

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman  
Paul Hopkins, Commissioner  
John O. Houchins, Commissioner



Allen Beinke, Executive Director  
Michael E. Field, General Counsel  
Brenda W. Foster, Chief Clerk

July 6, 1989

Mr. David A. Gloier  
Deputy Commissioner  
Veterans Land Board  
General Land Office  
Stephen F. Austin Building  
1700 North Congress Avenue  
Austin, Texas 78701

Re: Request for Exemption of Edwards Aquifer Rules: Eden Ranch  
Development

Dear Mr. Gloier:

This is in response to your request for an exemption from the requirement provided under the Texas Water Commission's ("Commission") Edwards Aquifer Rules to submit a water pollution abatement plan. We have been informed by Mr. Mike Willatt that the Eden Ranch Development consists of approximately 2,971 acres of land in Comal County, Texas, that is being developed by Patten Corporation Southwest into lots of more than five acres. Approximately 100 of these lots have been purchased by the Veterans Land Board ("Land Board") for sale to Texas veterans, and the Veterans Land Board expects to purchase more lots within the development for sale to Texas veterans. In its sale agreement, the Land Board has provided that if the veteran wishes to build a home on the lot before the loan is paid off, the Land Board will deed a one-acre tract out of the lot for that purpose, free and clear of any liens. We have also been informed by Mr. Willatt that the Comal County Commissioner's Court has determined that this subsequent conveyance of the one-acre tract will require the replatting of the lot.

Commission rules contained under 31 TAC §§313.2 and 313.3 require a water pollution abatement plan to be submitted for Commission approval for any residential subdivision located on the Edwards Aquifer Recharge Zone unless every lot in such subdivision is larger than five (5) acres and no more than one single-family residence is allowed on each lot. When the first five-plus-acre lot is resubdivided to reflect the sale of the one-acre tract under the Land Board's plan, the resubdivided acreage becomes subject to the water pollution abatement plan requirement even though the intent of the Land Board's plan is for the veteran to eventually

Mr. Mike Willatt

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own the entire five-plus-acre lot containing only the veteran's single-family dwelling. The Land Board, as the entity providing for the resubdivision of a lot into two parcels containing less than five-plus-acres, would be required to submit the water pollution abatement plan for the subdivision.

Section 313.9 of the Edwards Rules provides that an exception to the rules may be granted by the Executive Director if he finds a situation that is "materially different from those normally encountered or anticipated in the area of regulation" and "which justifies a departure from the rules in order to avoid hardships or the use of regulatory resources which would not provide protection for the Edwards Aquifer." The intent of the rules is to require a water pollution abatement plan when the housing density of a subdivision is greater than one single-family residence per five acres. The conveyance of the one-acre tract under the Land Board's plan is not intended to increase housing density in this respect. Rather, it is to afford a veteran the opportunity to build and own a home and to enjoy the five-plus-acre lot prior to the time the loan is paid off. To require the submission of a water pollution abatement plan when the intent of the Land Board's plan is not to increase the housing density to that greater than one single-family residence per five-plus acres would work an unnecessary hardship, waste regulatory resources, and would not provide any appreciable, added protection of the Edwards Aquifer.

A problem arises, however, should the veteran fail to repay the loan on the remaining four-plus acres. In such event, the Land Board would foreclose on these remaining acres, which may eventually result in a housing density greater than one single-family residence per five acres. This occurrence would then fall under the intent and purpose of the Edwards Aquifer Rules.

An exemption is hereby granted to the Land Board subject to the following conditions: First, the exemption to the requirement of filing a water pollution abatement plan is conditional upon there never occurring a property transaction which may result in a housing density of more than one single-family residence per five acres. Should this event occur, a water pollution abatement plan must be submitted to and approved by the Commission's Executive Director prior to the actual start of any proposed regulated development on any portion of the remaining four-plus acres. Additionally, if there were any further regulated development on the one-acre tract in addition to a single-family residence constructed by the veteran, a water pollution abatement plan would also have to be submitted. The foreclosure on the four-plus-acres would not subject the remaining one-acre tract to this requirement unless at the time of foreclosure, no regulated

Mr. Mike Willatt

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development of the one-acre tract had occurred. None of these events, however, would require a water pollution abatement plan to be filed for the entire Eden Ranch development.

Secondly, notice of the conditional exception must be provided by the Land Board for each of the Land Board lots which is resubdivided because of the Land Board's conveyance and financing plan. This notice shall be contained in the deed to the one-acre tract. Additionally, such notice shall be provided in the sale contract for the remaining four-plus-acres if such acreage is foreclosed upon. The notice shall state:

