Sites Discharging to Sensitive Waters.

For any portion of the site that discharges to a sediment or nutrient-impaired water (see Part 3.2) or to a water that is identified by your state, tribe, or EPA as Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes (see Part 3.3), instead of the inspection frequency specified in Part 4.1.2, you must conduct inspections in accordance with the following inspection frequencies:

4.1.3.1 Once every 7 calendar days; and

4.1.3.2 Within 24 hours of the occurrence of a storm event of 0.25 inches or greater. To determine if a storm event of 0.25 inches or greater has occurred on your site, you must either keep a properly maintained rain gauge on your site, or obtain the storm event information from a weather station that is representative of your location. For any day of rainfall during normal business hours that

3.2.2.2 Deadline to Complete Stabilization. You must comply with the deadlines for completing site stabilization as specified in Part 2.2.1.3c.

2.2.1.3c. Deadlines for sites discharging to sensitive waters. For any portion of the site that discharges to a sediment or nutrient-impaired water (see Part 3.2) or to a water that is identified by your state, tribe, or EPA as Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes (see Part 3.3), you are required to complete the stabilization activities specified in Parts 2.2.1.2a and/or 2.2.1.2b within 7 calendar days after the temporary or permanent cessation of earth-disturbing activities.

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3.2.2.3 State and Tribal Requirements. You must comply with any additional state or tribal impairment-related requirements included in Part 9. EPA will also impose additional water quality-based limitations on a site-specific basis, or require you to obtain coverage under an individual permit, if it is determined that the controls in the Part will not be sufficient to control discharges consistent with the assumptions and requirements of an applicable wasteload allocation of an approved or established TMDL or to prevent the site from contributing to the impairment.

More information on the 2012 CGP, electronic NOI system and SWPPP guidance is available at <http://cfpub.epa.gov/npdes/stormwater/cgp.cfm#final2012cgp>.

Findings

According to County representatives, the Project Manager and Public Works Director Mr. Joddie Valdez had operational control over project specifications and day to day control in completing the bridge replacements and road improvement project. Mr. Valdez estimated the project started in late August 2012 and was completed in November 2012. No BMP's or final stabilization was in place on the date of this inspection to prevent further degradation of the stream.

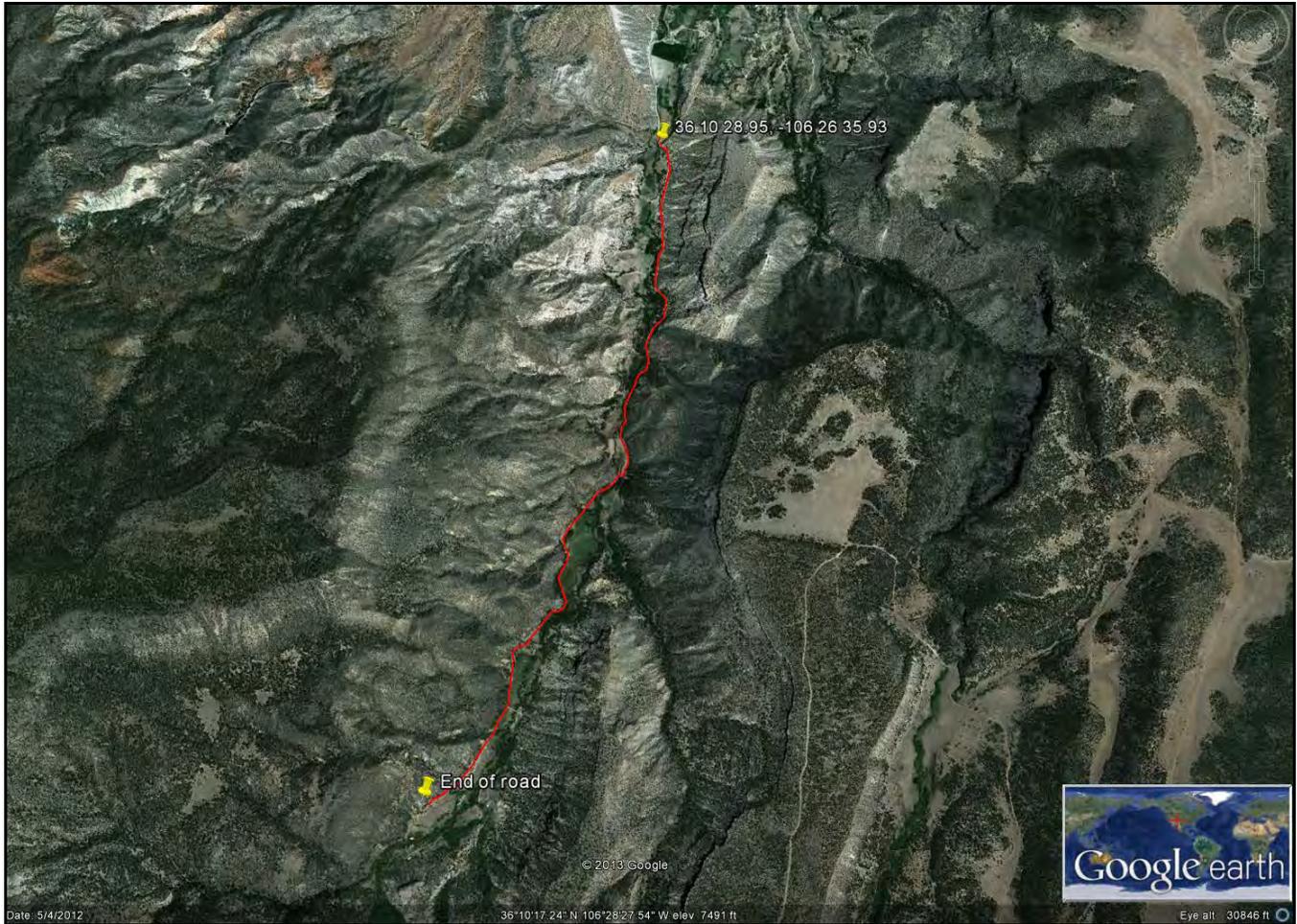
Rio Arriba County did not obtain permit coverage under the USEPA 2012 CGP for stormwater discharges.

