

EXHIBIT A

John Hall, *Chairman*  
Pam Reed, *Commissioner*  
Peggy Garner, *Commissioner*  
Anthony Grigsby, *Executive Director*



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## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

December 22, 1994

Mr. Rick C. Reed  
352 Landa Street  
New Braunfels, Tx 78130

Re: Edwards Aquifer, Comal County  
PROJECT: Doherty Lot #2, 1476 Hueco Springs Loop Road, New Braunfels, Texas.  
TYPE: Request for Approval of Water Pollution Abatement Plan (WPAP); 31 Texas Administrative Code (TAC) §313.4; Edwards Aquifer Protection Program.

Dear Mr. Reed:

The Texas Natural Resource Conservation Commission (TNRCC) has completed their review of the WPAP application for the referenced project that you submitted to the Region 13 Office on September 30, 1994.

### PROJECT DESCRIPTION

The proposed Doherty Lot #2 is to be developed as a residential project and will consist of one 1.010 acre lot with one single-family residence. The site is located within Comal County and will conform with applicable codes and requirements of the City of Comal County. Potable water for this project will be supplied by a private on-site water well.

The normal population of the development is estimated to be 2 persons. Approximately 200 gallons per day of domestic wastewater is to be generated by this project. It will be disposed of by conveyance to a private on-site septic system.

All of the proposed construction and impervious cover for the development lie above the Edwards Aquifer Recharge Zone and consist of approximately .161 acres or (16.1%), which includes driveways, dwelling roof tops, sidewalks and streets.

GEOLOGY ON SITE

No geologic assessment is required for residential subdivisions of 25 or less single-family residences. The Region 13 site inspection of November 3, 1994, revealed natural soil cover with no evidence of recharge features. In addition, the site inspection revealed that the applicant had begun unauthorized construction prior to receiving approval from the Region 13 office. A notice of violation informing the applicant of unauthorized construction and requiring the applicant to cease construction was mailed December 13, 1994. A letter from the applicant indicating misinformation regarding Edwards Aquifer Rule requirements was received December 16, 1994.

POLLUTION ABATEMENT

## I. During Construction:

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 during construction:

- A. Stabilized construction entrances shall be installed at all sites of ingress and egress prior to initiation of any other regulated activity.
- B. Temporary erosion and sedimentation controls (silt fences and rock berms) shall be provided for individual home construction.

## II. After Construction:

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:

- A. Vegetative ground cover shall be maintained.

## III. Recharge Features:

The following measures will be taken to prevent pollutants from entering recharge features while maintaining or enhancing the quantity of water entering the recharge features identified in the geologic assessment.

- A. No recharge features were observed on the proposed project site.

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#### APPROVAL

The plan for this project has been reviewed for compliance with 31 TAC §313.4 which sets forth pollution abatement criteria for any development on the recharge zone of the Edwards Aquifer. The proposed water pollution abatement plan is in general agreement with 31 TAC §313.4; therefore, approval of the plan is hereby granted subject to the specific conditions listed below.

Failure to comply with any of the following conditions, the deed recordation requirement, or any other specific conditions of approval is a violation of these rules. Pursuant to §26.136 of the Texas Water Code, any violations of the Edwards Aquifer Rules may result in administrative penalties of up to \$10,000 for each act of violation and for each day of violation.

#### SPECIAL CONDITIONS

1. This approval is granted for residential construction of Doherty Estates Lot #2. Additional construction for any regulated development pursuant to 30 TAC 313 will require the submittal of a separate WPAP application prior to construction.
2. A copy of on-site septic system approval from the Comal County Office of Environmental Health shall be submitted to the Region 13 office within 30 days from the date of this approval.
3. The applicant should be informed about best management practices of pesticide and fertilizer application. The applicant may use Preventing Groundwater Pollution, A Practical Guide to Pest Control, available from the Edwards Underground Water District (210/222-2204), or equivalent information produced by recognized authorities such as the Soil Conservation Service, Texas Department of Agriculture, U.S. Dept. of Agriculture, etc. The applicant may develop their own educational information (with review by the TNRCC prior to use).