Rules of the Texas Water Commission ("Commission") contained under 31 TEX. ADMIN. CODE §§313.1 et seq. (WEST 1988), commonly known as the Edwards Aquifer Rules, require a water pollution abatement plan to be submitted to and approved by the Commission prior to the construction of any regulated development in a residential subdivision located in the Edwards Aquifer Recharge Zone as officially delineated by the Commission unless every lot in such subdivision is larger than five (5) acres and no more than one single-family residence is allowed on each lot. The Texas Veterans Land Board ("Land Board") has purchased lots in the Eden Ranch Development, Comal County, of between five and six acres for sale to Texas veterans. In its sale agreement, the Land Board has provided that if the veteran wishes to build a single-family residence on the lot before the loan is paid off, the Land Board will deed a one-acre tract out of the lot for that purpose, free and clear of any lien. The Comal County Commissioners Court may determine that this severance of the one-acre tract constitutes a resubdivision of the lot requiring the approval of the Commissioners Court of such subdivision and recordation with the county deed records. In such event, such resubdivision of the lot subjects the property to the Commission's water pollution abatement plan requirement. However, since the Land Board's plan does not intend to increase the density of single-family residences to more than one per five-plus-acres, the Executive Director of the Texas Water Commission has granted a conditional waiver of such requirement effective June 22, 1989, and pursuant to 31 TEX. ADMIN. CODE §313.9 (WEST 1988). Such conditional waiver provides that when the Land Board deeds a one-acre tract from a lot greater than five acres and contained within the Eden Ranch Development, Comal County, to a veteran purchaser for the purpose of building a single-family residence on that one-acre tract, and where the veteran continues to purchase the

Mr. Mike Willatt

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remainder of the lot pursuant to a contract of purchase and sale with the Land Board, the veteran may build such residence without there first having to be submitted and approved a water pollution abatement plan in accordance with the Edwards Aquifer Rules. However, should the veteran purchaser forfeit his right to purchase the remainder of the lot and the Land Board should sell or contract to sell any or all the remainder of the lot to a person(s) different from the person owning the one-acre tract, the purchaser of the forfeited acreage shall be required to submit to, and obtain approval from, the Texas Water Commission, a water pollution abatement plan pursuant to the Edwards Aquifer Rules prior to commencing any regulated development on the forfeited acreage. Additionally, if no single-family residence has been built on the one-acre tract at the time of forfeiture, any subsequent regulated development on the one-acre tract, including the construction of a single-family residence, shall be subject to the Edwards Aquifer Rules. This conditional waiver does not apply to any construction or development on the one-acre tract beyond the building of a single-family residence prior to forfeiture of the remaining portion of the lot.

Thirdly, an affidavit stating that the notice requirements have been fulfilled must be submitted to the Executive Director by a representative of the Land Board prior to conveyance of the one-acre tract. An affidavit form for this purpose has been attached. Copies of such proof of recordation and applicable maps and plats identifying the affected lots shall be submitted to the Commission's District 8 Office in San Antonio within twenty (20) days of conveyance of the one-acre tract.

Finally, the exemption is revocable for failure to comply with its terms or conditions or upon the development of a situation which poses a substantial risk of pollution to the Edwards Aquifer.

If you have any questions, please do not hesitate to contact wither Mark Jordan, of the Commission's Legal Staff, or Rob Conti of the Commission's Edwards Aquifer Protection Unit, at 463-8069 and 463-8497, respectively.

Sincerely,



Allen P. Beinke  
Executive Director

Mr. Mike Willatt

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July 6, 1989

cc: Kelly Kilber, Pro-Tech Engineering Group, Inc., 100 East  
San Antonio, Suite 100, San Marcos, Texas 78666  
Charles Patterson, P. O. Box 896, Wimberly, Texas 78676  
Jack Dean, P. O. Box 896, Wimberly, Texas 78676  
Mike Willatt, Attorney at Law, 2001 North Lamar, Austin,  
Texas 78705  
Honorable Fred Clark, County Judge, Comal County Courthouse  
Annex, 150 North Seguin, Suite 303, New Braunfels, Texas  
78130  
Jim Davis, Attorney at Law, Texas Veterans Land Board, SFA  
Building, 1700 North Congress Avenue, Austin, Texas  
78701-1496  
Mike Field, General Counsel, TWC  
Clyde Bohmfalk, Director, Water Quality Division, TWC  
Rob Conti, Edwards Aquifer Protection Unit, TWC  
Jeffie Barbie, TWC District 8 Office, San Antonio, Texas

# Texas Water Commission

INTEROFFICE MEMORANDUM

OCT 12 1992

DISTRICT 8

To: John Mauser, Program Coordinator (Edwards Aquifer), District 8 Date: October 8, 1992

Thru: David Mears, Senior Attorney *DM*  
Mark Jordan, Assistant Director *uj*

From: Laura Ray, Staff Attorney, *L.R.*  
Legal Division

Subject: Exemption for Edwards Aquifer Rules For: \_\_\_\_\_  
{name of development}

A request has been made by the Texas Veterans Land Board (the "Board") for an exemption from the Edwards Aquifer Rules, 31 TAC §313.1 et. seq. The Texas Water Commission ("Commission") rules, 31 TAC §313.2 and §313.3, require that a water pollution abatement plan ("W.P.A.P.") be submitted for developments in the Edwards Aquifer recharge zone. Section 313.3 excludes from regulation residential developments where every lot is five acres or more, with only one single family residence on each lot. This exemption demonstrates that the rules are designed to protect the Edwards Aquifer from the effects of increased housing density.

