

John Hall, Chairman  
Pam Reed, Commissioner  
Peggy Garner, Commissioner



## TEXAS WATER COMMISSION

PROTECTING TEXANS' HEALTH AND SAFETY BY PREVENTING AND REDUCING POLLUTION

January 28, 1993

Mr. Clay Kutscher  
1375 Edward's Blvd.  
New Braunfels, Texas 78130

Re: Edwards Aquifer, Comal County  
PROJECT: Clay's Landing, Located @ 1375 Edward's Blvd., New Braunfels, Texas.  
TYPE: Request for Approval of Water Pollution Abatement Plan (WPAP); 31 Texas Administrative Code (TAC) §313.4; Edwards Aquifer Protection Program.

Dear Mr. Kutscher:

The Texas Water Commission (TWC) has completed their review of the WPAP application for the referenced project that was submitted by Winkley/Alexander, Inc. on your behalf to the District 8 Office on December 15, 1992.

### BACKGROUND

On May 22, 1992 an inspection of the above referenced project site was conducted. Land had been cleared for a parking lot and other buildings. The snack shop, toilets and pumphouse were observed to be nearly complete. Two (2) 500-gallon sewage holding tanks were also observed. The use of sewage holding tanks as part of a sewage collection system is prohibited on the Recharge Zone of the Edwards Aquifer. By letter dated May 26, 1992 you were required to complete a water pollution abatement plan application and return it to this office. Your response letter was received on June 10, 1992 requesting the use of sewage holding tanks as a means of wastewater disposal. By letter dated June 17, 1992 District 8 conditionally approved temporary use of the holding tanks.

### PROJECT DESCRIPTION

The proposed Clay's Landing is to be developed as a commercial project and will consist of one snack bar building, one rest room building, a pump house, wood decking and walkways, and driveway and parking lot. The site is located within Comal County, and will conform with applicable codes and requirements of Comal County. Potable water will be supplied by an existing onsite water well.

REPLY TO: DISTRICT 8 / 140 HEIMER RD., SUITE 360 / SAN ANTONIO, TEXAS 78232-5042 / AREA CODE 512/490-3096

P.O. Box 13087 • 1700 North Congress Avenue • Austin, Texas 78711-3087 • 512/463-7830

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The normal population of the development is estimated to be two (2) employees. 500 gallons per day of domestic wastewater is to be generated by this project. Wastewater will be collected by two (2) private on-site sewage holding tank. According to a September 8, 1992 letter signed by Monica Wallace, Comal County Sanitarian, the holding tank is approved under the following conditions:

1. An elevation certificate is completed and returned to Comal County Flood Plain Administrator before operation; and structure location is approved.
2. As long as tanks are holding sewerage without any signs of leakage.
3. Tanks are pumped by a licensed septic tank pumper weekly after establishment has started operation.

The proposed impervious cover for the development, approximately 14,895 square feet (28%), includes single family dwelling roof tops, driveways, sidewalks, and streets.

Approximately 4.30 cubic feet per second of stormwater flow will be generated in a 25 year storm event from the 1.08 acre tract.

#### GEOLOGY ON SITE

According to the geologic assessment included with the submittal, no significant karst features were found to exist on the site. However, the rock is fractured and shows two fracture trends in the exposed rock. Minor bedding plane solution features were noted at the base of the thick limestone beds which form two (2) benches in the rock exposure adjacent to the Guadalupe River. No assessment of the significance or sensitivity of these features was presented in the Geologic Assessment by the geologist.

The District 8 site inspection of December 15, 1992, revealed that some fossilmoldic porosity in the outcrop along the river bank was present. Due to the proximity of this project to the Guadalupe River discharge into the river rather than recharge into the Edwards Aquifer was occurring.

#### GEOLOGY DOWN-GRADIENT OF SITE

According to the geologic assessment included with the submittal, surface drainage of the site is to the Guadalupe River. Due to the site drainage directly to the Guadalupe River, and dangerous flow conditions, at the time of the investigation, no survey was conducted to determine karst features in the drainage path.

POLLUTION ABATEMENT

I. During Construction:

The following measures will be taken to prevent pollution of stormwater originating on-site or up-gradient from the project site and potentially flowing across and off the site during construction:

- A. Temporary erosion and sedimentation controls (silt fences and rock berms) shall be installed prior to initiation of any other regulated activity.

II. After Construction:

The following measures will be taken to prevent pollution of stormwater originating on-site or up-gradient from the project site and potentially flowing across and off the site after construction:

- A. The disturbed areas will be revegetated with native grass.
- B. Stormwater runoff from the parking lot will drain to a sedimentation/filtration basin. The remainder of the area will be filtered by two (2) grassed terraces. Stormwater will cross these terraces in a sheet flow manner through the use of a level spreader.

