



NEW MEXICO
ENVIRONMENT DEPARTMENT

Surface Water Quality Bureau

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Deputy Secretary

TOM SKIBITSKI
Acting Director
Resource Protection Division

Certified Mail - Return Receipt Requested

April 10, 2013

Mr. Ron King, Owner
Skyline Engineering
PO Box 20
Santa Teresa, NM 88008

Re: Construction Stormwater, SIC 1542, NPDES Compliance Evaluation Inspection, Skyline Engineering, Riviera Homes Subdivision Construction Project, NPDES Permit NMU001853, April 4, 2013

Dear Mr. King,

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 your assistance during this inspection. If you have any questions, please feel free to contact me at sarah.holcomb@state.nm.us or by telephone at (505) 222-9587.

Sincerely,

/s/ Sarah Holcomb

Sarah Holcomb
Surface Water Quality Bureau

Cc: Rashida Bowlin, 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
Hannah Branning, USEPA (6EN-AS) by email
Michael Kesler, Acting NMED District 3 Manager, by email

NPDES Compliance Evaluation Inspection
Rivera Homes Subdivision, Skyline Engineering.
Permit No. NMU001853
April 4, 2013

Introduction

On April 4, 2013, a Compliance Evaluation Inspection was conducted at a >5 acre construction site located in Sunland Park, New Mexico. The inspection was conducted by Sarah Holcomb of the NMED/SWQB. The current construction project consists of the clearing of approximately 10 acres in preparation for the building of a residential subdivision and consists of approximately 34 lots. 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 representative, Mr. Marcos Riviera. Storm water runoff from this site discharges to the Sunland Park MS4, thence to the Rio Grande (20.6.4.101 NMAC).

This inspection was prompted by numerous complaints regarding dust generation from the activities at this site. According to the facility representatives, construction and grading started at the site in approximately January 2012. Skyline started clearing and grubbing in July 2012. Major dirt work was completed in December 2012.

No Best Management Practices (BMPs) other than the stormwater retention basins, a portable toilet and an enclosed material storage container were present at the site. No erosion control measures, sediment trackout measures, or temporary stabilization measures were present at the time of this inspection.

The inspector arrived at the site at 1300 hours on April 4, 2012. The inspector conducted an entrance interview with Mr. Marcos Riviera, 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. Riviera at approximately 1330 hours on 4-4-2013. A follow up email was sent to Mr. Riviera with more information on permit coverage and requirements on 4-10-2013. On 4-9-2013, the inspector also made contact with Mr. Ron King of Skyline Engineering, who was the general contractor during the clearing and dirt work phase of the project, where she explained the requirements and preliminary findings, as well as sending a follow up email on 4-10-2013.

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 and operator did not have NPDES construction general storm water permit coverage on the date of this inspection. Rivera Homes is the owner/developer who has operational control over project specifications (and who is now currently the general contractor building homes at this site), and Skyline Construction was the general contractor who had day-to-day operational control of those activities at the construction project during the clearing/grading phase. Skyline Engineering was 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 during the grading phase, but it appears that this responsibility has since been transferred to Rivera Homes.

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 9.4.1.1 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. Rivera on 4-4-2013. Preliminary findings of the inspection were also discussed during the exit interview. The same findings were presented to Mr. King in a phone call on 4-9-2013.

NMED/SWQB

Official Photograph Log
Photo # 1

Photographer: Sarah Holcomb	Date: 4-4-2013	Time: 1350 hours
City/County: Sunland Park, Dona Ana County		
Location: Riviera Homes Subdivision		
Subject: One of the eight homes under construction. There were no perimeter controls at the site to control trackout, as documented here.		



NMED/SWQB

Official Photograph Log

Photo # 2

Photographer: Sarah Holcomb	Date: 4-4-2013	Time: 1351 hours
City/County: Sunland Park, Dona Ana County		
Location: Riviera Homes Subdivision		
Subject: There was evidence of some spill in numerous locations on the street within the subdivision.		



NMED/SWQB

Official Photograph Log

Photo # 3

Photographer: Sarah Holcomb	Date: 4-4-2013	Time: 1351 hours
City/County: Sunland Park, Dona Ana County		
Location: Riviera Homes Subdivision		
Subject: View of the two stormwater retention basins located on site.		



NMED/SWQB

Official Photograph Log

Photo # 4

Photographer: Sarah Holcomb	Date: 4-4-2013	Time: 1353 hours
City/County: Sunland Park, Dona Ana County		
Location: Riviera Homes Subdivision		
Subject: View of the overall subdivision. No stabilization measures had been implemented on the lots that did not have a home currently being built on them.		