The Board has purchased \_\_\_\_\_ {name of the property} consisting of \_\_\_\_\_ {number of} acres, located in \_\_\_\_\_ {name of} county to be developed by \_\_\_\_\_ {developer if different from TVLB}, for sale in five-plus-acre tracts to Texas Veterans. When the Board sells these lots it includes in its sales agreement a clause stating that, should the veteran wish to sever out a one-acre tract for the purpose of building a homestead before the property is paid for, he could do this free of liens. The Board's intent is for the veteran to eventually own the entire five-plus-acre tract, containing only the veteran's single-family residence. The conveyance of the one-acre tract under the Board's plan is not intended to increase housing density. Rather, it is to afford a veteran the opportunity to build and own a home, and to enjoy the five-plus-acre lot prior to the time the loan is paid off.

Yet, severance of these one-acre parcels, without an exemption, will constitute a resubdivision. This would result in the Board's having to file a W.P.A.P. when the veteran severs out a one-acre homestead, even though no additional building is planned for the remaining four acres. To require the submission of a water pollution abatement plan at the time of severance, when the intent of the Board's plan is not to increase the housing density to that greater than one single-family residence per five-plus-acre-lot,

Attachment II  
Page 1 Of 5

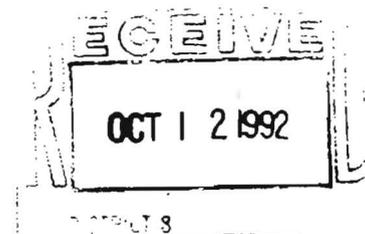
would work an unnecessary hardship and waste regulatory resources, without adding appreciable protection of the Edwards Aquifer. An exemption from the rules would allow the board to sever these one-acre tracts of land out of five-plus-acre original lots to create homesteads, without needlessly subjecting the resubdivided acreage to the W.P.A.P. requirement.

Subsequent transactions, such as foreclosure or resale of the tract, would most likely cause the density of single-family residences to become greater than one for every five-acres. This should cause the development to come under the requirement for a W.P.A.P..

Under §313.12, the Executive Director of the Commission can allow an exemption from the W.P.A.P requirement if he finds that equivalent protection to the Edwards Aquifer can be provided. Therefore, an exemption is hereby granted to the Board for \_\_\_\_\_ {name of property}, consisting of \_\_\_\_\_ {# of} acres, located in \_\_\_\_\_ {name of} county to be developed by \_\_\_\_\_ {name of developer if different than the TVLB} subject to the following conditions:

1. The exemption to the requirement of filing a water pollution abatement plan does not run with the land:
  - a. Upon subsequent sale of the four acres by foreclosure or otherwise, and prior to the actual start of any proposed regulated development on any portion of the four-plus-acres; a water pollution abatement plan must be submitted to and approved by the Commission's Executive Director.
  - b. If at any time development occurs on the one-acre tract in addition to a single-family residence constructed by the veteran, a water pollution abatement plan must be submitted. (The foreclosure of the four-plus-acres would not subject the remaining one-acre tract to the rules unless, at the time of foreclosure or resale, regulated development of the one-acre tract had occurred); None of these events, however, would require a water pollution abatement plan to be filed for the entire \_\_\_\_\_ {name of development} development.
2. Notice of this conditional exemption must be provided by the Board to the purchasers of each lot severed to create a homestead pursuant to the Board's conveyance and financing contract. Additionally, such notice shall be provided in the sales contract for the remaining four-plus acres if such acreage is reconveyed. The notice shall be in the form attached.

Attachment       H       2  
Page       2       Of       5      

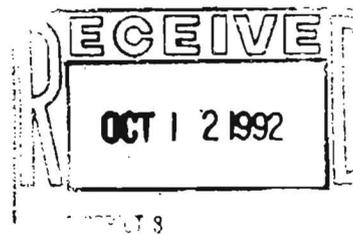


3. An affidavit in the form attached, stating that the notice requirements have been fulfilled, must be submitted to the Executive Director by a representative of the Land Board prior to conveyance of the one-acre tract, and recorded in the county deed records. Copies of proof of recordation and applicable maps and plats identifying the affected lots shall be submitted to the Commission's District 8 office in San Antonio within twenty (20) days of severance of the one-acre tract.
  
4. This exemption is revocable for failure to comply with its terms or conditions, or upon the development of a situation which poses a substantial risk of pollution to the Edwards Aquifer.

If you have any questions please contact {attorney's name} of the Commissions Legal Staff at 463-8069 or Rob Conti of the Commission's Edwards Aquifer Protection Unit, at 463-8947.

Attachment II

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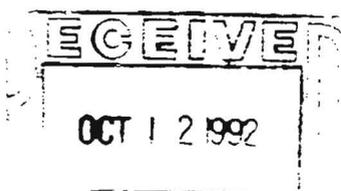
**NOTICE OF TEXAS WATER COMMISSION  
EXEMPTION FROM EDWARDS AQUIFER RULES**

Rules of the Texas Water Commission ("Commission") contained under 31 TEX. ADMIN. CODE §§313.1 et seq. (WEST 1988), commonly known as the Edwards Aquifer Rules, require a water pollution abatement plan ("W.P.A.P") to be submitted to and approved by the Commission prior to the construction of any regulated development in a residential subdivision located in the Edwards Aquifer Recharge Zone (as officially delineated by the Commission) unless every lot in such subdivision is larger than five (5) acres, with no more than one single-family residence allowed on each lot.

