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Dan Pearson, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

March 16, 1998

Mr. William H. Borchers, President
Oakwood Estates, Inc.
251 S. Seguin
New Braunfels, TX 78130

Re: EDWARDS AQUIFER, Comal County
PROJECT: Oakwood Estates Commercial, Project number 834, Located on southeast corner of Loop 337 & Oakwood Blvd., New Braunfels, Texas
TYPE: Request for Approval of Water Pollution Abatement Plan (WPAP); 30 Texas Administrative Code (TAC) §213.5(b); Edwards Aquifer Protection Program

Dear Mr. Borchers:

The Texas Natural Resource Conservation Commission (TNRCC) has completed its review of the WPAP application for the referenced project that was submitted by S. Craig Hollmig, Inc. on behalf of Oakwood Estates, Inc. to the San Antonio Regional Office on January 30, 1998. The WPAP proposed in the application is in general compliance with 30 TAC § 213.5(b); therefore, approval of the plan is hereby granted subject to applicable state rules and the conditions in this approval letter. *This approval expires two (2) years from the date of this approval unless, prior to the expiration date, construction has commenced on the project or an extension of time has been requested.*

BACKGROUND

A site investigation was conducted on May 5, 1997 by a TNRCC field investigator. The investigator observed site disturbance which met the definition of "regulated activity" under 30 TAC 313.3 [currently 30 TAC 213.3]:

...clearing, excavation, or any other activities which alter, disturb the topographic, geologic or existing recharge characteristics of a site. . . .

By letter dated October 2, 1997, the owner was directed to provide a WPAP for the regulated activity, as defined in 30 TAC 213.3. By letter dated October 9, 1997 the owner requested that a WPAP be submitted when there were actual plans for development of the property. By letter dated

REPLY TO: REGION 13 • 140 HEIMER RD., SUITE 360 • SAN ANTONIO, TEXAS 78232-5042 • AREA CODE 210/490-3096

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October 20, 1997, the TNRCC directed the owner to provide a WPAP. The WPAP was received by the TNRCC on January 30, 1998.

PROJECT DESCRIPTION

The clearing of brush and vegetation at the subject site occurred on or around April, 1997. The project has an area of 7.5 acres. No wastewater will be generated by this project. There is no impervious cover proposed for the subject site. The site is located within the City of New Braunfels, and must conform with applicable codes and requirements of the City of New Braunfels.

GEOLOGY ON SITE

According to the geologic assessment included with the submittal, no geologic or manmade features were discovered on the project site. The San Antonio Regional Office site inspection of March 10, 1998, revealed the site is covered with tall grass. No sensitive features were observed.

GEOLOGY DOWNGRAIDENT OF SITE

According to the geologic assessment included with the submittal, two manmade features and one closed depression are located within the 100-year floodplain within one-half mile downgradient of the project site. All three features were assessed as being possibly sensitive.

PERMANENT POLLUTION ABATEMENT MEASURES

To prevent pollution of stormwater originating on-site or up-gradient from the project site and potentially flowing across and off the site after construction, the existing vegetative cover will be maintained in its native state.

SPECIAL CONDITIONS

1. If any potential sensitive features are encountered during construction, a geologist shall evaluate the significance of the features. The evaluation shall include representative photographs and a description of the feature forwarded to the San Antonio office. Construction in the vicinity of the features may only continue with written approval from the TNRCC.
2. Placement of hydrocarbon or hazardous substance storage facilities regulated pursuant to 213.5(d) and 213.5(e), requires submittal of all appropriate applications with appropriate fees

and must receive prior approval from the TNRCC.

3. The TNRCC may monitor stormwater discharges from the site to evaluate the adequacy of permanent erosion and sedimentation (E&S) control measures. Additional controls may be necessary if excessive solids are being discharged from the site.
4. Based on previous on-site inspections of the project site, Commission records indicate that regulated activities were actually initiated before May 5, 1997. These activities were conducted without the prior approval of the water pollution abatement plan for the project, as required by Commission rules (30 §TAC Chapter 213). Therefore, the applicant is hereby advised that the after-the-fact approval, 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.
5. No construction of regulated activities is approved by this letter. For any future regulated activity the owner is required to submit appropriate application forms and receive written approval under 30 TAC 213 prior to construction.

STANDARD CONDITIONS

1. 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, upon which that person or entity shall assume responsibility for all provisions and conditions of this approval.
2. Any modification to the activities described in the referenced WPAP application following the date of approval may require the submittal of a WPAP to amend this approval, including the payment of appropriate fees and all information necessary for its review and approval.
3. Prior to commencing any regulated activity, the applicant or his agent must notify the San Antonio Regional Office in writing of the date on which the regulated activity will begin.
4. The applicant or his agent shall record this WPAP approval in the county deed records within 30 days of receiving this notice of approval. Proof of deed recordation shall be submitted to the San Antonio Regional Office prior to commencing construction. A suggested format that you may use to deed record the approved WPAP is enclosed.

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5. All contractors conducting regulated activities at the 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.
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. If any significant recharge feature [sensitive feature] 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 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 potential adverse impacts to water quality.
8. 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.
9. Approval of the design of the sewage collection system for this proposed project shall be obtained from the TNRCC prior to commencement of construction of any sewage collection system.
10. No wells exist on the site. Any abandoned wells shall be plugged in accordance with 30 TAC § 338 or an equivalent method, as approved by the Executive Director.

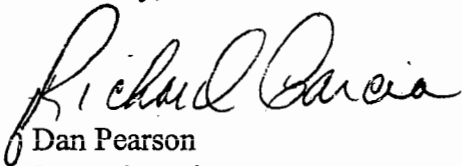
Any drill holes resulting from core sampling on-site or down-gradient of the site shall be plugged with native soil, from the bottom of the hole to the top of the hole, so as to not allow water or contaminants to enter the subsurface environment.
11. Pursuant to §26.136 of the Texas Water Code, any violations of the requirements in 30 TAC §213 may result in administrative penalties.

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12. A formal maintenance plan and schedule for all permanent abatement measures shall be signed by the responsible party and submitted to the San Antonio Regional Office for review and possible modification prior to completion of construction.

If you have any questions or require additional information, please contact John Mauser of the Edwards Aquifer Protection Program at 210/490-3096. Please reference project number 834.

Sincerely,



Dan Pearson
Executive Director

DP/JKM/eg

Enclosure: Deed Recordation Affidavit

cc: Craig Hollmig, S. Craig Hollmig, Inc.
Harry Bennett, City of New Braunfels
Tom Hornseth, Comal County
Greg Ellis, Edwards Aquifer Authority
TNRCC Field Operations, Austin