Stormwater runoff from construction activities can have a significant impact on water quality. As stormwater flows over a construction site, it picks up pollutants like sediment, debris, and chemicals, and deposits them in creeks, streams, rivers, lakes, etc. The Stormwater Permitting Program requires operators of construction sites that disturb one or more acres of land to obtain permit coverage.

There was no stormwater pollution prevention plan prepared in written form documenting sediment and erosion, pollution prevention and stabilization controls; inspections; maintenance of controls and/or corrective action. There were no inspection reports in written form that would document that controls existing at the construction activity site were effective at minimizing sediment and other pollutant discharges.

NMED/SWQB Area Overview

| | | |
|--|--|--|
| | | |
| City/County: South of Canones on CR198/ Rio Arriba | | |
| Location: County Road 198, south of Canones, NM. | | |



**NMED/SWQB
Official Photograph Log**

Photo # 1

| | | |
|--|----------------|------------------|
| Photographer: Daniel Valenta | Date: 2/7/2013 | Time: 1405 hours |
| City/County: South of Canones on CR198/ Rio Arriba | | |
| Location: County Road 198, south of Canones, NM facing southeast. | | |
| Subject: Staging area for equipment and supplies, first crossing, see photo 3. | | |



**NMED/SWQB
Official Photograph Log**

Photo # 2

| | | |
|---|----------------|------------------|
| Photographer: Daniel Valenta | Date: 2/7/2013 | Time: 1410 hours |
| City/County: South of Canones on CR198/ Rio Arriba | | |
| Location: County Road 198, south of Canones, NM facing northeast. | | |
| Subject: Staging area for equipment and supplies. | | |



**NMED/SWQB
Official Photograph Log**

Photo # 3

| | | |
|---|----------------|------------------|
| Photographer: Daniel Valenta | Date: 2/7/2013 | Time: 1410 hours |
| City/County: South of Canones on CR198/ Rio Arriba | | |
| Location: County Road 198, south of Canones, NM facing northwest. | | |
| Subject: First replaced crossing. | | |



**NMED/SWQB
Official Photograph Log**

Photo # 4

| | | |
|---|----------------|------------------|
| Photographer: Daniel Valenta | Date: 2/7/2013 | Time: 1449 hours |
| City/County: South of Canones on CR198/ Rio Arriba | | |
| Location: County Road 198, south of Canones, NM facing northeast. | | |
| Subject: Road cut and fill placed into creek with no BMPs to reduce sediment loading or sediment stabilization. | | |



**NMED/SWQB
Official Photograph Log**

Photo # 5

| | | |
|--|----------------|------------------|
| Photographer: Daniel Valenta | Date: 2/7/2013 | Time: 1451 hours |
| City/County: South of Canones on CR198/ Rio Arriba | | |
| Location: County Road 198, south of Canones, NM facing northeast. | | |
| Subject: Replaced second culvert, no BMP's in place or sediment stabilization. | | |



**NMED/SWQB
Official Photograph Log**

Photo # 6

| | | |
|--|----------------|------------------|
| Photographer: Daniel Valenta | Date: 2/7/2013 | Time: 1456 hours |
| City/County: South of Canones on CR198/ Rio Arriba | | |
| Location: County Road 198, south of Canones, NM facing southwest. | | |
| Subject: Road widened by cutting into the hillside and pushing material into the stream. | | |



**NMED/SWQB
Official Photograph Log**

Photo # 7

| | | |
|---|----------------|------------------|
| Photographer: Daniel Valenta | Date: 2/7/2013 | Time: 1459 hours |
| City/County: South of Canones on CR198/ Rio Arriba | | |
| Location: County Road 198, south of Canones, NM facing southwest. | | |
| Subject: Road widened by cutting a new stream channel and moving the stream. No BMP's in place or sediment stabilization. | | |

