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R. B. "Ralph" Marquez, *Commissioner*
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Jeffrey A. Saitas, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

October 12, 1999

Mr. Robert J. Weiss, Jr.
Ralph E. Fair, Inc.
P.O. Box 4495
Fair Oaks Ranch, Texas 78015

Re: Edwards Aquifer, Bexar / Comal Counties
NAME OF PROJECT: Battle Intense Crossing; At the intersection of Keeneland and
Venturer Road; Fair Oaks Ranch, 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. 1337.00

Dear Mr. Weiss:

The Texas Natural Resource Conservation Commission (TNRCC) has completed its review of the WPAP application for the referenced project submitted to the San Antonio Regional Office by Mr. Paul A. Schroeder, P.E. of Alamo Consulting Engineering & Surveying, Inc. on behalf of Ralph E. Fair, Inc. on August 18, 1999. As presented to the TNRCC, the Temporary and Permanent Best Management Practices 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 transportation project will have an area of approximately 13.2 acres and will have the following parameters:

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

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- The project will include 3,030 linear feet of asphalt paved street, and a 3,000 foot long grass lined drainage channel. The street right of way will be 50 feet wide (3.42 acres) and the paved street will be 30 feet wide (2.10 acres). As presented, the 2.10 acres of paved street is 16% of the 13.2 acre site. Because this project will have less than 20% impervious cover, a request for exemption from the requirements of permanent best management practices (PBMP) has been requested. As understood, approximately 1,200 linear feet of the street will drain to the proposed 3,000' long by 150 foot wide grass lined drainage channel. The remaining 1,830 linear feet of the street will drain without treatment to the Cibolo Creek.

GEOLOGY

According to the geologic assessment included with the submittal, a single feature identified as a closed depression was located on the proposed development. The geologist assessed the feature as being "not" sensitive. The San Antonio Regional Office site inspection of September 15, 1999, did not reveal the presence of any additional geologic features and is in general agreement with assessment findings noted by the geologist.

SPECIAL CONDITIONS

1. Since this project will have less than 20% impervious cover, your request for exemption from permanent BMPs is approved and must be recorded in the county deed records, with a notice that if the percent impervious cover increases above 20% or the land use changes, the exemption for the whole site as described in the property boundaries required by §213.4(g), may no longer apply and the property owner must notify the San Antonio Regional Office of these changes.
2. The impervious cover for the entire 13.2 acre project site shall not exceed 2.64 acres, which is 20% of the total area located within the site boundary.

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

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- which is covered by the Edwards Aquifer protection plan shall be included in the deed recordation in the county deed records. A suggested format (Form TNRCC-0625) that you may use to deed record the approved WPAP is enclosed.
3. All contractors conducting regulated activities at the 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 WPAP 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 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, the name of the prime contractor and the name and telephone number of the contact person. The executive director will use the notification to determine if the applicant is eligible for an extension of an approved plan. The executive director will use the notification to determine if the applicant 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 TNRCC 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. Any drill holes resulting from core sampling on-site or down-gradient of the site shall be plugged with native soil, 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.
 8. Abandoned injection wells must be closed under the requirements of Chapter 331 of this title (relating to Underground Injection Control).

- 9 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 or gravel. All borings less than 20 feet must be backfilled with cuttings from the boring or gravel. 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:

10. 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.
11. 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 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 potential adverse impacts to water quality. The plan must be sealed, signed, and dated by a Texas Licensed Professional Engineer.
12. 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 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.
13. If sediment escapes the construction site, off-site accumulations of 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).
14. 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.

15. 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. Where the initiation of stabilization measures by the 14th day is precluded by weather conditions, stabilization measures shall be initiated as soon as practicable.
16. 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 must include a justification as to why 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:

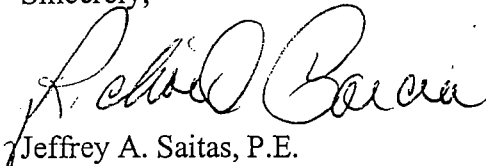
17. Owners of permanent BMPs and measures must insure that the BMPs and measures are constructed and function as designed. A Texas Licensed Professional Engineer must certify in writing that the permanent BMPs or measures were constructed as designed. The certification letter must be submitted to the San Antonio Regional Office within 30 days of site completion.
18. 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 (TNRCC-10263) is enclosed.
19. 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.

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20. 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.
21. 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 Mr. Tom Gutierrez of the Edwards Aquifer Protection Program of the San Antonio Regional Office at 403-4025.

Sincerely,



Jeffrey A. Saitas, P.E.
Executive Director
Texas Natural Resource Conservation Commission

JAS/TG/eg

Enclosure: Form TNRCC-0625 (Deed Recordation Affidavit)

cc: Mr. Paul A. Schroeder, P.E., Alamo Consulting Engineering & Surveying
Ms. Rebecca Cedillo, San Antonio Water System
Ms. Renee Green, Bexar County Public Works
Mr. Tom Hornseth, Comal County
Mr. Greg Ellis, General Manager, Edwards Aquifer Authority
TNRCC Field Operations, Austin, TX