The Texas Veterans Land Board ("Land Board") has purchased lots in the \_\_\_\_\_ {name of development}, \_\_\_\_\_ {name of} county of \_\_\_\_\_ {number of acres per lot} for sale to Texas Veterans. In its sales agreement, the Land Board has provided that if the veteran wishes to build a single-family residence on the lot before the loan is paid off, the Land Board will deed a one-acre tract out of the lot, for that purpose, free and clear of any lien. The county commissioners court of \_\_\_\_\_ county {the county the property is located in} may determine that this severance of the one-acre tract constitutes a resubdivision of the lot, requiring the Commissioners Court's approval and recordation of the subdivision with the county deed records.

In such event, such resubdivision of the lot would ordinarily require the filing of a W.P.A.P., according to the Commission's rules.

However, since the Land Board's plan is not intended to increase the density of single-family residences to more than one per five acres, the Executive Director of the Texas Water Commission has granted a conditional exemption from such requirement for construction of a single family residence by the original owner of the five-plus-acre tract on the severed one-acre lot, effective \_\_\_\_\_, \_\_\_\_\_ {give date}, pursuant to 31 TEX. ADMIN. CODE § 313.12 (WEST 1990). Such conditional exemption provides that when the Land Board deeds a one-acre tract from a lot of five acres or greater and contained within the \_\_\_\_\_ {name of subdivision}, \_\_\_\_\_ county {county its located in}, to a veteran purchaser for the purpose of building a single-family residence on that one-acre tract, and where the veteran continues to purchase the remainder of the lot pursuant to a contract of purchase and sale with the Land Board, the veteran may build such residence without first having to submit and obtain approval of a W.P.A.P. in accordance with the Edwards Aquifer Rules.

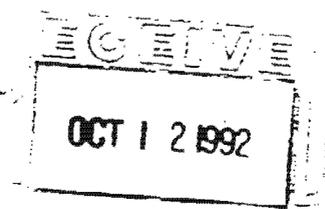


However, upon reconveyance of any or all the remainder of the lot to a person(s) different from the person owning the one-acre tract, the purchasers of any of the remaining acreage shall comply with 31 T.A.C. §313.12 before taking any action to develop it. Additionally, any development on the one-acre tract after reconveyance of the four-plus-acres, including construction of a single-family residence, shall require the filing of a W.P.A.P., in accordance with the Edwards Aquifer Rules. Finally, any construction or development on the one-acre tract beyond the single family residence shall require the filing of a W.P.A.P., subject to the Rules.

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Attachment II  
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# Texas Natural Resource Conservation Commission

INTEROFFICE MEMORANDUM

To: Lemarcus Johnson Date: 5/23/95  
Water Programs Manager  
Field Operations Division

Thru: *JG* J. Richard Garcia, Region 13 Manager  
*BC* Bobby Caldwell, Region 13 Water Programs Manager

From: *JM* John Mauser, Region 13 Edwards Aquifer Protection Program

Subject: EDWARDS AQUIFER  
PROJECT: Texas Veteran's Land Board Developments  
TYPE: Water Pollution Abatement Plan (WPAP), 30 TAC §313.4

A WPAP is required for all single-family residential subdivisions in which every lot is less than or equal to five (5) acres and no more than one single-family residence is located on each lot. The Texas Veteran's Land Board (TVLB) received an exception to the requirements of a Water Pollution Abatement Plan (WPAP) for the Eden Ranch Subdivision, Comal County, by letter dated July 6, 1989 (Attachment I). The TNRCC's July 6, 1989 exception to the TVLB allowed for subdividing 5-acre tracts into a one (1) acre tract owned by the veteran and the remaining 4 acres held by the TVLB until the veteran's loan was paid.

Since then the TVLB has used the July 6, 1989 Eden Ranch approval letter for other TVLB subdivisions. The subdivisions known to the San Antonio Regional Office are listed in the table below.

Subdivisions Developed Under Texas Veteran's Land Board Guidelines on Edwards Aquifer Recharge Zone	
Subdivision	County
Amman Oaks Hidden Oaks Monier Ranch Naked Indian Reservation Oak Valley Weissner Ranch	Comal
Summer Mountain Valley View Ranch	Hays

Lemarcus Johnson  
Page 2  
May 23, 1995

In 1992 the TNRCC's Legal Division determined that each subdivision developed under TVLB guidelines would be required to submit a request for exception to the TNRCC (Attachment II). By Interoffice Memorandum dated May 24, 1993 (Attachment III) Region 13 requested the acting Edwards Aquifer Program Coordinator to determine and execute the appropriate protocol for informing the TVLB program administrator of this TNRCC requirement. To date no verification has been received.

