

Robert J. Huston, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
John M. Baker, *Commissioner*
Jeffrey A. Saitas, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

May 10, 2000

Mr. Eric W. Larson
Cibolo Materials
26321 Hwy. 281 North
San Antonio, TX, 78260

Re: Edwards Aquifer, Comal County
NAME OF PROJECT: Cibolo Materials Gravel Quarry; Located approximately 2,600 feet east of the intersection of U.S. Highway 281 North and Cibolo Creek; Comal 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 File No. 1440.00

Dear Mr. Larson:

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. John Luce, P.E. on behalf of Cibolo Materials on February 23, 2000. As presented to the TNRCC, 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 project occupies 96.5 acres and will consist of an excavation and fill operation. Excavation of the quarry will continue within the limits of the property boundary to a depth of 20-25 feet and will occur in phases. The first phase will consist of excavating a 15 acre parcel within the original 96.5 acre tract in order to retrieve gravel. The remaining excavations will occur in 20 acre parcels and will require approximately 10 years to complete. Any overburden generated by the site will be kept within the pit area to prevent runoff.

According to the applicant, no wastewater will be generated by this development.

PERMANENT POLLUTION ABATEMENT MEASURES

According to the application, the quarry on the site will be expanded and leveled, extending nearly to the boundaries of the 96.5 acre property. Stormwater will be allowed to flow across the site throughout the

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

printed on recycled paper using soy-based ink

Mr. Eric W. Larson
May 10, 2000
Page 2

excavation and filling process. The site, while being excavated, will be self contained, and no upgradient flow or flow from on site will leave the site.

Since no additional impervious cover is proposed, no permanent measures have been proposed.

GEOLOGY

According to the geologic assessment included with the submittal, a total of eight geologic features were identified on the proposed project site. According to the geologist these features consisted of four man-made features, and three closed depressions, and a single fractured rock outcropping. Six of the features were assessed as possibly sensitive, while the remaining two features were assessed as not sensitive. The San Antonio Regional Office did not conduct a site inspection of the site.

SPECIAL CONDITIONS

1. Based on previous on-site inspections of the project site, Commission records indicate that construction activities related to the proposed commercial facility were actually initiated prior to February 3, 2000. 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 213). Therefore, the applicant is hereby advised that the after-the-fact approval commercial facility, 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.
2. 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 TNRCC.
3. Any use of this commercial property, for activities other than those approved shall require prior approval from the regional office of the TNRCC and may require submittal an approval of a WPAP.
4. The TNRCC may monitor stormwater discharges from the site to evaluate the adequacy of permanent erosion and sedimentation control measures. Additional controls may be necessary if excessive solids are being discharged form the site.
5. In order to insure that the fill material being placed in the excavation is clean and inert, the field sampling plan must be followed. All sample results must be reported annually to the San Antonio region office. Additionally, a certification indicating that all material brought to the site from each source is clean, inert fill material must be provided with sample results. Any material that is rejected should also be noted in the annual report. The first report will be due September 1, 2000, and each report thereafter will be due by September 1.
6. The field sampling plan must be deed recorded with this letter.

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, TNRCC-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 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. 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.

Mr. Eric W. Larson

May 10, 2000

Page 4

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. A single man-made well exists 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

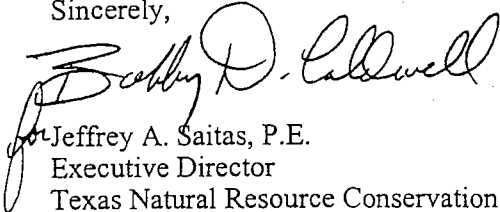
Mr. Eric W. Larson
May 10, 2000
Page 5

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.

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 Tom Gutierrez of the Edwards Aquifer Protection Program of the San Antonio Regional Office at 210/403-4025.

Sincerely,



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

JAS/TG/eg

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

cc: Mr. Bob Barton, City of Bulverde
Mr. John Bohuslav, TXDOT San Antonio District
Mr. Tom Hornseth, Comal County
Mr. Greg Ellis, Edwards Aquifer Authority
TNRCC Field Operations, Austin