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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 28, 2006

Mr. David Swain
Comal Independent School District
1421 North Business 35
New Braunfels, Texas 78130-3240

Re: Edwards Aquifer, Comal County
Name of Project: New Startzville Elementary School; Located on the North side of F.M. 3159, approximately 500 L.F. southwest of the intersection of F.M. 3159 and F.M. 2673, in northern Comal County, Texas
Type of Plan: Request for Approval of a Contributing Zone Pollution Abatement Plan (CZPAP); 30 Texas Administrative Code (TAC) Chapter 213 Edwards Aquifer
Edwards Aquifer Protection Program ID No. 2507.00; Investigation No. 462643; Regulated Entity No. RN104921697

Dear Mr. Swain:

The Contributing Zone Plan application for the referenced project was submitted to the San Antonio Regional Office by Moy Civil Engineers, on behalf of Comal Independent School District on March 31, 2006. Final review of the CZP submittal was completed after additional material was received on July 11, 2006 and July 21, 2006. As presented to the TCEQ, the Temporary and Permanent Best Management Practices (BMPs) and construction plans were prepared by a Texas Licensed Professional Engineer to be in general compliance with the requirements of 30 TAC Chapter 213. However, based on the information provided, the TCEQ could not confirm, as discussed below, that the permanent BMPs meet the minimum requirements for removal of total suspended solids as outlined in RG-348 (Complying with the Edwards Aquifer Rules Technical Guidance on Best Management Practices). Therefore, only site grading activities are approved subject to applicable state rules and the conditions in this letter. The applicant or a person affected may file with the chief clerk a motion for reconsideration of the executive director's final action on this Contributing Zone Plan. A motion for reconsideration must be filed no later than 23 days after the date of this approval letter. *This approval expires two (2) years from the date of this letter unless, prior to the expiration date, more than 10% of the construction has commenced on the project or an extension of time has been requested.*

PROJECT DESCRIPTION

The proposed project will have an area of 13.6 acres. The proposed development will include the following: 2 structures to be utilized as school building (94,591 sf); associated parking and driveways (100,506 sf); and other paved surfaces including walkways, air conditioning pads, impervious play areas, and a basketball court (39,502 sf). The proposed impervious cover for this project will be 5.39 acres (39.6 percent). Project wastewater will be disposed of by conveyance to the existing on-site sewage facility.

PERMANENT POLLUTION ABATEMENT MEASURES

See Special Conditions below.

REPLY TO: REGION 13 • 14250 JUDSON RD. • SAN ANTONIO, TEXAS 78233-4480 • 210/490-3096 • FAX 210/545-4329

P.O. Box 13087 • Austin, Texas 78711-3087 • 512/239-1000 • Internet address: www.tceq.state.tx.us

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SPECIAL CONDITIONS

- I. This letter approves only site grading on the subject site. No other construction is authorized. The construction of buildings, parking lots, sidewalks, etc, and the installation of any other impervious cover is not approved by this letter.
- II. After extensive review of numerous revisions, the permanent best management practices could not be determined to be technically adequate because:

30 TAC 213.24(6)© requires that Contributing Zone "BMPs and measures must meet the requirements contained in §213.5(b)(4)(D)(ii) of this title." The referenced §213.5(b)(4)(D)(ii), subparagraph I states, "BMPs and measures must be implemented to control the discharge of pollution from regulated activities after the completion of construction. These practices and measures must be designed, constructed, operated, and maintained to insure that 80% of the incremental increase in the annual mass loading of Total Suspended Solids from the site caused by the regulated activity is removed. These quantities must be calculated in accordance with technical guidance prepared or accepted by the executive director."

