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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 27, 2004

Mr. Tom Scott, Manager
Pinnacle Health Properties I, LLC
LB 15
2901 Dallas Parkway, Ste 345
Plano, TX 75093

Re: EDWARDS AQUIFER, Comal County
PROJECT: Kirkwood Manor Expansion, Located on the northeast corner of 2950 Loop 337, New Braunfels, Texas
TYPE: Request for Approval of Water Pollution Abatement Plan (WPAP); 30 Texas Administrative Code (TAC) §213.5(b); Edwards Aquifer Protection Program Project No. 1281.02, RN102751195

Dear Mr. Scott:

The Texas Commission on Environmental Quality (TCEQ) has completed its review of the WPAP application for the referenced project that was submitted by Ford Engineering, Inc. on behalf of Pinnacle Health Properties I, LLC to the San Antonio Regional Office on April 28, 2004. Final review of the WPAP submittal was completed after additional material was received on July 26, 2004. The WPAP proposed in the application is in general compliance with 30 TAC § 213.5(b); therefore, approval of the plan is hereby granted subject to applicable state rules and the conditions in this approval letter. *This approval expires two (2) years from the date of this approval unless, prior to the expiration date, construction has commenced on the project or an extension of time has been requested.*

BACKGROUND

A water pollution abatement plan for the subject site was approved under 30 TAC 213.4(c) [formerly 31 TAC 313.3] by letter dated December 10, 1986. The existing building covers 0.94 acres. The existing parking covers 1.16 acres. By letter dated June 18, 1999, a modification to the WPAP was approved. The current application was submitted because the modification was not constructed and the two year term of approval expired on June 18, 2001.

The subject site is 5.613 acres with 2.271 acres of existing impervious cover that pre-dates the requirement of treating stormwater runoff.

PROJECT DESCRIPTION

The proposed commercial project will have an area of 5.613 acres and will consist of 1.69 acres of new impervious cover (expansion of existing assisted living building, sidewalks, driveways and associated

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

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parking). Approximately 0.506 acres of existing parking will be removed, and when complete, net increase in impervious cover will 1.184 acres (21.09%). Project wastewater from the existing and proposed buildings will be disposed of by conveyance to the existing Kuehler Sewage Treatment Plant owned by New Braunfels Utilities. The total impervious cover for the project site will be approximately 3.455 acres (57.2%). The site is located within the City of New Braunfels, and must conform with applicable codes and requirements of the City of New Braunfels.

GEOLOGY ON SITE

According to the geologic assessment included with the submittal, there are three geologic or manmade features located on the project site. All features were assessed as not sensitive. The San Antonio Regional Office did not conduct a site investigation.

PERMANENT POLLUTION ABATEMENT MEASURES

The permanent stormwater treatment measures are sized to capture and treat runoff from 1.49 acres of impervious cover. 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:

Watershed A. The partial sedimentation/filtration basin is designed in accordance with the 1999 edition of the TNRCC's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices," and is sized to capture the first 0.15 inches of stormwater run-off from 0.894 acres, providing a total capture volume of 1,834 cubic feet. The filtration system will consist of:

1. 206 square feet of sand, which is 18 inches thick,
2. an underdrain piping wrapped with geotextile membrane, and
3. an impervious liner.

Watershed B. The partial sedimentation/filtration basin is designed in accordance with the 1999 edition of the TNRCC's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices," and is sized to capture the first 0.15 inches of stormwater run-off from 0.596 acres, providing a total capture volume of 1,223 cubic feet. The filtration system will consist of:

1. 136 square feet of sand, which is 18 inches thick,
2. an underdrain piping wrapped with geotextile membrane, and
3. an impervious liner.

The approved measures were presented to meet the required 80 percent removal of the increased load in total suspended solids caused by the project. One on-site stormwater detention basin will also be constructed.

SPECIAL CONDITIONS

1. The sedimentation/filtration basins are designed in accordance with the 1999 edition of the TNRCC's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices." The basins will incorporate sedimentation and filtration as described above.