Effective March 21, 1990, and pursuant to 30 TAC §313.3, the definition of "Regulated Activity" includes roads and highways:

Regulated activity - Any construction-related activity on the recharge zone of the Edwards Aquifer, such as, but not limited to: construction of buildings, utility stations, roads, highways, or railroads; clearing, excavation or any other activities which alter or disturb the topographic, geologic, or existing recharge characteristics of a site; or any other activities which may pose a potential for contaminating the Edwards Aquifer...."Regulated activity" does not include:...

(E) routine maintenance of existing structures that does not involve additional site disturbance, such as; resurfacing of roads, parking lots, sidewalks, or other development-related impervious surfaces; fence building, or other similar activities in which there is little or no potential for contaminating groundwater, and/or there is little or no change to the topographic, geologic, or existing recharge features.

Based on the October 8, 1992 clarification (Attachment II) and current rules, an exception to the WPAP may be granted on a case by case basis. However, construction of roads, excluding driveways, is a regulated activity requiring an application (Attachment IV) for approval consideration from the TNRCC.

Please determine and execute the appropriate protocol for informing the TVLB program administrator of this TNRCC requirement.

Attachments

cc: Patty Reeh - TNRCC, Austin Regional Office  
Mary Gordon Spence - TNRCC, Office of Ombudsman

Lemarcus Johnson

Page 2

May 16, 1995

In 1992 the TNRCC's Legal Division determined that each subdivision developed under TVLB guidelines would be required to submit a request for exception to the TNRCC (Attachment II). By Interoffice Memorandum dated May 24, 1993 (Attachment III) Region 13 requested the acting Edwards Aquifer Program Coordinator to determine and execute the appropriate protocol for informing the TVLB program administrator of this TNRCC requirement. To date no verification has been received.

Effective March 21, 1990, and pursuant to 30 TAC §313.3, the definition of "Regulated Activity" includes roads and highways:

Regulated activity - Any construction-related activity on the recharge zone of the Edwards Aquifer, such as, but not limited to: construction of buildings, utility stations, roads, highways, or railroads; clearing, excavation or any other activities which alter or disturb the topographic, geologic, or existing recharge characteristics of a site; or any other activities which may pose a potential for contaminating the Edwards Aquifer...."Regulated activity" does not include:...

(E) routine maintenance of existing structures that does not involve additional site disturbance, such as; resurfacing of roads, parking lots, sidewalks, or other development-related impervious surfaces; fence building, or other similar activities in which there is little or no potential for contaminating groundwater, and/or there is little or no change to the topographic, geologic, or existing recharge features.

Based on the October 8, 1992 clarification (Attachment II) and current rules, an exception to the WPAP may be granted on a case by case basis. However, construction of roads, excluding driveways, is a regulated activity requiring an application (Attachment IV) for approval consideration from the TNRCC.

Please determine and execute the appropriate protocol for informing the TVLB program administrator of this TNRCC requirement.

Attachments

cc: Patty Reeh - TNRCC, Austin Regional Office  
Mary Gordon Spence - TNRCC, Office of Ombudsman

# Texas Water Commission

## INTEROFFICE MEMORANDUM

TO : Hank Smith, Edwards Aquifer Program Coord. DATE: 5/24/93  
Watershed Management Division

THRU :

FROM : *JKM*  
John K. Mauser, EQS IV  
District 8, San Antonio

SUBJECT: **EDWARDS AQUIFER**

PROJECT: Subdivisions Developed Under Texas Veterans Land Board (TVLB) Guidelines On Edwards Aquifer Recharge Zone

TYPE: Exemptions, 31 TAC 313.9

On July 6, 1989 the Texas Water Commission (TWC) issued the attached letter granting conditional exemption to the Eden Ranch Subdivision from the requirements of water pollution abatement plans (WPAP) for construction of regulated activities/developments on the Recharge Zone of the Edwards Aquifer. The document was written for TVLB development of the Eden Ranch Subdivision. District 8 has received TVLB severance deeds from individuals owning individual lots within the subdivisions listed below with the conditional exemption for Eden Ranch attached.

Subdivision	County
Ammann Oaks - Unit 3	Comal
Hidden Oaks	Comal
Monier Ranch	Comal
Naked Indian Reservation	Comal
Oak Valley Estates	Comal
Weisner Ranch	Comal
Summer Mountain Ranch	Hays
Valley View Ranch	Hays

On June 1, 1992 I requested Kevin McCalla of the TWC's Legal Division to evaluate the TVLB's use of the TWC's June 6, 1989 exemption of Eden Ranch at other TVLB subdivisions. By memorandum dated October 8, 1992 Laura Ray of the Legal Division sent the attached response which indicates that each subdivision developed under TVLB guidelines will be required to submit a request for exception to the TWC. The exception should at least include an outline of the proposed subdivision on a copy of an official Edwards Aquifer Recharge Zone map.

Attachment III

Page 1 Of 2

Mr. Hank Smith  
Page 2  
May 24, 1993

Please determine and execute the appropriate protocol for informing the program administrator, Mr. David A. Glorier, Deputy Commissioner, Veteran's Land Board, of this TWC requirement. His address is listed below.