Equation 3.2 from the 2005 edition of the RG-348 (Complying with the Edwards Aquifer Rules Technical Guidance on Best Management Practices), was used to calculate the incremental increase in the annual mass loading of Total Suspended Solids (TSS) from the site caused by the regulated activity that is to be removed.

$$L_M = 27.2(A_N \times P) \text{ where,}$$

L_M = Required TSS removal (pounds)
 A_N = Net increase in impervious cover (Acres)
 P = Average annual precipitation (inches) = 33" (RG-348, Page 3-28)

As understood from the application, $A_N = 5.386$ acres. Therefore,

$$L_M = 27.2(A_N \times P) = 27.2 (5.386 \times 33) = 4834.47 \text{ pounds.}$$

As presented in the application and numerous subsequent revisions, the design removal for each permanent BMP is:

Sand filter basin:	710#
150' x 170' vegetated filter:	940#
Miscellaneous vegetated swales:	unknown
<u>Miscellaneous vegetated filters:</u>	<u>unknown</u>
Total:	1650#

Based on the calculation above, the required TSS load removal for the site appears to be 4,834 lbs. Based on the data provided in the application, the two proposed BMP's listed above are calculated to remove 1,650 lbs of TSS. Treatment does not appear to have been provided for the remaining 3,184 lbs of TSS.

- III. The issues of not being required to treat the TSS load from the rooftops, and which design criteria (1999 or 2005) for the vegetated filters would be acceptable, will be clarified in follow-up communication to this conditional approval.

- IV. A modification, demonstrating that 80% of the incremental increase in the annual mass loading of total suspended solids from the site caused by the regulated activity is removed, must be submitted and approved prior to construction or installation of structures and impervious cover.
- V. Any other regulated activities occurring on the site not identified in the project description, including the excavation of the historic landfill and the back-filling or the resulting excavation, must be addressed in the modification.
- VI. Regulated activities identified during the site assessment investigation were conducted without the prior approval of the Contributing Zone plan as required by Commission rules (30 TAC Chapter 213). Therefore, the applicant is hereby advised that the after-the-fact conditional approval of the project, as provided by this letter, shall not absolve the applicant of any prior violations of Commission rules related to this project, and shall not necessarily preclude the Commission from pursuing appropriate enforcement actions and administrative penalties associated with such violations, as provided in 30 TAC §213.25 of Commission rules.
- VII. Intentional discharges of sediment laden stormwater are not allowed. If dewatering of excavated areas becomes necessary, the discharge will be filtered through appropriately selected temporary best management practices. These may include vegetative filter strips, sediment traps, rock berms, silt fence rings, etc.
- VIII. Within 60 days of receiving written approval of an Edwards Aquifer protection plan, the applicant must submit to the San Antonio Regional Office, proof of recordation of notice in the county deed records, with the volume and page number(s) of the county deed records of the county in which the property is located. A description of the property boundaries shall be included in the deed recordation in the county deed records. A suggested form (Deed Recordation Affidavit, TCEQ-0625) that you may use to record the approval is enclosed.
- IX. In addition to the rules of the commission, the applicant may also be required to comply with state and local ordinances and regulations providing for the protection of water quality.
- X. At the discretion of the TCEQ, partial approval of the originally proposed project has been granted because of extensive review by the TCEQ. During the review, the temporary best management practices were found to be sufficient for site grading activities. Should a stand-alone site grading project be proposed in the future for any CISD project, a separate application for this regulated activity is required pursuant to 30 TAC Chapter 213.

STANDARD CONDITIONS

1. Pursuant to §26.136 of the Texas Water Code and the Texas Health and Safety Code, any violations of the requirements in 30 TAC Chapter 213 may result in administrative penalties.

Prior to Commencement of Construction:

2. All contractors conducting regulated activities at the referenced project location shall be provided a copy of this notice of approval. At least one complete copy of the approved Contributing Zone Plan and this notice of approval shall be maintained at the project until all regulated activities are completed.
3. Any modification to the activities described in the referenced CZP application following the date of approval may require the submittal of a plan to modify this approval, including the payment of

appropriate fees and all information necessary for its review and approval prior to initiating construction of the modifications.

4. The applicant must provide written notification of intent to commence construction of the referenced project. Notification must be submitted to the San Antonio Regional Office no later than 48 hours prior to commencement of the regulated activity. Written notification must include the name of the approved plan and file number for the regulated activity, the date on which the regulated activity will commence, and the name of the prime contractor with the name and telephone number of the contact person.
5. Temporary erosion and sedimentation (E&S) controls, i.e., silt fences, rock berms, stabilized construction entrances, or other controls described in the approved Storm Water Pollution Prevention Plan (SWPPP) must be installed prior to construction and maintained during construction. Temporary E&S controls may be removed when vegetation is established and the construction area is stabilized. If a water quality pond is proposed, it shall be used as a sedimentation basin during construction. The TCEQ may monitor stormwater discharges from the site to evaluate the adequacy of temporary E&S control measures. Additional controls may be necessary if excessive solids are being discharged from the site.

