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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 7, 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: State Highway 46; Located Along SH 46 0.1 Mile East of Sun Valley Road to 1.5 Miles West of FM 2272; Comal County, 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. 13-06092810B

Dear Ms. Brown:

The Texas Commission on Environmental Quality (TCEQ) has completed its review of the WPAP for the above-referenced project submitted to the Austin Regional Office by Matkin-Hoover Engineering & Surveying on behalf of the Texas Department of Transportation on June 30, 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

This WPAP request consists of construction of a left and right turn deceleration lanes adjacent to the Copper Ridge subdivision. 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 restabilized upon completion of construction. The impervious cover will be increased by 0.46 acres. No wastewater will be generated by this roadway project. The remaining portions of the project remain unchanged from prior approvals.

REPLY TO: REGION 11 • 2800 S. INTERSTATE HWY. 35, STE. 100 • AUSTIN, TEXAS 78704-5700 • 512-339-2929 • FAX 512-339-3795

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • Internet address: www.tceq.state.tx.us

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PERMANENT POLLUTION ABATEMENT MEASURES

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Vegetative filter strips (VFS) will be constructed to treat stormwater runoff on site, as sufficient space is available and the slope is less than 20%. The impervious cover will be increased from approximately 35.13 acres to 35.59 acres, thereby increasing the project limits.

GEOLOGY

According to the geologic assessment included with the application, ten geologic features exist within the four sections of roadway improvements. These included four non-karst closed depressions created by stream scour (not rated as sensitive), one solution cavity in a vertical section of roadway cut (rated as sensitive), four faults crossing the highway ROW (none rated as sensitive), and a sink hole holding water located outside of the ROW (not rated as sensitive). The Austin Regional Office site investigation of November 20, 2006, revealed that the site was generally as described in the assessment. No additional sensitive geologic features were noted during the investigation.

SPECIAL CONDITIONS

- I. This modification is subject to all Special and Standard Conditions listed in the WPAP approval letter dated November 27, 2006.
- 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
For more information on the Dam Safety program, please refer to:
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

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.

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.

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Sincerely,



Mark R. Vickery, P.G.
Executive Director
Texas Commission on Environmental Quality

MRV/kl

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

cc: Mr. Allen Hoover, P.E., Matkin-Hoover Engineering & Surveying
Mr. Richard De La Cruz, P.E., 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

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Change in Responsibility for Maintenance
on Permanent Best Management Practices and Measures

The applicant is no longer responsible for maintaining the permanent best management practice (BMP) and other measures. The project information and the new entity responsible for maintenance is listed below.

Customer: _____

Regulated Entity Name: _____

Site Address: _____

City, Texas, Zip: _____

County: _____

Approval Letter Date: _____

BMPs for the project: _____

New Responsible Party: _____

Name of contact: _____

Mailing Address: _____

City, State: _____ Zip: _____

Telephone: _____ FAX: _____

Signature of New Responsible Party Date

I acknowledge and understand that I am assuming full responsibility for maintaining all permanent best management practices and measures approved by the TCEQ for the site, until another entity assumes such obligations in writing or ownership is transferred.

If you have questions on how to fill out this form or about the Edwards Aquifer protection program, please contact us at 210/490-3096 for projects located in the San Antonio Region or 512/339-2929 for projects located in the Austin Region.

Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact us at 512/239-3282.