

Bryan W. Shaw, Ph.D., *Chairman*  
Carlos Rubinstein, *Commissioner*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



RECEIVED

JUN 04 2012

COUNTY ENGINEER

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 14, 2012

Mr. Thomas R. Powers  
Avalon Lakes, Ltd.  
1929 Olympia St.  
Houston, Texas 77019

Re: Edwards Aquifer, Comal County

Name of Project: Ranches of Comal; Located northeast of Highway 306 and Hoffman Lane; 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 (EAPP) San Antonio File No. 3034.00; Investigation No. 988983; Regulated Entity No. RN106349905

Dear Mr. Powers:

The Texas Commission on Environmental Quality (TCEQ) has completed its review of the WPAP Application for the above-referenced project submitted to the San Antonio Regional Office by The Shultz Group, Inc. on behalf of Avalon Lakes, Ltd. on February 17, 2012. Final review of the WPAP was completed after additional material was received on April 27, May 2, May 4, and May 7, 2012. 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. 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 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 percent of the construction has commenced on the project or an extension of time has been requested.*

### Project Description

The proposed residential project will have an area of approximately 657.24 acres. It will include the construction of 36 residential lots, approximately 17,550 linear feet of roadway, associated utilities, 12 culvert crossings, an emergency access road, and 3 stormwater detention ponds. A 42.29 acre tract within the site has been designated for future commercial development and has

not been included in the overall impervious cover percentage. The impervious cover will be 24.36 acres (3.96 percent). According to a letter dated, December 20, 2011, signed by Mr. Robert Boyd, P.E., with Comal County, the site in the development is acceptable for the use of on-site sewage facilities.

### Permanent Pollution Abatement Measures

This single-family residential project will not have more than 20 percent impervious cover.

### Geology

According to the geologic assessment included with the application, the majority of the site is located on the Edwards Person Formation, while a southern portion of the site is located in the Edwards Kainer Formation, and a small area in the northwest corner of the site lies within the Del Rio Clay Formation. The geologic assessment identified 4 man-made features and 163 geologic features within the site, of which 14 were assessed as sensitive. The San Antonio Regional Office site assessment conducted on April 30, 2012 revealed one additional feature (HS172), which was assessed as sensitive by the project geologist and included in the geologic assessment. The site was generally as described in the geologic assessment.

### Sensitive Features

Natural buffers were proposed for 14 naturally occurring geologic features; see table below. No regulated activities (such as construction or soil disturbing activities) will take place within the natural buffers. The size of the buffer areas are generally based on the drainage area for each sensitive feature. Physical barriers and sediment controls such as fencing, rock berms and/or silt fences are required at the edges of these buffers prior to the commencement of construction. A permanent fence will separate the natural buffer areas from the residential lots.

ID No.	Name/ Feature Type	Buffer Description
HS31	Zone of solution cavities	50ft around the extent of the feature and extending to the edge of the feature's drainage area a maximum 200 feet*; shares a buffer are with HS32
HS32	Zone of solution cavities	50ft around the extent of the feature and extending to the edge of the feature's drainage area a maximum 200 feet *; shares a buffer are with HS31
HS52	Zone of closed depressions	50ft around the extent of the feature and extending to the edge of the feature's drainage area a maximum 200 feet *; shares a buffer are with HS68
HS57	Zone of fractures within a closed depression	50ft around the extent of the feature and extending to the edge of the feature's drainage area a maximum 200 feet *
HS67	Zone of fractures within a closed depression	50ft around the extent of the feature



Mr. Thomas R. Powers

May 14, 2012

Page 3

HS68	Zone of fractures within a closed depression	50ft around the extent of the feature and extending to the edge of the feature's drainage area a maximum 200 feet *; shares a buffer are with HS52
HS75	Zone of fractures within a closed depression	50ft around the extent of the feature and extending upgradient to the property line*
HS87	Zone of fractures	50ft around the extent of the feature and extending to the edge of the feature's drainage area a maximum 200 feet *
HS95	Zone of solution cavities	50ft around the extent of the feature
HS98	Zone of closed depressions	50ft around the extent of the feature
HS100	Sinkhole	50ft around the extent of the feature
HS104	Zone of closed depressions	50ft around the extent of the feature and extending to the edge of the feature's drainage area a maximum 200 feet *
HS106	Zone of solution cavities	50ft around the extent of the feature
HS151	Zone of solution cavities	50ft around the extent of the feature
HS172	Zone of solution cavities	50ft around the extent of the feature

\* The odd shaped natural buffer for the feature is illustrated on the construction plans.

