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**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

***Surface Water Quality Bureau***

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Deputy Secretary

ERIKA SCHWENDER  
Director  
Resource Protection Division

**Certified Mail - Return Receipt Requested**

September 16, 2013

Mr. Emery Chukly, Corporate President  
Montego Bay Corporate  
5671 N. Oracle Road, Suite 1101  
Tucson, Arizona 85704

**Re:** Montego Bay Corporate; Major; Construction Stormwater; SIC 1623; NPDES  
Compliance Evaluation Inspection; NPDES Permit NMU001862; September 4, 2013

Dear Mr. Chukly:

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 listed 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 the above address) regarding modifications and compliance schedules.

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Mr. Emery Chukly  
September 16, 2013

If you have any questions about this inspection report, please contact Daniel Valenta at 505-827-2575 or at [daniel.valenta@state.nm.us](mailto:daniel.valenta@state.nm.us).

Sincerely,

*/s/Bruce Yurdin*

Bruce J. Yurdin  
Program Manager  
Point Source Regulation Section  
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  
NMED District 2 Manager, by email



NPDES Compliance Evaluation Inspection  
Raintree Apartments Construction  
Permit No. NMU001862  
September 4, 2013

## **Introduction**

On September 4, 2013, a Compliance Evaluation Inspection was conducted at the 7.4 acre construction site located at 2400 East Llano Estacado Blvd., Clovis, New Mexico. The inspection was conducted by Daniel Valenta of the NMED/SWQB. The Raintree Apartment Project is a \$20 million dollar construction project. The project includes 8 apartment buildings, 128 units, swimming pool, landscaped court yards, recreational facilities, and rental storage spaces. 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**. The inspection of this construction site is in response to a citizen's complaint.

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. Bob Watts, Project Supervisor. The site may discharge to unclassified surface waters, then to Running Water Draw thence to Blanco Canyon in the Brazos Headwaters Sub-basin, Texas-Gulf Basin tributary to the Brazos River in Texas.

The inspector arrived at the site at 1351 hours on September 4, 2013. The inspector conducted an entrance interview with Mr. Bob Watts, where he 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 at the Raintree construction site with Mr. Bob Watts and Mr. Robert Lydick, Site Developer, at approximately 1510 hours on September 4, 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 no NPDES construction general storm water permit was acquired for this construction site. Mr. Lydick of Raintree Apartments Limited is the owner/developer who has operational control over project specifications, and Mr. Emery Chuckly of Montego Bay Corporation is the general contractor who has day-to-day operational control of those activities at the construction project during the clearing/grading/construction phases of the project.

NPDES Compliance Evaluation Inspection  
Raintree Apartments Construction  
Permit No. NMU001862  
September 4, 2013

There was no pollution prevention plan prepared in written form available at the site for the inspection. 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

The facility's representatives were 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). More information about the CGP and how to file a Notice of Intend NOI can be found at <http://cfpub.epa.gov/npdes/stormwater/const.cfm>.

**NMED/SWQB  
Official Photograph Log**

Photo # 1

Photographer: Daniel Valenta	Date: 9/4/2013	Time: 1345 hours
City/County: Clovis/Curry County		
Location: Raintree Apartment construction site, 2400 East Llano Estacado Blvd, Clovis NM 88101, Facing northeast.		
Subject: Raintree Apartments construction site.		



**NMED/SWQB  
Official Photograph Log**

Photo # 2

Photographer: Daniel Valenta	Date: 9/4/2013	Time: 1457 hours
City/County: Clovis/Curry County		
Location: Raintree Apartment construction site, 2400 East Llano Estacado Blvd, Clovis NM 88101, facing north.		
Subject: Raintree Apartments construction site.		



**NMED/SWQB  
Official Photograph Log**

Photo # 3

Photographer: Daniel Valenta	Date: 9/4/2013	Time: 1453 hours
City/County: Clovis/Curry County		
Location:	Raintree Apartment construction site, 2400 East Llano Estacado Blvd, Clovis NM 88101, facing east.	
Subject:	Raintree Apartments construction site. Bar ditch which runs along the road on the south side of the construction site.	



**NMED/SWQB  
Official Photograph Log**

Photo # 4

Photographer: Daniel Valenta	Date: 9/4/2013	Time: 1448 hours
City/County: Clovis/Curry County		
Location: Raintree Apartment construction site, 2400 East Llano Estacado Blvd, Clovis NM 88101, facing south.		
Subject: Entrance/exit to Raintree Apartments construction site.		



**NMED/SWQB  
Official Photograph Log**

Photo # 5

Photographer: Daniel Valenta	Date: 9/4/2013	Time: 1432 hours
City/County: Clovis/Curry County		
Location: Raintree Apartment construction site, 2400 East Llano Estacado Blvd, Clovis NM 88101, facing east.		
Subject: Concrete wash out along road to site entrance/exit.		



**NMED/SWQB  
Official Photograph Log**

Photo # 6

Photographer: Daniel Valenta	Date: 9/4/2013	Time: 1453 hours
City/County: Clovis/Curry County		
Location: Raintree Apartment construction site, 2400 East Llano Estacado Blvd, Clovis NM 88101, facing west.		
Subject: Undisturbed buffer zone on southwest side of property		