Mr. David A. Glorier  
Deputy Commissioner  
Veteran's Land Board  
General Land Office  
Stephen F. Austin Building  
1700 North Congress Avenue  
Austin, Texas 78701

Attachment

B:\VETS\HANK1

Attachment III  
Page 2 Of 2

**WATER POLLUTION ABATEMENT PLAN APPLICATION  
FOR CONSTRUCTION OF  
HIGHWAYS, ROADS & STREETS NOT ASSOCIATED  
WITH OTHER REGULATED ACTIVITIES/DEVELOPMENTS  
ON THE EDWARDS AQUIFER RECHARGE ZONE  
AND RELATING TO 31 TAC §313.4 EFFECTIVE MARCH 21, 1990**

**EDWARDS AQUIFER,** \_\_\_\_\_ County

**PROJECT NAME:** \_\_\_\_\_

**TYPE:** ROAD CONSTRUCTION Water Pollution Abatement Plan (WPAP), 30 Texas Administrative Code (TAC) 313.4

Do not write in this box. TNRCC use only.	
Received by Region (Day 1)	
Fee Due:	\$
Payment Verified	
Inspection Date:	
Judged administratively ___ Complete ___ Incomplete (Day 60)	
Written Comments Received From City/County: UWCD within 30 Days:	___ Yes ___ No ___ Yes ___ No
___ Approved (Day 150) ___ Incomplete & Returned	

**TO**

Attach any narrative answers directly behind this page.

2/1/94  
Page 1

Attachment     IV      
Page     1     Of     11

By definition, "Regulated Activity" does not include, in part, "...resurfacing of roads, parking lots, sidewalks, or other development-related impervious surfaces...and/or there is little or no change to the topographic, geologic, or existing recharge features."

- I. A ROAD CONSTRUCTION WPAP is required if your proposed road is a:
1. TXDOT road project.
  2. County road or roads built to county specifications.
  3. City thoroughfare or roads to be dedicated to a municipality.
  4. Street or road providing access to private driveways.

Roads constructed as part of an associated development which requires its own WPAP should be included in the WPAP for that development, for example: roads within residential subdivisions.

II. Modifications to existing roadways requiring prior approval from the TNRCC include:

1. Widening roads/adding shoulders totaling  $\geq \frac{1}{2}$  the width of one (1) existing lane.
2. Reconstruction of existing regulated roadways.

III. Modifications to existing roadways that do not require approval from the TNRCC are limited to:

1. Resurfacing of roads.
2. Resurfacing of parking lots.

TO BE REVISED

Attach any narrative answers directly behind this page.

2/1/94  
Page 2

Attachment         IV          
Page         2         Of         11

**Do not write in shaded areas. For TNRCC use only.**

SB NA SB = Submitted MA = Not Applicable

After 1/1/95 contact the appropriate regional office of the Texas Natural Resource Conservation Commission to obtain the latest version of this ROAD WPAP APPLICATION.

1. Enter Site Address (if assigned), County, City:

City: \_\_\_\_\_  
County: \_\_\_\_\_

\_\_\_\_\_ This project is inside the city limits of the City of \_\_\_\_\_

\_\_\_\_\_ This project is outside the city limits but inside the City of \_\_\_\_\_ ETJ (extra-territorial jurisdiction).

\_\_\_\_\_ This project is outside the city limits, outside the city's ETJ but in \_\_\_\_\_ County.

2. The location of the project site is described below (Example: "NE corner of Bitters & Heimer Roads", "On east side of Heimer Road, 1/4 mile north of Bitters Road").

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Applicant:

Contact Person: \_\_\_\_\_  
Entity: \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
City, State: \_\_\_\_\_  
Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**TO BE REVIEWED**

Attach any narrative answers directly behind this page.

2/1/94  
Page 3

Attachment IV  
Page 3 Of 11

4. Agent (If any):

Contact Person: \_\_\_\_\_  
Entity: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State: \_\_\_\_\_  
Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

5. The name of person or entity who will maintain any permanent sedimentation/filtration structures is listed below.

Contact Person: \_\_\_\_\_  
Entity: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State: \_\_\_\_\_  
Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

6. Check the name of the Underground Water Conservation District in the area (if one exists):

- Barton Springs/Edwards Aquifer
- Edwards Underground
- Medina County
- Uvalde County
- Site is not within an UWCD

7. A Road Map is attached behind this sheet showing location of project site and route/mileage from an existing known site or intersection.

8. Copy of the official 7½ minute USGS quadrangle map(s) of the Edwards Recharge Zone is attached behind this sheet. The map(s) should clearly show:

1. Project site.
2. USGS Quadrangle Name(s),
3. Boundaries of the Recharge Zone (and Transition Zone, if applicable),
4. Drainage path from the project to the boundary of the Recharge Zone.

Attach any narrative answers directly behind this page.

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9. The type of project is:

- TXDOT road project.
- County road or roads built to county specifications.
- City thoroughfare or roads to be dedicated to a municipality.
- Street or road providing access to private driveways.

