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Margaret Hoffman, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 13, 2003

Mr. Mark Sparrow  
Continental Homes of Texas, L.P.  
211 North Loop 1604 East, Suite 130  
San Antonio, Texas 78232

INFORMATION COPY

Re: Edwards Aquifer, Comal County  
NAME OF PROJECT: Mission Hills Subdivision; Located south of SH 46 and west of FM 2722;  
New Braunfels, Texas  
TYPE OF PLAN: Request for Approval of a Water Pollution Abatement Plan (WPAP); 30 Texas  
Administrative Code (TAC) Chapter 213 Edwards Aquifer  
Edwards Aquifer Protection Program File No. 1951.00, Regulated Entity No. RN 103 000 832,  
Customer No. CN 601 403 777, Investigation No. 31802

Dear Mr. Sparrow:

The Texas Commission on Environmental Quality (TCEQ) has completed its review of the WPAP application for the referenced project submitted to the San Antonio Regional Office by Scott J. Foster, P.E. of Kimley-Horn and Associates, Inc. on behalf of Continental Homes of Texas, L.P. on February 5, 2003. Final review of the WPAP submittal was completed after additional material was received on April 22, 2003, and May 2, 2003. 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, modification to a plan, or exception. A motion for reconsideration must be filed no later than 20 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% of the construction has commenced on the project or an extension of time has been requested.*

### PROJECT DESCRIPTION

The proposed residential project will have an area of approximately 170.32 acres and will have the following parameters:

- The development will include 418 single-family residences.
- The proposed impervious cover for the development is approximately 44.7 acres (26.2%) of the total area of the site.

REPLY TO: REGION 13 • 14250 JUDSON RD. • SAN ANTONIO, TEXAS 78233-4480 • 210/490-3096 • FAX 210/545-4329

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

- Project wastewater will be disposed of by conveyance to the existing Gruene Sewage Treatment Plant owned by the New Braunfels Utilities.

#### PERMANENT POLLUTION ABATEMENT MEASURES

To prevent pollution of stormwater runoff originating on-site or up-gradient of the site and potentially flowing across and off the site after construction, a wet pond will be constructed. The extended detention 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 0.28- inches of stormwater run-off from 170.3 acres, providing a total capture volume of 173,125 cubic feet. The system will consist of:

1. The basin is be sized to hold the permanent pool as well as the required water quality volume. The volume of the permanent pool (207,750 cubic feet) exceeds the water quality volume (173,125 cubic feet).
2. The total volume is increased by a factor of 20% (34,625 cubic feet) to accommodate reductions in the available storage volume due to deposition of solids in the time between full-scale maintenance activities.
3. The perimeter of the permanent pool is greater than four feet and is surrounded by two benches.
4. Pond side slopes are 3:1 (H:V) or flatter.
5. The sediment forebay has a separate cell formed by a gabion wall.
6. A fixed vertical sediment depth marker is installed in the forebay at 20% of the total storage volume.
7. The outflow structure is sized to provide a drawdown time of 29.2 hours.
8. In lieu of a separate drain pipe with a manual valve to drain the pond within 24 hours for maintenance, a pump shall be used.
9. For online facilities, the principal and emergency spillways are sized to provide 1.0 foot of freeboard during the 25-year event and to safely pass the 100-year flood.

Vegetation shall be provided as described on Pages 3-56 through 3-58 of the 1999 edition of the TNRCC's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices."

10. A pond buffer zone of 25 feet will be provided.
11. Erosion at the outfall is provided by a concrete channel.
12. As recommended in the 1999 edition of the TNRCC's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices," (Item 11, Page 3-59), the depth of the permanent pool will should be no deeper that eight feet. The proposed depth is 11 feet, and is based on the design engineer's experience with other wet ponds.

13. A clay liner with a thickness of 24" will be used which is designed and constructed in accordance with Section 3.4.2 of the 1999 edition of the TNRCC's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices."

#### GEOLOGY

According to the geologic assessment included with the submittal, there are 23 geologic and 3 man made features located on the project site. Fourteen features were assessed as not sensitive, 12 were assessed as possibly sensitive, and no features were assessed as sensitive. The San Antonio Regional Office site inspection of April 9, 2003, revealed that the site is as described by the geologic assessment and no additional geologic features were observed. Numerous cleared areas and related ash piles were observed. These were reported by the project engineer to have been done by the owner to provide range land for cattle. Unit 7 appeared to have recently been cleared resulting in extensive soil disturbance.

