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TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

RECEIVED

AUG 26 1998

COUNTY ROAD DEPT.

August 25, 1998

Ms. Charlotte Ann Fields
Nextel Communications, Inc.
611 South Congress, Suite 400
Austin, Texas 78704

Re: EDWARDS AQUIFER, Bexar, Comal, Kinney, Medina and Uvalde Counties
Project: Nextel Communication, Inc.--Sites Located on Edwards Aquifer Recharge Zone, Project number 1,026, Located in Bexar, Comal, Kinney, Medina and Uvalde Counties, Texas
Type: Exception to Water Pollution Abatement Plan (WPAP), 30 Texas Administrative Code (TAC), §213.9 Edwards Aquifer Protection Program

Dear Ms. Fields:

On July 22, 1998, the San Antonio Region office of the Texas Natural Resource Conservation Commission (TNRCC) received your request for exception for the above referenced project.

Under 30 TAC §213.9(a),

Exceptions to any substantive provision of this chapter related to the protection of water quality may be granted by the executive director if the requestor can demonstrate equivalent water quality protection for the Edwards Aquifer. Requests for exceptions will be reviewed by the executive director on a case-by-case basis. Prior approval under this section must be obtained for the exception to be authorized.

PROJECT DESCRIPTION

The request is for up to ten (10) Nextel Communications tower sites located on the Edwards Aquifer Recharge Zone within the Bexar, Comal, Kinney, Medina and Uvalde Counties. Your letter of July 20, 1998, indicated the following:

SITE RESTRICTIONS

1. Maximum site size: 50' x 50' (not including access to site).
2. No wastewater service.
3. No water service.

REPLY TO: REGION 13 • 140 HEIMER RD., STE. 360 • SAN ANTONIO, TEXAS 78232-5042 • 210/490-3096 • FAX 210/545-4329

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

4. No additional asphalt or concrete other than building foundation and antenna support tower foundation.

OPERATION AND EQUIPMENT

1. Unmanned (checked once per month by Nextel Communications, Inc.)
2. Security fence around the site with locked gate.
3. Battery Pack (gel type); gel capacity for standard 12 battery pack = 110 gallons, less than 1,000 gallons regulated quantity, and battery life of 20 years.
4. Primary electrical power by local service provider. In the event of battery failure, power will be interrupted and a repair crew will be dispatched immediately.

EQUIPMENT SHELTER

1. Maximum size 10' x 20' (smaller shelters are often used).
2. Prefabricated building delivered to site and set on concrete slab.

ACCESS

1. First preference: select sites adjacent to public roads where possible.
2. First alternative: select sites with existing access road, lease will provide for use of existing access.
3. Second alternative: where access does not exist, road improvements will consist of 12 feet wide crushed limestone surface with no asphalt nor concrete paving.

GEOLOGY ON SITE

A geologic assessment of the site was not submitted with the exception request.

GEOLOGY DOWN-GRADIENT OF SITE

A geologic assessment of the down-gradient geology, was not submitted with the exception request.

POLLUTION ABATEMENT

I. During Construction:

The following measures will be taken to prevent pollution of storm water originating on-site or up-gradient from the project site and potentially flowing across and off the site during construction:

- A. Temporary erosion and sedimentation controls (silt fences and rock berms) shall be installed prior to initiation of any other regulated activity.

- B. Silt fences will be used on down stream edge of equipment site during construction and down gradient edge of road where it is necessary to provide an access path.

II. After Construction:

No measures are proposed to prevent pollution of storm water originating on-site or up gradient from the project site and potentially flowing across and off the site after construction.

APPROVAL

The plan for this project has been reviewed for compliance with 30 TAC §213.5(b). As provided by 30 TAC 213.9, exceptions to 30 TAC 213 may be granted if equivalent protection of the Edwards Aquifer can be demonstrated. As described above, the requested exception meets minimum requirements to provide equivalent protection, therefore, approval of the exception 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. Only the placement of the antenna tower and equipment building is approved at this time. Future replacement of the existing tower may occur without TNRCC approval. Additional antennas may be placed on the tower without TNRCC approval.
2. Additional unmanned equipment buildings may be placed within the site without additional TNRCC approval.
3. Stabilized construction exits shall be installed prior to initiation of any other construction.
4. Temporary erosion and sedimentation controls (silt fences and rock berms) shall be installed prior to initiation of any other construction.
5. There shall be no new or additional road or driveway construction associated with this project.

STANDARD CONDITIONS FOR EXCEPTION

1. Please be reminded that 30 TAC §213.4(g) 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 San Antonio Regional Office, within 30 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 San Antonio Regional 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 request for exception, any amendment to these activities required by some other regulating authority or desired by the applicant will require the submittal of an appropriate application or request to amend this approval. And, as indicated in 30 TAC §213.4(j) and 30 TAC §213.14, 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 exception request 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 exception request 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.
 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 storm water 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, 30 TAC §213.5(f)(2) requires that if any sensitive features, such as solution openings or sinkholes, are discovered during construction, all regulated activities near the sensitive 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 sensitive features, the developer shall immediately notify the San Antonio Regional 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 30 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 30 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 San Antonio Regional Office and to the Edwards Aquifer Authority.

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 30 TAC §213. 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. Additionally, Nextel Communications, Inc., 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 30 TAC §213.5(f)(1) and prior to commencing regulated activities, the applicant must provide the San Antonio Regional Office with the date on which the regulated activity will commence.
14. Please note that 30 TAC §213.4(h) 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 Resources Conservation Commission prior to the commencement of construction of any sewage collection system, the design of which shall be in accordance with 30 TAC §213.5(c) and 30 TAC §317.
16. The owner 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.

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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 Mr. Philip J. Farrell, P.E. of the Edwards Aquifer Protection Program at the Commission's San Antonio Regional Office (210) 490-3096. Please reference project number 1,026.

Sincerely,


Jeffrey A. Saitas, P.E.
Executive Director

JAS/pjf/eg

Enclosure: Deed Recordation Form

cc: Rebecca Cedillo, San Antonio Water System
Tommy Seargeant, Kinney County
William R. Mitchell, Uvalde County
David Montgomery, Medina County
Renee Green, Bexar County Public Works
Tom Hornseth, Comal County
Greg Ellis, Edwards Aquifer Authority
Luana Buckner, Medina County Underground Water Conservation District
Chip Fly, Uvalde County Underground Water Conservation District
TNRCC, Field Operations, Austin