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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 21, 2008

Ms. Julia Brown, P.E.  
San Antonio District  
Texas Department of Transportation  
P.O. Box 29928  
San Antonio, Texas 78229

Re: Edwards Aquifer, Comal County  
NAME OF PROJECT: SH 46 at RM 2722 Improvements; Located Kerlick Lane to David Jonas Drive; New Braunfels, Texas  
TYPE OF PLAN: Request for Modification of an Approved Water Pollution Abatement Plan (WPAP); 30 Texas Administrative Code (TAC) Chapter 213 Edwards Aquifer  
Edwards Aquifer Protection Program File No. 13-07081310A

Dear Ms. Brown:

The Texas Commission on Environmental Quality (TCEQ) has completed its review of the WPAP Modification for the above-referenced project submitted to the Austin Regional Office by Pape-Dawson Engineers, Inc. on behalf of the Texas Department of Transportation on June 2, 2008. 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 roadway project consists of roadway modifications to occur within an area of approximately 136.7 acres. The impervious cover will be increased from approximately 20.19 acres (51.5%) to 73.11 acres (53.5%), thereby increasing the project limits.

The modified SH 46 right of way (ROW) project will extend west approximately 5.5 miles from west of David Jonas Drive to east of Kerlick Lane. The project is entirely within the Recharge Zone and will include:

1. Reconstruction and widening of an additional approximately 2.0 miles of SH 46 from existing two-lane roadway to a four-lane roadway.
2. Reconstruction and widening of an additional approximately 2.0 miles of SH 46 to a six-lane roadway.
3. Construction of turn lanes at the approaches to some intersections
4. Adding an extension to FM 1863 to continue to Oak Run Point.
5. Adding eastbound and westbound connector roads to and from SH 46 and turnarounds.
6. Improving the stormwater drainage system by adding cross drainage culverts and a stormwater collection system.
7. Modifying the existing stormwater detention pond which is located in a temporary construction easement to the southwest of the intersection at RM 2722. The embankment will be moved outside of the ROW, the pond will be deepened, the lift station moved (EAPP 13-1961.01), and a concrete trickle channel added.
8. Adjusting utilities as necessary.
9. Overlaying and restriping SH 46 and RM 2722.
10. Re-stabilizing the ROW.

In addition to the described activities, temporary erosion and sedimentation controls will be installed prior to commencing site disturbance and the disturbed areas will be re-stabilized upon completion of construction. No wastewater will be generated by this roadway project.

#### PERMANENT POLLUTION ABATEMENT MEASURES

To prevent the pollution of stormwater runoff originating on-site or upgradient of the site and potentially flowing across and off the site after construction, engineered basins and filter strips, designed using the TCEQ technical guidance document, Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices (2005), will be constructed to treat stormwater runoff. The required total suspended solids (TSS) treatment for this project is 31,407 pounds of TSS generated from the additional 52.92 acres of impervious cover. The approved measures meet the required 80 percent removal of the increased load in TSS caused by the project.

The individual treatment measures will consist of seven Aqualogic™ Cartridge Filter Basins and two engineered filter strips which will be located along the proposed roadway improvements. The filter basins are being designed to provide treatment for ultimate conditions of this project and will also serve as hazardous material traps.

GEOLOGY

According to the geologic assessment included with the application, the majority of the project lies within the outcrop areas of the Cretaceous Edwards formations of the Austin Chalk, Eagle Ford Group, Buda Limestone, Del Rio Clay, Georgetown formation, the regional dense leached and collapsed and the cyclic and marine members of the Person formation, and the dolomitic and grainstone member of the Kainer formation. The predominant trend for the site is approximately N35°E based on the average of the trends of faults that cross the roadway sections. All faults shown are normal faults, striking to the northeast, and were not considered sensitive. The Austin Regional Office site assessment conducted on June 25, 2008 revealed that the site is generally as described by the geologic assessment.

One manmade feature was identified. A sanitary sewer line (S-301) was excavated through bedrock and backfilled with compacted fill material that may be more permeable than surrounding undisturbed areas. The probability of rapid infiltration was rated intermediate. Extra encasement is proposed to protect this feature.

SPECIAL CONDITIONS

- I. This modification is subject to all Special and Standard Conditions listed in the WPAP approval letter dated October 22, 2007.
- II. All permanent pollution abatement measures shall be operational prior to utilization of the facility.
- III. All sediment and/or media removed from the water quality basin during maintenance activities shall be properly disposed of according to 30 TAC 330 or 30 TAC 335, as applicable.
- IV. 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)
- V. Since this is a roadway construction project, deed recordation of this approval letter is not required.
- VI. Since the proposed project crosses several faults, features may be encountered during the construction activities. Refer to Standard Condition 11 below.
- VII. The Edwards Aquifer Authority should be notified if a spill of a reportable quantity of any potential sources of contamination occurs during construction.

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STANDARD CONDITIONS

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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. 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.
5. 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.
6. The applicant must provide written notification of intent to commence construction, replacement, or rehabilitation of the referenced project. Notification must be submitted to the Austin 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 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.
7. 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. 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.
8. 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.

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During Construction:

9. 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.
10. 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.
11. 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 Austin 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.
12. No 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.
13. 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.
14. 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.
15. 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.
16. 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

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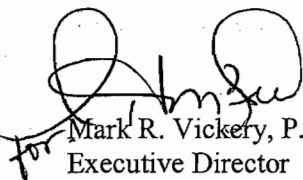
not resume within 21 days. When the initiation of stabilization measures by the 14th day is precluded by weather conditions, stabilization measures shall be initiated as soon as practicable.

After Completion of Construction:

17. 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 Austin Regional Office within 30 days of site completion.
18. 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 Austin Regional Office within 30 days of the transfer. A copy of the transfer form (TCEQ-10263) is enclosed.
19. 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.
20. 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 Austin Regional Office and approval by the executive director prior to commencing any additional regulated activities.
21. 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 Kevin Lee Smith, P.E. of the Edwards Aquifer Protection Program of the Austin Regional Office at (512) 339-2929.

Sincerely,

  
Mark R. Vickery, P.G.

Executive Director

Texas Commission on Environmental Quality

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Enclosure: Change in Responsibility for Maintenance of Permanent BMPs, Form TCEQ-10263

cc: Mr. Richard De La Cruz, P.E., San Antonio District, Texas Department of Transportation  
Mr. John Bryant, P.G., San Antonio District, Texas Department of Transportation  
Mr. Tom Haberle, Water Section Manager, San Antonio Regional Office  
Ms. Velma R. Danielson, General Manager, Edwards Aquifer Authority, San Antonio,  
Texas  
Mr. Tom Hornseth, P.E., County Engineer, Comal County  
TCEQ Central Records