2. All sediment and or media removed from the partial sedimentation/filtration basins during maintenance activities shall be properly disposed of according to 30 TAC 330 or 30 TAC 335 as applicable.
3. All permanent pollution abatement measures shall be operational prior to commencement of commercial operation in the approved building addition.
4. Intentional discharges of sediment laden stormwater during construction are not allowed. If dewatering of excavated areas becomes necessary, the discharge will be filtered through appropriately selected temporary best management practices. These may include vegetative filter strips, sediment traps, rock berms, silt fence rings, etc.

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.

Prior to Commencement of Construction:

2. Within 60 days of receiving written approval of an Edwards Aquifer protection plan, the applicant must submit to the San Antonio Regional Office, proof of recordation of notice in the county deed records, with the volume and page number(s) of the county deed records of the county in which the property is located. A description of the property boundaries shall be included in the deed recordation in the county deed records. A suggested form (Deed Recordation Affidavit, TCEQ-0625) that you may use to deed record the approved WPAP is enclosed.
3. 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.
4. 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.
5. The applicant must provide written notification of intent to commence construction, replacement, or rehabilitation of the referenced project. Notification must be submitted to the San Antonio Regional Office no later than 48 hours prior to commencement of the regulated activity. Written notification must include the date on which the regulated activity will commence, the name of the approved plan and file 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.

6. Temporary erosion and sedimentation (E&S) controls, i.e., silt fences, rock berms, stabilized construction entrances, or other controls described in the approved WPAP, must be installed prior to construction and maintained during construction. Temporary E&S controls may be removed when vegetation is established and the construction area is stabilized. If a water quality pond is proposed, it shall be used as a sedimentation basin during construction. The TCEQ may monitor stormwater discharges from the site to evaluate the adequacy of temporary E&S control measures. Additional controls may be necessary if excessive solids are being discharged from the site.
7. 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:

8. 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.

9. 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 San Antonio Regional Office of the discovery of the feature. Regulated activities near the feature may not proceed until the executive director has reviewed and approved the methods proposed to protect the feature and the aquifer from potentially adverse impacts to water quality. The plan must be sealed, signed, and dated by a Texas Licensed Professional Engineer.
10. According to the Geologic Assessment submitted with the 1999 WPAP, there are five test borings on the 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.
11. 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.

12. 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.
13. Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, and construction activities will not resume within 21 days. When the initiation of stabilization measures by the 14th day is precluded by weather conditions, stabilization measures shall be initiated as soon as practicable.

After Completion of Construction:

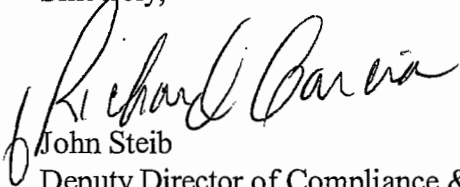
14. A Texas Licensed Professional Engineer must certify in writing that the permanent BMPs or measures were constructed as designed. The certification letter must be submitted to the San Antonio Regional Office within 30 days of site completion.
15. The applicant shall be responsible for maintaining the permanent BMPs after construction until such time as the maintenance obligation is either assumed in writing by another entity having ownership or control of the property (such as without limitation, an owner's association, a new property owner or lessee, a district, or municipality) or the ownership of the property is transferred to the entity. The regulated entity shall then be responsible for maintenance until another entity assumes such obligations in writing or ownership is transferred. A copy of the transfer of responsibility must be filed with the executive director through San Antonio Regional Office within 30 days of the transfer. A copy of the transfer form (TCEQ-10263) is enclosed.
16. 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.
17. An Edwards Aquifer protection plan approval or extension will expire and no extension will be granted if more than 50 percent of the total construction has not been completed within ten years from the initial approval of a plan. A new Edwards Aquifer protection plan must be submitted to the San Antonio Regional Office with the appropriate fees for review and approval by the executive director prior to commencing any additional regulated activities.

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18. 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.

Should clarification of this letter be desired or if we may be of any other assistance, please contact John Mauser of our San Antonio Regional office at 210/403-4024. Please reference project number 1281.

Sincerely,



John Steib
Deputy Director of Compliance & Enforcement Division
Texas Commission on Environmental Quality

JS/JKM/eg

Enclosure: Deed Recordation Affidavit

cc: Lawrence Dublin, P.E., Ford Engineering Inc.
Michael Short, City of New Braunfels
Tom Hornseth, Comal County
Greg Ellis, Edwards Aquifer Authority
TCEQ Central Records, MC 212