

Kathleen Hartnett White, *Chairman*
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Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 17, 2006

Mr. Frank Bass
175 Bendel Ranch Road
New Braunfels, Texas 78133

Re: Edwards Aquifer, Comal County
NAME OF PROJECT: Oakwood Estates Commercial, Unit 4, Lots 5 & 6; Located on the east side of Loop 337, approximately 1,000' south of California Blvd., New Braunfels, Texas
TYPE OF PLAN: Request for Approval of a Water Pollution Abatement Plan (WPAP); 30 Texas Administrative Code (TAC) Chapter 213 and Chapter 317 Edwards Aquifer; Edwards Aquifer Protection Program ID No. 2584.00, Investigation No. 517007, Regulated Entity No. RN105087001

Dear Mr. Bass:

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 Klein Engineering, Inc. on behalf of Mr. Frank Bass on October 17, 2006. Final review of the WPAP submittal was completed after additional material was received on November 14, 2006. 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. A motion for reconsideration must be filed no later than 23 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 percent of the construction has commenced on the project or an extension of time has been requested.*

PROJECT DESCRIPTION

The proposed commercial project will have an area of approximately 2.50 acres. It will include two retail and/or sales buildings and associated parking, driveways and sidewalks. The impervious cover will be 1.63 acres (65.2%). Project wastewater will be disposed of by conveyance to the existing North Kuehler Sewage Treatment Plant owned by 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, two partial sedimentation/filtration basins will be constructed. It is designed in accordance with the 2005 edition of the TCEQ's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices," to treat 1,463 pounds of TSS.

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Basin A is sized to capture the first 1.50 inches of stormwater run-off from 1.25 acres (Lot 5), providing a total capture volume of 4,097 cubic feet to treat 736 pounds of TSS from 0.82 acres of impervious cover. This includes treatment of stormwater runoff from 0.20 acres of offsite area draining to the BMP. The filtration system will consist of:

1. 410 square feet of sand, which is 18 inches thick,
2. an underdrain piping covered with geotextile membrane, and
3. an impervious liner.

Basin B is sized to capture the first 1.50 inches of stormwater run-off from 1.25 acres (Lot 65), providing a total capture volume of 4,097 cubic feet to treat 727 pounds of TSS from 0.81 acres of impervious cover. This includes treatment of stormwater runoff from 0.34 acres of offsite area draining to the BMP. The filtration system will consist of:

1. 410 square feet of sand, which is 18 inches thick,
2. an underdrain piping covered with geotextile membrane, and
3. an impervious liner.

The proposed measures are presented to meet the required 80 percent removal of the increased load in total suspended solids caused by the project.

GEOLOGY

According to the geologic assessment included with the application, there are no geologic or manmade features located on the project site. The San Antonio Regional Office conducted a site investigation on November 15, 2006, and confirmed that the site was as described in the application.

SPECIAL CONDITIONS

- I. The partial sedimentation/filtration basins are designed in accordance with the 2005 edition of the TCEQ's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices." The basins will incorporate sedimentation and filtration as described above.
- II. 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.
- III. All permanent pollution abatement measures shall be operational prior to commencement of commercial operation.
- IV. The holder of the approved Edwards Aquifer protection plan (or contributing zone plan) must comply with all provisions of 30 TAC Chapter 213 and all best management practices and measures contained in the application.
- V. In addition to the rules of the commission, the applicant may also be required to comply with state and local ordinances and regulations providing for the protection of water quality.
- VI. 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.

- VII. Any use of this commercial property, other than retail stores, restaurants, and office space, shall require prior approval from the regional office of the TCEQ and may require submittal and approval of a WPAP.

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 program ID 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 the 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. No wells exist 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 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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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.
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.

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 Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

GS/JKM/eg

Enclosures: Deed Recordation Affidavit, TCEQ-0625
Change in Responsibility for Maintenance on Permanent BMPs, TCEQ-10263

cc: Mr. Brian M. Cope, P.E., Klein Engineering, Inc.
Mr. Michael Short, P.E., City of New Braunfels
Mr. Thomas Hornseth, P.E., Comal County Engineer
Mr. Robert J. Potts, Edwards Aquifer Authority
TCEQ Central Records, MC 212