III. Recharge Features:

No recharge features were observed onsite to warrant additional measures.

APPROVAL

The plan for this project has been reviewed for compliance with 31 TAC §313.4 which sets forth pollution abatement criteria for any development on the recharge zone of the Edwards Aquifer. The proposed water pollution abatement plan is in general agreement with 31 TAC §313.4; therefore, approval of the plan is hereby granted subject to the specific conditions listed below.

**Failure to comply** with any of the following conditions, the deed recordation requirement, or any other specific conditions of approval is a violation of these rules. Pursuant to §26.136 of the Texas Water Code, any violations of the Edwards Aquifer Rules may result in administrative penalties of up to \$10,000 for each act of violation and for each day of violation.

SPECIAL CONDITIONS

1. Based on previous on-site inspections of the project site, Commission records indicate that construction of regulated development and activities was actually initiated before May 22, 1992. These activities were conducted without the prior approval of the water pollution abatement plan, as required by Commission rules (31 TAC Chapter 313). Therefore, the applicant is hereby advised that the after-the-fact approval of the installation of the snack bar, toilet, pump house, and sewage holding tanks, 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 31 TAC Section 313.14 of Commission rules.
2. The sedimentation/filtration basin is designed in accordance with the LCRA Lake Travis Nonpoint Source Pollution Control Ordinance Technical Manual. The basin will incorporate sedimentation and filtration. The filtration system will consist of a geotextile membrane overlain by 12 inches of course sand overlain by 10 inches of fine sand. Stormwater runoff will be typical of a commercial site.
3. A formal maintenance plan and schedule for the sedimentation and filtration basin shall be submitted to the District 8 Edwards Aquifer Coordinator for review and possible modification prior to completion of construction. The plan shall include a responsible party and the anticipated cleaning schedule. Upon approval by the Texas Water Commission the plan shall be implemented in accordance with the approved schedule.
4. The sewage holding tanks shall be subject to the following conditions:
  - A. Each sewage holding tank shall be pumped by a licensed waste hauler weekly.
  - B. Each sewage holding tank shall be equipped with an overflow alarm capable of alerting the facility owner when the volume of the liquid in each tank reaches no more than 80% of the tank capacity.
  - C. Each sewage holding tank shall have containment walls as shown on the detailed drawing of the site plan.

- D. Semi-annual reports shall be submitted to the District 8 office, due on April 1 and October 1 of every year the sewage holding tanks are on-site. The reports shall include:
- i. Number of times tanks were pumped,
  - ii. Volume of effluent pumped each time,
  - iii. Name, license number, address and telephone number of contract waste hauler(s) employed,
  - iv. Manifests or receipts from the licensed waste hauler identifying the TWC permitted wastewater treatment plant(s) receiving the untreated sewage,
  - v. Certification by Texas Registered Sanitarian describing the condition of the tanks, noting any fractures, cracks or leaks, or absence of any fractures, cracks or leaks, the condition of the inflow pipe and pipe joints, and the overflow alarm.
- E. Any overflows, spillage or discharges from the tanks shall be immediately reported to the District 8 Office, 210/490-3096.
- F. If ownership or management of the property or business is transferred the new purchaser/owner/manager shall be notified of these conditions in writing prior to sale or transfer. The prospective purchaser/owner/manager shall inform the District 8 Office in writing that they understand these conditions of approval and will continue to provide this office with the information required by Item 4D above.

STANDARD CONDITIONS OF APPROVAL

1. Please be reminded that 31 TAC §313.4(c) requires the owner/developer to: (1) record in the county deed records that this property is subject to the approved WPAP; and (2) submit to the Executive Director through the District 8 Office, within 30 days of receiving this written notice of approval of the water pollution abatement plan and prior to commencing construction, proof of application for recordation of notice in the county deed records. Enclosed is a suggested format you may be used to deed record your approved WPAP.
2. Prior to commencing construction, the applicant/agent shall submit to the District 8 Office copies of any changes made to the plans and specifications for this project which have been required by the TWC review and/or all other permitting authorities.