#### STANDARD CONDITIONS OF APPROVAL

1. Please be reminded that 31 TAC §313.4(c) requires the owner/developer to: (1) record in the county deed records that this property is subject to the approved WPAP; and (2) submit to the Executive Director through the Region 13 Office, within 30

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days of receiving this written notice of approval of the water pollution abatement plan and prior to commencing construction, proof of application for recordation of notice in the county deed records. Enclosed is a suggested format you may use to deed record your approved WPAP.

2. Prior to commencing construction, the applicant/agent shall submit to the Region 13 Office copies of any changes made to the plans and specifications for this project which have been required by the TNRCC review and/or all other permitting authorities.
3. Please note, following this approval of the regulated activities described in the referenced WPAP submittal, any amendment to these activities required by some other regulating authority or desired by the applicant will require the submittal of a WPAP application to amend this approval. And, as indicated in 31 TAC §313.4 and 31 TAC §313.27, an application to amend any approved regulated activity shall include payment of appropriate fees and all information necessary for its review and Executive Director approval.
4. Additionally, all contractors conducting regulated activities associated with this proposed regulated project shall be provided with copies of this approval letter and the entire contents of the submitted WPAP so as to convey to the contractors the specific conditions of this approval. During the course of these regulated activities, the contractors shall be required to keep on-site copies of the WPAP and this approval letter.
5. The temporary erosion and sedimentation (E&S) controls for the entire project shall be installed prior to beginning any other construction work on this project.

During residential construction on the individual lots in this development, temporary E&S controls shall be installed. The E&S controls shall be inspected periodically during construction and following any significant rainfall occurrences. Necessary repairs to the E&S controls shall be made as soon as possible.

6. The appropriate E&S control(s) that shall be used during the construction of the project should be determined as follows:  
(1) Silt fences should be used when the drainage area is less than 2 acres and the slope is less than 10%. (2) Rock berms with filtration should be used when the drainage areas are greater than two acres or when the slopes are in excess of 10%. The bottom edge of the filter fabric must be buried a minimum of 6 inches below grade.

7. The TNRCC may monitor stormwater discharges from the site to evaluate the adequacy of the temporary erosion and sedimentation control measures. Additional protection may be necessary if excessive solids are being discharged from the site.
8. Also, 31 TAC §313.4(d)(2) requires that if any significant recharge features, such as solution openings or sinkholes, are discovered during construction, all regulated activities near the significant recharge feature must be suspended immediately and may not be resumed until the Executive Director has reviewed and approved the methods proposed to protect the aquifer from any potential adverse impacts. Upon discovery of the significant recharge features, the developer shall immediately notify the Region 13 office.
9. Upon completion of the project, the applicant shall reseed or sod all areas disturbed during construction.
10. If any abandoned wells exist on the site or are found during construction of the proposed development, they shall be plugged in accordance with the local underground water conservation district's plugging procedures, if applicable, or 31 TAC §287.50(a) of this title (relating to Standards for Plugging Wells that Penetrate Undesirable Water Zones), or an equivalent method, as approved by the Executive Director.

Pursuant to 31 TAC §287.48(e), the person that plugs such a well shall, within 30 days after plugging is complete, submit a Water Well Completion and Plugging Report to the Executive Director, through the Region 13 Office and to the Edwards Underground Water District.

Any drill holes resulting from core sampling on-site or down-gradient of the site shall be plugged with cement slurry, 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. No waste-disposal wells, new confined animal feeding operations, land disposal of Class I wastes, or use of sewage holding tanks as parts of organized collection systems shall be allowed on the recharge zone of this regulated development.
12. During the course of the construction related to the referenced regulated project, the owner/developer shall comply with all applicable provisions of 31 TAC §313.4. Construction which is initiated and abandoned, or not completed, shall be returned to a permanent condition such that groundwater in the Edwards Aquifer is protected from potential contamination.


