Message

From: Perea, Suzanna [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=17C4D262ADF04C669046CFCA032B8D82-PEREA, SUZANNA]
Sent: 1/23/2023 10:53:50 PM
To: Sydney Fetter [sfetter@e2rc.com]
CC: Kelley Fetter [kfetter@e2rc.com]; Bob [prewitt@swcp.com]
Subject: RE: EPA NeT CGP Change Effective Legacy at Sierra Vista, NPDES ID: NMR1002AG

Sydney –

As explained in my below email to Mr. Prewitt, the name of the operator on the NOI/NOT/LEW and the organization on the signatory's account need to be the same to comply with the 40 CFR 122.22 NPDES signatory regulations. If Bob Prewitt meets the 40 CFR 122.22(a)(1) signatory requirements for **Double M. Properties** (operator on the NOI) and is the signatory tasked with certifying any NOI/NOT/LEW that identifies **Double M. Properties** as the operator, Mr. Prewitt needs to obtain a separate CDX signatory account associated to Double M. Properties or contact the CDX Help Desk to modify the organization on his current **BPREWITT** CDX signatory account.

Suzanna M. Perea | Environmental Scientist
Permitting Section (6PWQB-PS) | Permitting & Water Quality Branch
☎: 214-665-7217 | ✉: perea.suzanna@epa.gov
Water Division | U.S. EPA Region 6
1201 Elm Street, Ste. 500 | Dallas, Texas 75270

From: Sydney Fetter <sfetter@e2rc.com>
Sent: Monday, January 23, 2023 3:49 PM
To: Perea, Suzanna <Perea.Suzanna@epa.gov>
Cc: Kelley Fetter <kfetter@e2rc.com>; Bob <prewitt@swcp.com>
Subject: RE: EPA NeT CGP Change Effective Legacy at Sierra Vista, NPDES ID: NMR1002AG

Suzanna,

Prewitt & Associates is not an Operator for this project and does not require an NOI. Bob Prewitt meets CFR 122.22 as a corporate officer of Double M.

Developers frequently create entities for each development project, and the Signatory Authority is the same for each entity. How can a Signatory Authority comply with this requirement if the CDX program itself prohibits a user from listing more than one organization as its primary organization? This is a trap.

Sydney Fetter, CISEC | Vice President of Compliance Operations
O: (505) 867-4040, ext. 120
www.e2rc.com
New Mexico | Colorado | Texas | Arizona

From: Perea, Suzanna <Perea.Suzanna@epa.gov>
Sent: Monday, January 23, 2023 2:05 PM
To: Bob Prewitt <prewitt@swcp.com>; E2RC SWPPP <swppp@e2rc.com>
Subject: FW: EPA NeT CGP Change Effective Legacy at Sierra Vista, NPDES ID: NMR1002AG
Importance: High

Hello, Mr. Prewitt.