3. Please note, following this approval of the regulated activities described in the referenced WPAP submittal, any amendment to these activities required by some other regulating authority or desired by the applicant will require the submittal of a WPAP application to amend this approval. And, as indicated in 31 TAC §313.4 and 31 TAC §313.27, an application to amend any approved regulated activity shall include payment of appropriate fees and all information necessary for its review and Executive Director approval.
4. Additionally, all contractors conducting regulated activities associated with this proposed regulated project shall be provided with copies of this approval letter and the entire contents of the submitted WPAP so as to convey to the contractors the specific conditions of this approval. During the course of these regulated activities, the contractors shall be required to keep on-site copies of the WPAP and this approval letter.
5. The temporary erosion and sedimentation (E&S) controls for the entire project shall be installed prior to beginning any other construction work on this project.
6. The appropriate E&S control(s) that shall be used during the construction of the project should be determined as follows: (1) **Silt fences** should be used when the drainage area is less than 2 acres and the slope is less than 10%. (2) **Rock berms with filtration** should be used when the drainage areas are greater than two acres or when the slopes are in excess of 10%. The bottom edge of the filter fabric must be buried a minimum of 6 inches below grade.
7. The TWC may monitor stormwater discharges from the site to evaluate the adequacy of the temporary erosion and sedimentation control measures. Additional protection may be necessary if excessive solids are being discharged from the site.
8. Also, 31 TAC §313.4(d)(2) requires that if any significant recharge features, such as solution openings or sinkholes, are discovered during construction, all regulated activities near the significant recharge feature must be suspended immediately and may not be resumed until the Executive Director has reviewed and approved the methods proposed to protect the aquifer from any potential adverse impacts. Upon discovery of the significant recharge features, the developer shall immediately notify the District 8 office.

9. Upon completion of the project, the applicant shall reseed or sod all areas disturbed during construction.
10. If any abandoned wells exist on the site or are found during construction of the proposed development, they shall be plugged in accordance with the local underground water conservation district's plugging procedures, if applicable, or 31 TAC §287.50(a) of this title (relating to Standards for Plugging Wells that Penetrate Undesirable Water Zones), or an equivalent method, as approved by the Executive Director. Pursuant to 31 TAC §287.48(e), the person that plugs such a well shall, within 30 days after plugging is complete, submit a Water Well Completion and Plugging Report to the Executive Director, through the District 8 Office and to the Edwards Underground Water District.

Any drill holes resulting from core sampling on-site or down-gradient of the site shall be plugged with cement slurry, 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.

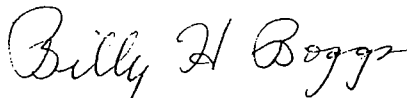
11. No waste-disposal wells, new confined animal feeding operations, land disposal of Class I wastes, or use of sewage holding tanks as parts of organized collection systems shall be allowed on the recharge zone of this regulated development.
12. During the course of the construction related to the referenced regulated project, the owner/developer shall comply with all applicable provisions of 31 TAC §313.4. Construction which is initiated and abandoned, or not completed, shall be returned to a permanent condition such that groundwater in the Edwards Aquifer is protected from potential contamination. Additionally, Mr. Clay Kutscher, applicant, shall remain responsible for the provisions and special conditions of this approval until such responsibility is legally transferred to another person or entity, upon which that person or entity shall assume responsibility for all provisions and specific conditions of this approval.
13. Pursuant to 31 TAC §313.4(d)(1) and prior to commencing regulated activities, the applicant must provide the District 8 Office with the date on which the regulated activity will commence.
14. Please note that 31 TAC §313.4(g) states that this approval expires two years from this date unless, prior to the expiration date, construction has commenced on the regulated project.

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15. Approval of the design of the sewage collection system for this proposed subdivision shall be obtained from the Texas Water Commission prior to the commencement of construction of any sewage collection system, the design of which shall be in accordance with 31 TAC §313.5 and 31 TAC §317.
16. The developer shall ensure that construction debris, such as but not limited to scrap wood, bricks, paint, adhesives, containers, paper, etc. is disposed of properly at an authorized landfill off of the Edwards Aquifer Recharge Zone.
17. If asphaltic materials such as "seal coat", emulsion or other asphaltic products used for paving, roofing, etc. wash off or leave the project site the developer shall notify the Texas Water Commission immediately and commence clean-up.

If you have any questions or require additional information, please contact a representative of the Edwards Aquifer Protection Program at the District 8 Office (210) 490-3096.

Sincerely,



Billy H. Boggs,  
District Manager, for

Jesús Garza  
Executive Director

BHB-JKM/jkm

Enclosures

cc: Winkley/Alexander, Inc.  
Mike Shands, Director of Planning, City of New Braunfels  
Carter Casteel, County Judge, Comal County  
Monica M. Wallace, Comal County Sanitarian  
Tom Hornseth, Comal County Engineer  
Russell L. Masters, Edwards Underground Water District  
John Mauser, Texas Water Commission, District 8 Office  
Steve Musick, Groundwater Section, Texas Water Commission  
TWC - Central Records (with attachment)