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Additionally, Mr. RICK REED, applicant, shall remain responsible for the provisions and special 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 specific conditions of this approval.

13. Pursuant to 31 TAC §313.4(d)(1) and prior to commencing regulated activities, the applicant must provide the Region 13 Office with the date on which the regulated activity will commence.
14. Please note that 31 TAC §313.4(g) states that this approval expires two years from this date unless, prior to the expiration date, construction has commenced on the regulated project.
15. Approval of the design of the sewage collection system for this proposed subdivision shall be obtained from the Texas Natural Resource Conservation Commission prior to the commencement of construction of any sewage collection system, the design of which shall be in accordance with 31 TAC §313.5 and 31 TAC §317.
16. The developer shall ensure that construction debris, such as but not limited to scrap wood, bricks, paint, adhesives, containers, paper, etc. is disposed of properly at an authorized landfill off of the Edwards Aquifer Recharge Zone.
17. If asphaltic materials such as "seal coat", emulsion or other asphaltic products used for paving, roofing, etc. wash off or leave the project site the developer shall notify the Texas Natural Resource Conservation Commission immediately and commence clean-up.

If you have any questions or require additional information, please contact a representative of the Edwards Aquifer Protection Program at the Region 13 Office (210) 490-3096.

Sincerely,

  
J. Richard Garcia,  
Regional Manager, for

Dan Pearson  
Executive Director

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JRG-TCG/tcg

**Enclosures**

cc: Monica M. Wallace, Comal County Office of Environmental Health  
Rick Illgner, Edwards Underground Water District  
Thomas Gutierrez, Texas Natural Resource Conservation  
Commission, Region 13 Office  
TNRCC - Central Records

Bk: 1022  
Pg: 108 - 115  
Doc# 456916  
Filed & Recorded  
01/13/95  
02:12:17 P.M.  
JOY STREATER  
COUNTY CLERK  
COMAL COUNTY, TX  
REC. \$ 23.00

Rick A. Reed  
352 LANDA ST.  
NEW BRAUNFELS, TX 78130

212106 1000

AFFIDAVIT

Pollution Abatement Plan

RECEIVED

JAN 30 1995

SAN ANTONIO

THE STATE OF TEXAS §

County of COMAL §

BEFORE ME, the undersigned authority, on this day personally appeared RICK C. REED who, being duly sworn by me, deposes and says:

(1) That my name is RICK C. REED and that I own the real property described below.

(2) That said real property is subject to a WATER POLLUTION ABATEMENT PLAN which was required under the EDWARDS AQUIFER RULES of the TEXAS NATURAL RESOURCE CONSERVATION COMMISSION.

(3) That the WATER POLLUTION ABATEMENT PLAN for said real property was approved by the TEXAS NATURAL RESOURCE CONSERVATION COMMISSION on DECEMBER 22, 1994.

A copy of the letter of approval from the commission is attached to this affidavit as Exhibit A and is incorporated herein by reference.

(4) The said real property is located in COMAL County, Texas, and the legal description of the property is as follows:

LOT 2, DOHERTY ESTATES, PLAT RECORDED IN VOLUME 10, PAGE 377, MAP & PLAT RECORDS OF COMAL COUNTY, TEXAS

Rick C. Reed  
LANDOWNER-AFFIANT

SWORN AND SUBSCRIBED TO before me, on this 13 day of January, 1995.

Dee Ann Cornelius  
NOTARY PUBLIC

THE STATE OF TEXAS §

County of Comal §

BEFORE ME, the undersigned authority, on this day personally appeared Rick C. Reed known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed same for the purpose and consideration therein expressed.

GIVEN under my hand and seal of office on this 13 day of January, 1995.

Dee Ann Cornelius  
NOTARY PUBLIC

Dee Ann Cornelius  
Typed or Printed Name of Notary  
MY COMMISSION EXPIRES: Oct. 13, 1998