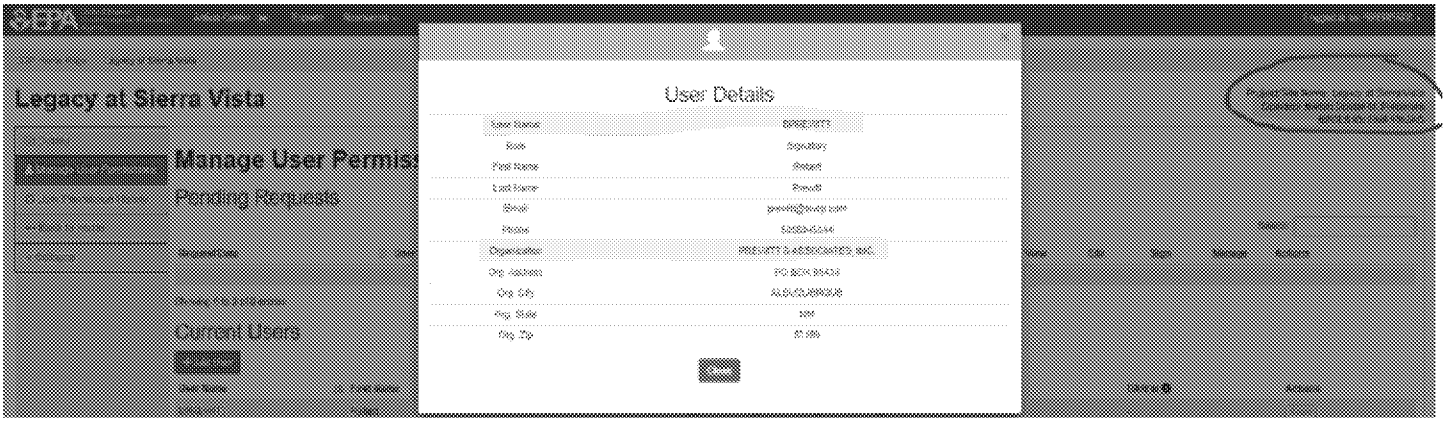
I am the EPA Region 6 Construction General Permit (CGP) coordinator and the regulatory authority for NOIs issued through CGP NeT in Region 6. In conducting my reviews of CGP NOIs in Region 6, I noticed that you signed/certified the **Double M. Properties** NOI (NPDES ID: **NMR1002AG**) for the above-mentioned **Legacy at Sierra Vista** project. The 40 CFR 122.22 NPDES signatory regulations only authorize a responsible corporate officer of the permittee (entity/operator identified on the NOI) who meets 40 CFR 122.22(a)(1) regulations to sign/certify that entity's NOI, therefore the name of the operator on the NOI and the organization on the signatory's account need to be the same to comply with the regulations.

When registering for your **BPREWITT** CDX signatory account, you were required to enter an organization/organization ID to ensure that the correct organization is linked to your CDX account. As explained in the below CDX Electronic Signature Agreement (ESA), which CDX users with a signatory role are required to sign, you agreed to adhere to all the conditions of the ESA. Conditions 9 and 11 clarify that the signatory role obtained for a CDX user's account is only authorized for the one organization/entity identified on the CDX User's account. As previously explained, your current **BPREWITT** CDX user account only specifies a signatory role for **PREWITT & ASSOCIATES, INC.** (see below User Details image) therefore this CDX account does not meet the 40 CFR 122.22(a)(1) signatory requirements for **Double M. Properties** (operator on the NOI). Because this NOI's certifier does not comply with the 40 CFR 122.22 NPDES signatory regulations, this NOI is not valid and neither **Double M. Properties** nor **PREWITT & ASSOCIATES, INC.** have valid CGP permit coverage under this NOI to discharge stormwater from the construction activities of this **Legacy at Sierra Vista** project. It is necessary that you address this issue to prevent potential enforcement actions.

If **PREWITT & ASSOCIATES, INC.** is the site property owner/developer or a separate entity conducting construction activities, construction support activities, and/or any decision-making activities for this project (see below highlighted decision-making activities), **PREWITT & ASSOCIATES, INC.** also meets the operator definition (see definition in Appendix A of the 2022 CGP), and must develop a SWPPP and submit a separate NOI identifying **PREWITT & ASSOCIATES, INC.** as the operator to obtain separate NPDES permit coverage.

To assist all potential operators of a project determine whether one or more entities meet the operator definition and are required to separately obtain CGP permit coverage to discharge stormwater from the construction activities, the 2022 EPA CGP Fact Sheet explains the types of decision-making activities entities who meet the "operator" definition are involved in. Below is an excerpt from Part 1.1 (p.26) of the 2022 CGP Fact Sheet:

> "...EPA frequently finds that parties with the type of operational control over specific projects within the permit's meaning of operator are involved in one or more of the following activities:
>
> - Authorizing development/construction activities;
> - Procuring project plans and specifications;
> - Approving/disapproving project plans and specifications;
> - Approving/disapproving project bids;
> - Approving/disapproving SWPPPs, and SWPPP modifications;
> - Issuing cease and desist orders of construction activities regardless if completed;
> - Carrying out or managing construction work on the project site that causes earth disturbance.
>
> This is not a comprehensive list of activities, and EPA acknowledges that there are likely other similar decision-making activities not listed here that would be indicative of project-specific operational control."


