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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 20, 2006

Mr. Steve Wagner
Imogene Wagner Company, Inc.
PO Box 1167
Spring Branch, Texas 78261

Re: Edwards Aquifer, Bexar County
NAME OF PROJECT: Wagner Materials Quarry Fill Project; Located on the south side of FM 1863, approximately one mile east of US 281 North; Bexar County, 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 ID No. 2490.00, Investigation No. 459830, Regulated Entity No. RN100847813

Dear Mr. Wagner:

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 Westward Environmental, Inc. on behalf of Imogene Wagner Company, Inc. on March 1, 2006. Final review of the WPAP submittal was completed after additional material was received on June 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.*

BACKGROUND

As presented, excavation for sand and gravel began at this site in 1984. The site is accessed in Comal County from FM 1863, and the proposed filling operation will occur to the south of Cibolo Creek in Bexar County.

PROJECT DESCRIPTION

The proposed commercial project will have an area of approximately 42 acres. It will include backfilling abandoned sand and gravel quarry pit of approximately 18 acres to the 1010 ft. contour. The pit will be filled with inert, clean fill materials over a projected period of two years. The impervious cover (storage building) will be 0.01 acres (0.024 percent). No wastewater will be generated by this project.

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

As presented, clean fill material will be imported over a two year period and placed up to an elevation of 1010 feet above mean sea level (amsl). The Field Sampling & Reclamation Plan provided in the application will be used as a verification procedure.

No hydrocarbons will be stored at this site. No other activities are proposed for the site once the placement of backfill has been completed. If future regulated activities at the site are proposed, a new WPAP application will be submitted at that time.

TEMPORARY POLLUTION ABATEMENT MEASURES DURING CONSTRUCTION

According to the application, "Storm water runoff from the fill portion of the site will be detained within two earthen berms (4' – 6' high). As the backfilling process comes to an end and the area is restored to its near former natural grade with native grass seed along the slopes and throughout the finalized topography, the storm water that flows on site will no longer be under a regulated activity and will be filtered through this vegetated area. The two earthen berms will be maintained after completion of grading activities at the site. The gravel entry/exit road will have a construction entrance/exit at the gate in order to reduce off site tracking."

Any dewatering of the quarry to Cibolo Creek will follow the discharge requirements of TPDES General Permit No. TXR050000, Sector J for Mining and Dressing Facilities.

PERMANENT POLLUTION ABATEMENT MEASURES

An exception to the requirement of providing permanent BMPs was requested because there will be no new impervious cover added during this project, the site will be filled with clean fill, and stabilized with native grass seed.

GEOLOGY

According to the geologic assessment included with the application, there are 10 geologic features on the project site. Three features were assessed as sensitive, and the remaining seven were assessed as not sensitive. The San Antonio Regional Office did not conduct a site investigation.

SPECIAL CONDITIONS

- I. This approval applies to activities regulated by 30 TAC 213 and only for backfilling the quarry pit to the contour elevation of 1010 feet amsl.
- II. The applicant and all regulated activities must comply with all other applicable local, state, and federal requirements.
- III. An exception to the requirement of providing permanent BMPs was requested, and hereby granted with the condition that the fill site be stabilized upon reaching the stated elevation of 1010 feet amsl.

- IV. No Category III materials, as defined in the Field Sampling and Reclamation Plan (Appendix A of the WPAP, and enclosed herewith), may be brought to the site and stockpiled prior to verification that the material meets the acceptable limits for use as construction fill.
- V. The existing vegetation from the quarry pit must be disposed of properly. Disposal records must be maintained along with all other records specified in the Field Sampling and Reclamation Plan.
- VI. Maintain all records for life of the project plus five years.
- VII. Provide documentation that individuals reviewing information regarding Category III materials are qualified environmental professionals as defined in ASTM E 1527 and have working knowledge of the details of the approved field sampling plan and supporting explanatory documents. Maintain these records with all site related documents and records.
- VIII. In order to ensure that the fill material being placed in the excavation is clean and inert, the approved field sampling plan and additional explanatory documents must be followed. A certification with supporting sample results indicating that all material brought to the site from each source is clean and inert must be provided annually. Information on any material that is rejected should also be noted in this certified annual report. The first report will be due September 1, 2006, and each report thereafter will be due by September 1 for the life of the project.
- IX. Native grass seed for soil stabilization shall be placed as each portion of the fill area is completed.
- X. Intentional discharges of sediment laden storm water are not allowed. If dewatering excavated areas becomes necessary, a plan for removing at least 80% of the sediment load from the discharge must be designed by a Texas Licensed Professional Engineer and submitted to the San Antonio Regional Office prior to initiating any discharges. The plan must propose how the discharge will be filtered through appropriately selected temporary best management practices. These include vegetative filter strips, sediment traps, rock berms, silt fence rings, etc.
- XI. Placement of hydrocarbon or hazardous substance storage facilities regulated pursuant to 213.5(d) and 213.5(e) requires submittal of all appropriate applications with appropriate fees and must receive prior approval from the TCEQ.
- XII. As understood, this quarry will be a disposal site for materials from TxDOT projects. On site placement of asphalt shall follow the requirements outlined in the enclosed TCEQ (formerly TNRCC) interoffice memorandum dated May 3, 2001.

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 storm water 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 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 storm water 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

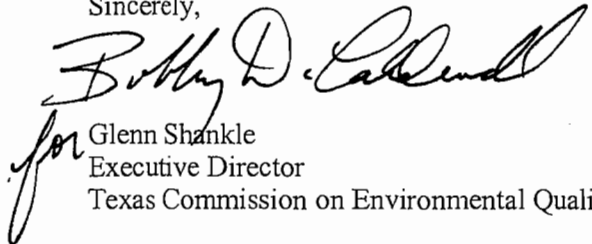
Mr. Steve Wagner
June 20, 2006
Page 6

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.
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

Enclosures: Deed Recordation Affidavit, TCEQ-0625
Change in Responsibility for Maintenance on Permanent BMPs, TCEQ-10263
Field Sampling & Reclamation Plan for the Imogene Wagner Company, Inc. FM
1863 Site
TNRCC Interoffice Memorandum dated 5/3/01

cc w/ Field Sampling Plan enclosure:
TNRCC Interoffice Memorandum dated 5/3/01 (4 pages)

Mr. Gary Nicholls, P.E., Westward Environmental, Inc.
Ms. Renee Green, Bexar County Public Works
Mr. Tom Hornseth, Comal County
Mr. Robert J. Potts, Edwards Aquifer Authority
Mr. James Bice, P.E., TCEQ Region 11

Mr. Steve Wagner
June 20, 2006
Page 7

TCEQ Central Records