#### SPECIAL CONDITIONS

- I. Based on the April 9, 2003 on-site investigation of the project site, Commission records indicate that extensive soil disturbance was actually initiated on or before April 9, 2003. These activities were conducted without the prior approval of the water pollution abatement plan for the project, as required by Commission rules [30 TAC Chapter 2134(a)(1)]. Therefore, the applicant is hereby advised that the after-the-fact approval of the residential subdivision, as provided by this letter, shall not absolve the applicant of any prior violations of Commission rules related to this project, and shall not necessarily preclude the Commission from pursuing appropriate enforcement actions and administrative penalties associated with such violations, as provided in 30 TAC §213.10 of Commission rules.
- II. The wet pond is 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 treatment as described above.
- III. All sediment and or media removed from the wet pond during maintenance activities shall be properly disposed of according to 30 TAC 330 or 30 TAC 335 as applicable.

#### STANDARD CONDITIONS

1. Pursuant to §26.136 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, covered by the Edwards Aquifer protection plan, 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 of an approved plan.
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. Abandoned injection wells must be closed under the requirements of 30 TAC Chapter 331 (relating to Underground Injection Control).
8. All borings with depths greater than or equal to 20 feet must be plugged with a 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 his 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. If any sensitive feature is discovered during construction, all regulated activities near the feature must be suspended immediately. The applicant or his agent must immediately notify the San Antonio 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.

11. No wells exist on the site. All identified abandoned water wells, including injection, dewatering, and monitoring wells must be plugged pursuant to requirements of the Texas Department of Licensing and Regulation under Title 16 TAC Chapter 76 (relating to Licensing and Regulation of Water Well Drillers and Water Well Pump Installers) and all other locally applicable rules, as appropriate. If any abandoned wells (including water, injection (injection well referenced in Item 7), dewatering, and monitoring well) are encountered during construction, they must be plugged pursuant to requirements of the Texas Department of Licensing and Regulation (16 TAC Chapter 76) and all other locally applicable rules, as appropriate.
12. 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%. Litter, construction debris, and construction chemicals exposed to stormwater shall be prevented from becoming a pollutant source for stormwater discharges (e.g., screening outfalls, picked up daily).
13. 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.
14. 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.
15. To the maximum extent practicable, BMPs and measures must maintain flow to naturally-occurring sensitive features identified in either the geologic assessment, executive director review, or during excavation, blasting, or construction. The temporary sealing of a naturally-occurring sensitive feature which accepts recharge to the Edwards Aquifer as a temporary pollution abatement measure during active construction should be avoided. A request to temporarily seal the feature must include a justification that no reasonable and practicable alternative exists. The request will be evaluated by the executive director on a case-by-case basis.

After Completion of Construction:

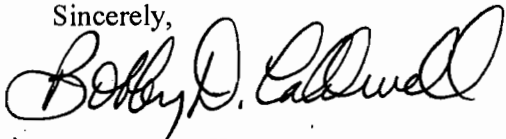
16. Owners of permanent BMPs and measures must insure that the BMPs and measures are constructed and function as designed. A Texas Licensed Professional Engineer must certify in writing that the permanent BMPs or measures were constructed as designed. The certification letter must be submitted to the San Antonio Regional Office within 30 days of site completion.
17. 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. Such 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 the San Antonio Regional Office within 30 days of the transfer. A copy of the transfer form (TCEQ-10263) is enclosed.

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18. 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.
19. An Edwards Aquifer protection plan approval or extension will expire and no extension will be granted if more than 50% 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.
20. 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 John Mauser of the Edwards Aquifer Protection Program of the San Antonio Regional Office at 210/403-4024.

Sincerely,



*for* Margaret Hoffman  
Executive Director  
Texas Commission on Environmental Quality

MH/JKM/eg

Enclosure: Deed Recordation Affidavit, Form TCEQ-0625  
Change in Responsibility for Maintenance or Permanent BMPs-Form TCEQ-10263

cc: Mr. Scott J. Foster, P.E., Kimley-Horn and Associates, Inc.  
Mr. Michael Short, P.E., City of New Braunfels  
Mr. John Bohuslav, TXDOT San Antonio District  
Mr. Tom Hornseth, Comal County  
Mr. Greg Ellis, Edwards Aquifer Authority  
TCEQ Central Records MC 212