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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 3, 2009

Mr. Robert J. Weiss, Jr.
Ralph E. Fair, Inc.
30260 Saratoga Lane
Fair Oaks Ranch, Texas

Re: Edwards Aquifer, Comal County
NAME OF PROJECT: Cibolo Trails, located in far west Comal County, on the east side of Battle Intense, approximately 1000 feet south of Keenland, Fair Oaks Ranch, Texas
TYPE OF PLAN: Request for Approval of a Modification of a Water Pollution Abatement Plan (WPAP); 30 Texas Administrative Code (TAC) Chapter 213 Edwards Aquifer
Edwards Aquifer Protection Program ID No. 1979.01; Investigation No. 743272; Regulated Entity No. RN103098885

Dear Mr. Weiss:

The Texas Commission on Environmental Quality (TCEQ) has completed its review of the WPAP Modification for the above-referenced project submitted to the San Antonio Regional Office by Alamo Consulting Engineering & Surveying, Inc. on behalf of Ralph E. Fair, Inc. on April 21, 2009. Final review of the WPAP was completed after additional material was received on July 2, 2009. As presented to the TCEQ, the Temporary 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

The original Water Pollution Abatement Plan for the site was approved by letter dated May 23, 2003 (see EAPP No. 1979.00). The plan included the construction of 160 single-family residences, roads, and driveways. The development also included common areas with walking trails. Impervious cover was shown as 15.83 acres, 19.5 % of 81.2 acres. After the approval, the site plan for the development was modified and the amount of planned impervious cover was reduced.

PROJECT DESCRIPTION

The proposed modification of the residential development will have an area of approximately 80 acres. It will include streets and 141 single-family homes. Revisions of street and lot locations were made to the

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Mr. Robert J. Weiss, Jr.

Page 2

July 3, 2009

approved plan. The elevation of land surfaces (land filling) is also shown for housing lots in Phases 1, 2, and 3. The impervious cover is reduced to 14.01 acres (17.26 percent). Project wastewater for Phases 1 and 2 is presently disposed of by conveyance to the existing Fair Oaks Ranch Utilities Wastewater Treatment Plant owned by the City of Fair Oaks Ranch. The wastewater from Phase 3 will go to the same facility.

PERMANENT POLLUTION ABATEMENT MEASURES

As this single-family residential project will have no more than 20 percent impervious cover, no permanent Best Management Practices will be constructed to treat stormwater runoff.

GEOLOGY

According to the geologic assessment included with the application, one well, a public water supply well, exists at the southwest corner of the site. No sensitive geologic or manmade features were reported. The site is mapped within the Edwards Aquifer Recharge Zone. Quaternary alluvium of Cibolo Creek is underlain by lower Glen Rose limestones of the Trinity Group. The San Antonio Regional Office conducted a site assessment on June 30, 2009. Except for the observation that several feet of fill soil had been placed in parts of Phases 1, 2, & 3, conditions appeared as described by geologic assessment.

SPECIAL CONDITIONS

- I. This modification is subject to all Special and Standard Conditions listed in the WPAP approval letter dated May 23, 2003.
- II. Since this project will not have more than 20 percent impervious cover, an exemption from additional permanent BMPs is approved. If the percent impervious cover ever increases above 20 percent 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 appropriate regional office of these changes.
- III. Regulated activities identified during the site assessment investigation constitute construction of modifications of a water pollution abatement plan without prior approval as required by Commission rules (30 TAC Chapter 213). Therefore, the applicant is hereby advised that the after-the-fact approval of plan modifications, 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.

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.
2. The holder of the approved Edwards Aquifer protection plan must comply with all provisions of 30 TAC Chapter 213 and all best management practices and measures contained in the approved plan. Additional and separate approvals, permits, registrations and/or authorizations from other TCEQ Programs (i.e., Stormwater, Water Rights, UIC) can be required depending on the specifics of the plan.

3. 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.

Prior to Commencement of Construction:

4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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:

10. 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.

11. This approval does not authorize the installation of temporary aboveground storage tanks on this project. If the contractor desires to install a temporary aboveground storage tank for use during construction, an application to modify this approval must be submitted and approved prior to installation. The application must include information related to tank location and spill containment. Refer to Standard Condition No. 6, above.
12. 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.
13. One well exists 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.
14. 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.
15. Intentional discharges of sediment laden storm water are not allowed. If dewatering becomes necessary, the discharge will be filtered through appropriately selected best management practices. These may include vegetated filter strips, sediment traps, rock berms, silt fence rings, etc.
16. 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.
17. 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:

18. 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.
19. The applicant shall be responsible for maintaining any 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

Mr. Robert J. Weiss, Jr.

Page 5

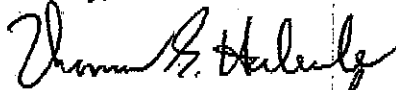
July 3, 2009

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 San Antonio Regional Office within 30 days of the transfer.

20. 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.
21. 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.
22. 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 Alan G. Jones of the Edwards Aquifer Protection Program of the San Antonio Regional Office at (210) 403-4074.

Sincerely,



Mark R. Vickery, P.G.
Executive Director
Texas Commission on Environmental Quality

MRV/AGJ/eg

Enclosure: Deed Recordation Affidavit, Form TCEQ-0625

cc: Mr. Paul A. Schroeder, P.E., R.P.L.S., Alamo Consulting Engineering & Surveying, Inc.
The Honorable Daniel E. Kasprowicz, Mayor, City of Fair Oaks Ranch
Mr. Thomas H. Hornseth, P.E., Comal County
Ms. Velma Reyes Danielson, Edwards Aquifer Authority
TCEQ Central Records, Building F, MC 212