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John M. Baker, *Commissioner*
Dan Pearson, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

February 13, 1998

Mr. Rudy Palacios
Olmos Construction Company
PO Box 458089
San Antonio, TX 78280

Re: EDWARDS AQUIFER, Comal County
PROJECT: Olmos Construction - US 281 @ Cibolo Creek, Project number 829, Located on NE corner of US 281 North and Cibolo Creek, Comal County, 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. Palacios:

The Texas Natural Resource Conservation Commission (TNRCC) has completed its review of the WPAP application for the referenced project that was submitted by Raba-Kistner Consultants, Inc. on behalf of Olmos Construction Company to the San Antonio Regional Office on January 28, 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.*

PROJECT DESCRIPTION

The proposed industrial project will have an area of 44.578 acres and will consist of excavating the entire site to a depth of approximately 20 feet. Excavation will occur to within five to ten feet of the property line. No wastewater will be generated by this project. There will be no impervious cover associated with this project. The site is located within Comal County, and must conform with applicable codes and requirements of Comal County.

GEOLOGY ON SITE

According to the geologic assessment included with the submittal, there are two geologic or manmade features located on the project site. The closed depression formed by a combination of erosion and

Mr. Rudy Palacios
February 13, 1998
Page 2

site grading operations was assessed as being not sensitive. The excavated gravel quarry was assessed as being possibly sensitive.

The San Antonio Regional Office site inspection of February 11, 1998, revealed no additional features not reported in the Geologic Assessment.

GEOLOGY DOWNGRADIENT OF SITE

According to the geologic assessment included with the submittal, there are 11 features located downgradient of the project site.

PERMANENT POLLUTION ABATEMENT MEASURES

The following measures will be taken 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:

As understood, excavation is expected to continue for approximately seven to ten years. During that time, excavation will be conducted in three phases. During excavation of Area I, a two foot high soil berm will be placed around the edge of the excavation to direct stormwater around the quarried area.

During excavation of Area II - Phase I, a two foot high soil berm will be placed around the edge of the excavation to direct stormwater around the quarried area. A soil berm will also be placed along the southern limit of Area II - Phase I excavation to retain runoff within the excavation zone. Unexcavated areas of Area II - Phase I will be graded so that surface water runoff is directed toward the excavation.

During excavation of Area II - Phase II, the berms will be removed along Area I and Area II - Phase I. This will allow offsite runoff to flow into the completed excavations. Two foot high berms will be constructed along the east and south property lines to retain surface water runoff from unexcavated areas.

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. All temporary and permanent pollution abatement measures shall be operational prior to completion of construction.
4. The TNRCC may monitor stormwater discharges from the site to evaluate the adequacy of temporary and permanent erosion and sedimentation (E&S) control measures. Additional controls may be necessary if excessive solids are being discharged from the site.
5. Any change in the regulated activity, including placement of fill material on the site, shall require review and approval from the TNRCC.
6. Based on previous on-site inspections of the project site, Commission records indicate that regulated activities were actually initiated before September 19, 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.

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.
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. Three water 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.


Mr. Rudy Palacios
February 13, 1998
Page 5

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.
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 829.

Sincerely,


Dan Pearson
Executive Director

DP/JKM/eg

Enclosure: Deed Recordation Affidavit

cc: Steve Funderburg, Raba-Kistner Consultants, Inc.
Tom Hornseth, Comal County
Rebecca Cedillo, San Antonio Water System
Renee Green, Bexar County Public Works
Greg Ellis, Edwards Aquifer Authority
TNRCC Field Operations, Austin