Type of pavement or road surface to be used in this project is:

- Concrete
- Asphalt cement
- Other: \_\_\_\_\_

Length of R.O.W.:..... \_\_\_\_\_ feet.  
 Width of R.O.W.:..... \_\_\_\_\_ feet.  
 L x W = \_\_\_\_\_ Ft<sup>2</sup> ÷ 43,560 Ft<sup>2</sup>/Acre = \_\_\_\_\_ acres.

Fee Due: \$ \_\_\_\_\_ (Max: \$2000)

Length of Pavement:... \_\_\_\_\_ feet.  
 Width of Pavement:.... \_\_\_\_\_ feet.  
 L x W = \_\_\_\_\_ Ft<sup>2</sup> ÷ 43,560 Ft<sup>2</sup>/Acre = \_\_\_\_\_ acres.

(Pavement ÷ R.O.W.) x 100 = \_\_\_\_\_ % impervious cover.

A narrative description of the proposed project is given on the following page under "ITEM #9". It includes the maximum number of vehicles the road is designed to carry per day.

10. The existing conditions on project site are noted below.

The proposed road(s) will cross:

- Existing commercial sites
- Existing industrial sites
- Existing residential sites
- Existing paved roads
- Existing unpaved roads
- Undeveloped (Cleared)
- Undeveloped (With woods & meadows)
- Other: \_\_\_\_\_

Attach any narrative answers directly behind this page.

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11. Municipal solid waste, and/or hazardous waste:

- \_\_\_ There are areas of trash, debris or other municipal solid waste or hazardous waste on this property which will be disposed of properly at an authorized landfill prior to commencing construction.
- \_\_\_ There are no areas of trash, debris or other municipal solid waste or hazardous waste existing on this property.
- \_\_\_ Other Comments. (Described on following page under "ITEM #11"):

12. Wastewater to be generated by proposed project [30 TAC §313.4(b)(A)(ii)].

- \_\_\_ Once complete there will be no wastewater generated by this project (from rest stops, etc.).
- \_\_\_ On-site septic tanks will be used to treat and dispose of wastewater. The appropriate licensing authority's letter is attached directly behind this page. It states that the land is suitable for the use of a septic tank or identifies areas that are not suitable.

Furthermore, I am aware that the minimum lot size for a septic tank on the Recharge Zone is one (1) acre. Each lot in the project/development is at least one (1) acre in size and the on-site treatment facility will be designed and installed by a licensed sanitarian or engineer.

\_\_\_ An organized sewage collection system (SCS) will convey wastewater from this project off of the Recharge Zone for treatment and disposal at the EXISTING/ PROPOSED (circle one) \_\_\_\_\_  
Sewage Treatment Plant (S.T.P.).

Furthermore, I am aware that an on-site sewage collection system application is required by 30 TAC 313.5 and must be submitted to the TNRCC for review and approval consideration.

Attach any narrative answers directly behind this page.

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Wastewater to be generated by each reststop	
Character	Volume
___ % Domestic	_____ gallons/day
___ % Industrial	_____ gallons/day
___ % Commingled	_____ gallons/day
<b>TOTAL</b>	_____ gallons/day

**13. A Geologic Assessment is required for all:**

1. New TXDOT road project.
2. New county road or roads built to county specifications.
3. New city thoroughfare or road to be dedicated to a municipality.
4. New streets or roads which provides access to private driveways and are not part of another regulated activity or development **AND** will carry more than 1,500 vehicles per day. A geologic assessment for streets or roads designed to carry less than 1,500 vehicles per day is not required.

\_\_\_ The Geologic Assessment for the proposed project includes the R.O.W. and all drainage draws for a distance of one mile downgradient of the proposed roadway. The Geologic Assessment is attached and it answers all questions on the most current form provided by the TNRCC.

\_\_\_ This project is a street or road which provides access to private driveways and is designed to carry less than 1,500 vehicles per day, and a Geologic Assessment is not required.

\_\_\_ Other comments: (Include on following page under "ITEM #13"):

**14. A Site Plan is required. It shall have a minimum scale of 1" = 400'. For road projects exceeding 5 miles the scale of 1" = 2000' may be used for the site plan, and the geologic map scale is not to exceed 1" = 400'.**

Site Plan Scale: 1" = \_\_\_\_\_ feet.

**15. The Site Plan shall include the following:**

**15A. 100-year floodplain's boundaries which are within the site and 200 feet downgradient.**

**Attach any narrative answers directly behind this page.**

\_\_\_ Based on FIRM maps (Flood Insurance Rate Maps) less than 10 years old **some part(s)** of this project is located within the 100-year floodplain and is **labeled** on the site plan.

\_\_\_ Based on a site specific engineering study performed by \_\_\_\_\_ Engineering Company in \_\_\_\_\_ (Year) **some part** of this project is located within the 100-year floodplain and is **labeled** on the site plan.

\_\_\_ Based on FIRM maps less than 10 years old **no part** of this project is located within the 100-year floodplain.

\_\_\_ Based on a site specific engineering study performed by \_\_\_\_\_ Engineering Company in \_\_\_\_\_ (Year) **no part** of this project is located within the 100-year floodplain.