Legacy at Sierra Vista
Manage User Permiss
Pending Requests
Current Users
User Details
Save

Paper CDX Electronic Signature Agreement

The CDX electronic signature agreement (ESA) is an agreement between yourself and CDX that will authorize your electronic signature. By signing the ESA you agree to adhere to the conditions listed on the agreement below. Once the ESA has been signed, you will be authorized to sign and/or encrypt information for your data flow. For any questions regarding the CDX ESA please contact the CDX Help Desk.

U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
NPDES e-Reporting Tool Electronic Signature Agreement

In accepting the electronic signature credential issued by the U.S. Environmental Protection Agency (EPA) to sign electronic documents submitted to EPA's Central Data Exchange (CDX), and as a representative for:

Electronic Signature Holder Company Information

Organization Name	[illegible]
Address	[illegible]
City, State, Zip	[illegible]
Province	
Country	[illegible]
Phone Number	[illegible]
E-mail Address	[illegible]
Registrant's Name	[illegible]

Save Signed Form | Cancel

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CDX CDX Registration: Additional Verification

Contact Us
Logged in as [illegible] (Log out)

Electronic Signature Agreement

Paper CDX Electronic Signature Agreement

The CDX electronic signature agreement (ESA) is an agreement between yourself and CDX that will authorize your electronic signature. By signing the ESA you agree to adhere to the conditions listed on the agreement below. Once the ESA has been signed, you will be authorized to sign and/or encrypt information for your data flow. For any questions regarding the CDX ESA, please contact the CDX Help Desk.

I, Suzanna M. Perez ,
(Name of Electronic Signature Holder)

(1) **I agree to notify CDX within ten working days if my duties change** and I no longer need to interact with the CDX on behalf of my organization. I agree to notify the CDX Technical Support staff at 1-888-890-1995 or helpdesk@epacdx.net.

(2) **Understand I will be informed of profile changes through my registered electronic mail (e-mail) address** whenever my user identification or password have been modified.

(3) **Understand that CDX reports the last login date** that my user identification and password were used immediately after successfully logging into CDX.

(4) **Understand and agree that I will be held as legally bound, obligated, and responsible** for the use of my electronic signature as I would be using my hand-written signature.

(5) **Understand I will receive an e-mail upon use of my electronic signature** so whenever I electronically sign and submit an electronic document to the CDX, I will receive an e-mail at my registered e-mail address. This e-mail will inform me that a submission has been made to CDX from my user account and will contain instructions to view information regarding the submission, including my Copy of Record (CoR).

(6) **Agree to report any suspicious activity** so if I receive an e-mail notification for any activity that I do not believe that I performed, I will notify the CDX Help Desk as soon as possible, but no later than 24 hours, after receipt.

Save Signed Form | Cancel

CDX help desk: [illegible] | (703) [illegible] for international callers

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If you have any questions, please feel free to contact me.

Suzanna M. Perea | Environmental Scientist
Permitting Section (6PWQB-PS) | Permitting & Water Quality Branch
☎: 214-665-7217 | ✉: perea.suzanna@epa.gov
Water Division | U.S. EPA Region 6
1201 Elm Street, Ste. 500 | Dallas, Texas 75270

From: no-reply@epacdx.net <no-reply@epacdx.net>
Sent: Monday, January 9, 2023 2:37 PM
Subject: EPA NeT CGP Change Effective Legacy at Sierra Vista, NPDES ID: NMR1002AG

2023-01-09

Dear NeT User,

The change requested to the coverage below has been accepted.

NPDES ID	Form Type	Coverage Status	Operator	Project/Site Name
NMR1002AG	Change NOI	Active	Double M. Properties	Legacy at Sierra Vista

A copy of the submission can be found here.

Please note that this email does not represent a determination by EPA regarding the validity of the information you provided in your NOI or LEW. Your eligibility for coverage under this permit is based on the validity of the certification you provided. Your electronic signature on the NOI or LEW form certifies that you have read, understood, and are implementing all of the applicable requirements. An important aspect of this certification requires that you have correctly determined whether you are eligible for coverage under this permit.

If you have questions about this email or about NeT CGP, please refer to NeT Support or e-mail NPDESereporting@epa.gov for assistance.

This is an automated notification; please do not reply to this email.