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R. B. "Ralph" Marquez, *Commissioner*  
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Jeffrey A. Saitas, *Executive Director*

## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

May 8, 2002

Mr. Robert L. Worth, Jr.  
R. L. Worth & Associates  
4040 Broadway, Suite 552  
San Antonio, TX 78216

Re: Edwards Aquifer, Comal County  
NAME OF PROJECT: Heritage Business Park; Located on the northwest side of Independence Drive; New Braunfels, Texas  
TYPE OF PLAN: Request for Approval of a Water Pollution Abatement Plan (WPAP); 30 Texas Administrative Code (TAC) Chapter 213 Edwards Aquifer  
Edwards Aquifer Protection Program File No. 1814.00

Dear Mr. Worth:

The Texas Natural Resource Conservation Commission (TNRCC) has completed its review of the WPAP application for the referenced project submitted to the San Antonio Regional Office by Cara C. Tackett, P.E., of Pape-Dawson Engineers, Inc. on behalf of R. L. Worth & Associates on February 13, 2002. As presented to the TNRCC, 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. These planning materials were sealed, signed, and dated by a Texas Licensed Professional Engineer. Therefore, based on the engineer's concurrence of compliance, the planning materials for construction of the proposed project and pollution abatement measures are hereby 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 Edwards Aquifer protection plan. A motion for reconsideration must be filed no later than 20 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 percent of the construction has commenced on the project or an extension of time has been requested.*

### PROJECT DESCRIPTION

The proposed commercial project will have an area of approximately 10.4 acres. It will include the construction of a single story, 90,380 square foot office building and associated parking. The impervious cover will be 6.55 acres (63.0 percent). Project wastewater will be disposed of by conveyance to the existing New Braunfels Utilities Water Recycling Center owned by the New Braunfels Utilities.

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### PERMANENT POLLUTION ABATEMENT MEASURES

A modified partial sedimentation filtration basin designed using the TNRCC technical guidance document, *Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices* (June 1999) will be constructed to treat storm water runoff. The basin is designed to provide treatment for 7.71 acres (6.55 acres of the impervious cover) with capture volume of 35,485 cubic feet and a sand filter area of 4,125 square feet. The approved measures have been presented to meet the required 80 percent removal of the increased load in total suspended solids caused by the project.

### GEOLOGY

According to the geologic assessment included with the application, three geologic features were identified on the site. The San Antonio Regional Office site inspection of April 24, 2002, revealed that regulated activities have occurred on the site.

### SPECIAL CONDITIONS

- I. All permanent pollution abatement measures shall be operational prior to use of any of the facilities.
- II. All sediment and or media removed from the sedimentation/filtration basins during maintenance activities shall be properly disposed of according to 30 TAC 330 or 30 TAC 335 as applicable.
- III. A sediment depth marker, as described in *Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices* (June 1999), must be installed in the sedimentation/filtration basin.
- IV. During the April 24, 2002, site assessment investigation of the project site, cleared and disturbed areas were observed. This construction was conducted without the prior approval of the water pollution abatement plan as required by Commission rules (30 TAC Chapter 213). Therefore, the applicant is hereby advised that the after-the-fact approval of the development, 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 §213.10 of Commission rules.

### STANDARD CONDITIONS

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

#### Prior to Commencement of Construction:

2. 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

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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, TNRCC-0625) that you may use to deed record the approved WPAP is enclosed.

3. 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 WPAP and this notice of approval shall be maintained at the project location until all regulated activities are completed.
4. Modification to the activities described in the referenced WPAP 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.
5. The applicant must provide written notification of intent to commence construction, replacement, or rehabilitation 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 date on which the regulated activity will commence, the name of the approved plan and file number for the regulated activity, and the name of the prime contractor with the name and telephone number of the contact person. The executive director will use the notification to determine if the approved plan is eligible for an extension.
6. Temporary erosion and sedimentation (E&S) controls, i.e., silt fences, rock berms, stabilized construction entrances, or other controls described in the approved WPAP, 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 TNRCC 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.
7. All borings with depths greater than or equal to 20 feet must be plugged with non-shrink grout from the bottom of the hole to within three (3) feet of the surface. The remainder of the hole must be backfilled with cuttings from the boring. All borings less than 20 feet must be backfilled with cuttings from the boring. All borings must be backfilled or plugged within four (4) days of completion of the drilling operation. Voids may be filled with gravel.

During Construction:

8. During the course of regulated activities related to this project, the applicant or 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.
9. If any sensitive feature (caves, solution cavities, sink holes, etc.) is discovered during construction, all regulated activities near the feature must be suspended immediately. The applicant or his agent must immediately notify the San Antonio Regional Office of the discovery of the feature. Regulated

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activities near the feature may not proceed until the executive director has reviewed and approved the methods proposed to protect the feature and the aquifer from potentially adverse impacts to water quality. The plan must be sealed, signed, and dated by a Texas Licensed Professional Engineer.

10. No wells exist on the site. All water wells, including injection, dewatering, and monitoring wells must be in compliance with the requirements of the Texas Department of Licensing and Regulation under Title 16 TAC Chapter 76 (relating to Water Well Drillers and Pump Installers) and all other locally applicable rules, as appropriate.
11. 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 reduced by 50 percent. Litter, construction debris, and construction chemicals shall be prevented from becoming stormwater discharge pollutants.
12. 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.
13. 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:

14. 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.
15. 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 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. The regulated 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 (TNRCC-10263) is enclosed.
16. Upon legal transfer of this property, the new owner(s) is required to comply with all terms of the approved Edwards Aquifer protection plan. If the new owner intends to commence any new regulated activity on the site, a new Edwards Aquifer protection 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.

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17. An Edwards Aquifer protection plan approval or extension will expire and no extension will be granted if more than 50 percent of the total construction has not been completed within ten years from the initial approval of a plan. A new Edwards Aquifer protection 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.
18. 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 Lynn M. Bumgardner of the Edwards Aquifer Protection Program of the San Antonio Regional Office at (210) 403-4023.

Sincerely,



*for* Jeffrey A. Saitas, P.E.  
Executive Director  
Texas Natural Resource Conservation Commission

JAS/LMB/eg

Enclosure: Deed Recordation Affidavit, Form TNRCC-0625  
Change in Responsibility for Maintenance on Permanent BMPs-Form TNRCC-10263

cc: Ms. Cara C. Tackett, P.E., Pape-Dawson Engineers, Inc.  
Mr. Michael Short, P.E., City of New Braunfels  
Mr. Tom Hornseth, Comal County  
Mr. Greg Ellis, Edwards Aquifer Authority  
TNRCC Field Operations