15B. \_\_\_ Layout of the roadway(s) is shown on the site plan.

15C. \_\_\_ Existing topographic contours are shown on the site plan. The contour interval is \_\_\_\_\_ feet (are not greater than 5 feet). The contour lines are clearly **labeled** on the site plan.

15D. \_\_\_ Finished topographic contours are shown on the site plan. The contour interval is \_\_\_\_\_ feet (are not greater than 5 feet). The contour lines are clearly **labeled** on the site plan.

\_\_\_ Finished topographic contours will **not** be changed from the existing topographic configuration and are not shown on the site plan.

15E. The locations of **all known wells** (oil, water, unplugged, capped and/or abandoned, test holes, etc.).

\_\_\_ There are no wells or test holes of any kind known to exist on this project site.

\_\_\_ (#) wells are present on the project site and their locations are **labeled** on the Site Plan.

\_\_\_ The wells are not in use and have been properly abandoned.

\_\_\_ The wells are not in use and will be properly abandoned.

**Attach any narrative answers directly behind this page.**

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\_\_\_\_\_ The wells are in use and comply with 30 TAC §287.50(a).

15F. Significant Recharge features (SRF) which are located within the development or within 200 feet downgradient of the site and in the 5 year floodplain.

\_\_\_\_\_ 1. All recharge features identified in the Geologic Assessment on the project site as being of "low", "moderate", or "high" significance are labeled on the site plan, and

\_\_\_\_\_ 2. All potential recharge features identified in the Geologic Assessment within one (1) mile downgradient of the project site are labeled on the Downgradient Geologic Map.

\_\_\_\_\_ According to the Geologic Assessment prepared for this project there are no potential recharge features on this project site or within one (1) mile downgradient of the project site.

\_\_\_\_\_ This project is a road or street designed to carry less than 1,500 vehicles per day and a geologic assessment is not required.

16. Other Information:

16A. Will there be any temporary hydrocarbons or hazardous substance storage associated with this project?

Yes and I am aware that a separate application for Aboveground or Underground hydrocarbon or hazardous substance storage must be submitted pursuant to 30 TAC §313.10/313.11.

\_\_\_\_\_ No

16B. Will there be any permanent hydrocarbons or hazardous substance storage associated with this project?

Yes and I am aware that a separate application for Aboveground or Underground hydrocarbon or hazardous substance storage must be submitted pursuant to 30 TAC §313.10/313.11.

\_\_\_\_\_ No

Attach any narrative answers directly behind this page.

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16C. Will there be any sewage holding tanks or cesspools? (Do not include septic tanks.)

Yes  
 No

16D. Will there be any new feedlot/concentrated animal feeding operations associated with this project?

Yes  
 No

16E. Will there be any waste disposal wells regulated under 30 TAC §331 of this title relating to Underground Injection Control?

Yes  
 No

16F. Will there be any land disposal of Class I wastes, as defined in 30 TAC §335.1?

Yes  
 No

16G. Will there be any land disposal of Municipal Solid Waste as defined in 30 TAC §330?

Yes  
 No

17. The following forms are included in the order listed below.

\* THIS FORM

\* STORM WATER SECTION

\* GEOLOGIC ASSESSMENT, if required. See ITEM #13 above.

\* APPLICANT'S SIGNATURE FORM

18.  One (1) original and three (3) copies of the completed application (ITEM #17 above) are required and are attached.

19. This application is being submitted to the appropriate TNRCC Office.

Attach any narrative answers directly behind this page.

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— This is a TXDOT project and is being submitted to the TNRCC's TXDOT liaison in Austin.

— This is not a TXDOT project. It is located in Bexar, Comal, Kinney, Medina, or Uvalde County and is being submitted to the SAN ANTONIO Regional Office.

— This is not a TXDOT project. It is located in Hays, Travis or Williamson County and is being submitted to the AUSTIN Regional Office.

20. Pursuant to 30 TAC 313.25, application fees are due and payable at the time the application is filed. The fee has been sent to the Commission's Austin headquarters, accompanied by an Edwards Aquifer Fee Application Form. I understand that if the correct fee is not submitted the Commission is not required to consider the application until the correct fee is submitted.

21. I am aware that if money from any Federal Agency (HUD, DOT, Hwy, BIA, U.S. Army Corps of Engineers, etc.) is used on this project located on the Edwards Aquifer Recharge Zone, that the Clean Water Act requires that a report (environmental site assessment, impact statement, etc.) is to be submitted to the U.S. EPA for review prior to construction.

The blank spaces I have marked above signify that the information required is hereby provided and that, to the best of my knowledge, it accurately reflects the proposed project. This WPAP application was prepared by:

\_\_\_\_\_  
(Print Name of Applicant/Owner/Agent, etc.)

\_\_\_\_\_  
(Signature of Applicant/Owner/Agent, etc.)

\_\_\_\_\_  
Date

Please list any comments or suggestions you may have to improve this application. They will be considered for inclusion in the next edition of this form.

Attach any narrative answers directly behind this page.

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