### Special Conditions

1. Since this project will not have more than 20 percent impervious cover, an exemption from additional permanent BMPs is approved. If the percent impervious cover ever increases above 20 percent or the land use changes, the exemption for the whole site as described in the property boundaries required by §213.4(g), may no longer apply and the property owner must notify the appropriate regional office of these changes.
  2. This approval letter is being issued for regulated activities (as defined in Chapter 213) and for best management practices presented in the application. This approval does not constitute a water right permit or authorization from the TCEQ Dam Safety Program. Failure to obtain all necessary authorizations could result in enforcement actions. For more information on Water Rights Permits, please refer to:  
[http://www.tceq.state.tx.us/permitting/water\\_supply/water\\_rights/wr\\_amiregulated.html](http://www.tceq.state.tx.us/permitting/water_supply/water_rights/wr_amiregulated.html)
- For more information on the Dam Safety program, please refer to:  
[http://www.tceq.state.tx.us/compliance/field\\_ops/dam\\_safety/damsafetyprog.html](http://www.tceq.state.tx.us/compliance/field_ops/dam_safety/damsafetyprog.html)
3. As proposed, a permanent fence shall separate the natural buffer areas from the residential lots and the listed sensitive features.
  4. Notification shall be made to all purchasers of lots containing and adjacent to lots containing sensitive features where the purchased lot will be affected by the OSSF separation distances and/or natural buffer areas for the associated sensitive features. The notification shall include a copy of this letter and a copy of the approved site plan or plat detailing all OSSF separation distances and natural buffer areas on the approved site.

Mr. Thomas R. Powers

May 14, 2012

Page 4

5. Pursuant to 30 TAC 285.42, if any feature is discovered during construction of an OSSF, all regulated activities near the feature shall be suspended immediately and the owner or his agent must immediately notify the San Antonio Regional Office of the discovery and adhere to the requirements discussed in Standard Condition 12 of this letter.
6. The water well located onsite (Feature HS171) shall be properly plugged and abandoned, in accordance with Standard Condition 13, prior to the commencement of any regulated activities within 150 feet of the well's location.
7. This approval does not authorize regulated activities within the future 42.29 acre commercial tract. A separate WPAP shall be submitted and approved prior to the commencement of any regulated activities within the commercial tract.

### **Standard Conditions**

1. Pursuant to Chapter 7 Subchapter C of the Texas Water Code, any violations of the requirements in 30 TAC Chapter 213 may result in administrative penalties.
2. The holder of the approved Edwards Aquifer protection plan must comply with all provisions of 30 TAC Chapter 213 and all best management practices and measures contained in the approved plan. Additional and separate approvals, permits, registrations and/or authorizations from other TCEQ Programs (i.e., Stormwater, Water Rights, UIC) can be required depending on the specifics of the plan.
3. 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.

#### ***Prior to Commencement of Construction:***

4. 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 deed record the approved WPAP is enclosed.
5. 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.
6. 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.
7. 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



Mr. Thomas R. Powers  
May 14, 2012  
Page 5

regulated activity. Written notification must include the date on which the regulated activity will commence, the name of the approved plan and program ID 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.

8. 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 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.
9. 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:*

10. 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.
11. This approval does not authorize the installation of temporary aboveground storage tanks on this project. If the contractor desires to install a temporary aboveground storage tank for use during construction, an application to modify this approval must be submitted and approved prior to installation. The application must include information related to tank location and spill containment. Refer to Standard Condition No. 6, above.
12. 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 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.
13. One well exists on 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.
14. 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.

15. Intentional discharges of sediment laden storm water are not allowed. If dewatering becomes necessary, the discharge will be filtered through appropriately selected best management practices. These may include vegetated filter strips, sediment traps, rock berms, silt fence rings, etc.
16. 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.
17. 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:*

18. 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.
19. 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 San Antonio Regional Office within 30 days of the transfer. A copy of the transfer form (TCEQ-10263) is enclosed.
20. 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.
21. 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.
22. 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.



Mr. Thomas R. Powers  
May 14, 2012  
Page 7

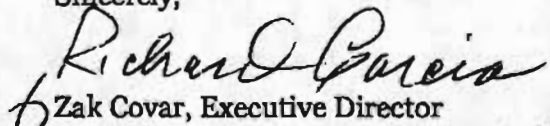
RECEIVED

JUN 04 2012

COUNTY ENGINEER

If you have any questions or require additional information, please contact Mr. Javier Anguiano of the Edwards Aquifer Protection Program of the San Antonio Regional Office at (210) 490-3096.

Sincerely,

  
Zak Covar, Executive Director  
Texas Commission on Environmental Quality

ZC/JA/eg

Enclosure: Deed Recordation Affidavit, Form TCEQ-0625

cc: Mr. Michael G. Short, P.E., The Shultz Group, Inc.  
Mr. James C. Klien, P.E., City of New Braunfels  
Mr. Thomas H. Hornseth, P.E., Comal County  
Mr. Karl J. Dreher, Edwards Aquifer Authority  
TCEQ Central Records, Building F, MC 212