During Construction:

6. During the course of regulated activities related to this project, the applicant or his agent shall comply with all applicable provisions of 30 TAC Chapter 213, Edwards Aquifer. The applicant shall remain responsible for the provisions and conditions of this approval until such responsibility is legally transferred to another person or entity.
7. If sediment escapes the construction site, the sediment must be removed at a frequency sufficient to minimize offsite impacts to water quality (e.g., fugitive sediment in street being washed into surface streams or sensitive features by the next rain). Sediment must be removed from sediment traps or sedimentation ponds not later than when design capacity has been significantly reduced. Litter, construction debris, and construction chemicals exposed to stormwater shall be prevented from becoming a pollutant source for stormwater discharges (e.g., screening outfalls, picked up daily).
8. The following records shall be maintained and made available to the executive director upon request: the dates when major grading activities occur, the dates when construction activities temporarily or permanently cease on a portion of the site, and the dates when stabilization measures are initiated.
9. Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, and construction activities will not resume within 21 days. When the initiation of stabilization measures by the 14th day is precluded by weather conditions, stabilization measures shall be initiated as soon as practicable.

After Completion of Construction:

10. Owners of permanent BMPs and measures must insure that the BMPs and measures are constructed and function as designed. A Texas Licensed Professional Engineer must certify in writing that the permanent BMPs or measures were constructed as designed. The certification letter must be submitted to the San Antonio Regional Office within 30 days of site completion.
11. The applicant shall be responsible for maintaining the permanent BMPs after construction until such time as the maintenance obligation is either assumed in writing by another entity having ownership

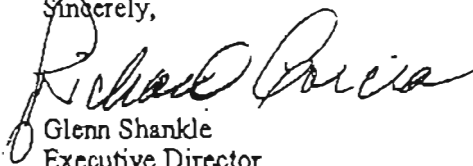
Mr. David Swain
July 28, 2006
Page 5

or control of the property (such as without limitation, an owner's association, a new property owner or lessee, a district, or municipality) or the ownership of the property is transferred to the entity. Such entity shall then be responsible for maintenance until another entity assumes such obligations in writing or ownership is transferred. A copy of the transfer of responsibility must be filed with the executive director through the San Antonio Regional Office within 30 days of the transfer. A copy of the transfer form (TCEQ-10263) is enclosed.

12. Upon legal transfer of this property, the new owner(s) is required to comply with all terms of the approved Contributing Zone Plan. If the new owner intends to commence any new regulated activity on the site, a new Contributing Zone Plan that specifically addresses the new activity must be submitted to the executive director. Approval of the plan for the new regulated activity by the executive director is required prior to commencement of the new regulated activity.
13. A Contributing Zone Plan approval or extension will expire and no extension will be granted if more than 50% of the total construction has not been completed within ten years from the initial approval of a plan. A new Contributing Zone Plan must be submitted to the San Antonio Regional Office with the appropriate fees for review and approval by the executive director prior to commencing any additional regulated activities.
14. At project locations where construction is initiated and abandoned, or not completed, the site shall be returned to a condition such that the aquifer is protected from potential contamination.

If you have any questions or require additional information, please contact Amy Burroughs of the Edwards Aquifer Protection Program of the San Antonio Regional Office at (210) 403-4073.

Sincerely,



Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

GS/AEB/eg

Enclosure(s): Deed Recordation Affidavit, Form TCEQ-0625
Change in Responsibility for Maintenance on Permanent BMPs-Form TCEQ-10263

fc/cc: Mr. Duane A. Moy, Moy Civil Engineers
Mr. Tom Hornseth, Comal County
Mr. Michael Short, City of New Braunfels
Mr. Robert J. Potts, Edwards Aquifer Authority
TCEQ Central Records MC 212
TCEQ Chief Clerks Office MC 105

4