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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 4, 2009

Mr. Tom Scott
Pinnacle Health Properties I, LLC
5212 Village Creek
Plano, TX 75093-5066

Re: Edwards Aquifer, Comal County
NAME OF PROJECT: Kirkwood Manor; Located at the intersection of Loop 337 and Walnut Avenue; New Braunfels, Texas
TYPE OF PLAN: Request for a Modification of an Approved Water Pollution Abatement Plan (WPAP); 30 Texas Administrative Code (TAC) Chapter 213 Edwards Aquifer
Edwards Aquifer Protection Program ID No. 1281.03; Investigation No. 722948; Regulated Entity No. RN102751195

Dear Mr. Scott:

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 Ford Engineering, Inc. on behalf of Pinnacle Health Properties I, LLC on December 29, 2009. Final review of the WPAP modification was completed after additional material was received on February 26, 2009. 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

A Water Pollution Abatement Plan application for the subject site was originally approved under 30 TAC 213.4 (c) [formerly 31 TAC 313.3] by letter dated December 10, 1986. The existing impervious cover at the site consisted of a building and a parking lot. The subject site is 5.613 acres with 2.271 acres of existing impervious cover that pre-dates the requirement of treating stormwater runoff.

A modification to the WPAP was approved by letter dated June 18, 1999. The construction activities for the modification did not commence within the two year term of approval therefore the approval expired on June 18, 2001.

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

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A modification to the WPAP was approved by letter dated July 27, 2004. The proposed commercial project was to have an area of 5.613 acres and 1.69 acres of new impervious cover constructed (expansion of existing assisted living building, sidewalks, driveways and associated parking. Approximately 0.506 acres of existing parking was proposed to be removed, therefore the net increase in impervious cover for the site resulted in 1.184 acres. The total impervious cover for the project site would result in 3.455 acres (57.2%). Project wastewater was to be disposed of by conveyance to the existing Kuehler Sewage Treatment Plant owned by New Braunfels Utilities.

PROJECT DESCRIPTION

The proposed commercial project will have an area of approximately 5.613 acres. The modification to the approved WPAP application will include the addition of 21 new parking stalls increasing the impervious cover at the site by 0.082 acres. The total impervious cover will be 3.537 acres (63 percent). Project wastewater will be disposed of by conveyance to the existing Kuehler Water Recycling Center owned by the New Braunfels Utilities.

PERMANENT POLLUTION ABATEMENT MEASURES

To prevent the pollution of stormwater runoff originating on-site or upgradient of the site and potentially flowing across and off the site after construction, two partial sedimentation/filtration basins, designed using the TCEQ technical guidance document, Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices (1999), were constructed to treat stormwater runoff. The sizing calculations for Basin #1 were completed using the latest edition of the Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices (2005) due to the new impervious cover additions (0.082 acres) presented in this application. Basin #2 was not affected by this modification application.

Watershed A (Basin #1). The partial sedimentation/filtration basin will capture the first 0.21 inches of stormwater run-off from 2.11 acres of impervious cover (1.36 acres pre-existing) within a 3.37 acre catchment area. The required total suspended solids (TSS) treatment for this project is 680 pounds. The basin will also provide compensatory TSS treatment for 0.01 acres (9 pounds of TSS) bypassing the on site BMPs. The sedimentation/filtration system consist of:

1. total capture volume of 2,531 cubic feet (1,517 cubic feet required),
2. sand filter area of 243 square feet (126 square feet required), which is 18 inches thick
3. an underdrain piping wrapped in geotextile membrane, and
4. an impervious liner.

Watershed B (Basin #2). The partial sedimentation/filtration basin will capture the first 0.15 inches of stormwater run-off from 1.42 acres of impervious cover (0.91 acres pre-existing) within a 2.25 acre catchment area. The sedimentation/filtration system consists of:

1. total capture volume of 1,223 cubic feet
2. 136 square feet of sand, which is 18 inches thick
3. an underdrain piping wrapped in geotextile membrane, and
4. an impervious liner.

The approved measures meet the required 80 percent removal of the increased load in TSS caused by the project.

GEOLOGY

According to the geologic assessment included with the application, the project site is located on the Cyclic and Marine Member of the Cretaceous Edwards Person Limestone. Three geologic features were identified by the project geologist during the assessment. One of the features was man made (sanitary sewer manhole) and none of the features were assessed as sensitive by the project geologist. The San Antonio Regional Office site assessment conducted on February 2, 2009 revealed the site conditions were generally as described in the geologic assessment submitted with the application.

SPECIAL CONDITIONS

- I. This modification is subject to all Special and Standard Conditions listed in the WPAP approval letters dated December 10, 1986 and July 27, 2004.
- II. All permanent pollution abatement measures shall be operational prior to occupancy of the facility.
- III. All sediment and/or media removed from the water quality basins during maintenance activities shall be properly disposed of according to 30 TAC 330 or 30 TAC 335, as applicable.
- IV. Unless an exception is requested, justified with documentation as equivalent protection, and approved, the "industry standard" for temporary BMPs to be used for activities regulated by 30 TAC 213 are described in RG-348 (2005), and shall be used.
- V. The applicant shall provide all contractors with a copy of pages 1-35 through 1-60 of TCEQ TGM RG-348 (2005) as a guide for soil stabilization practices and assure that any soil stabilization is performed in accordance with these practices and the approved plan.
- VI. The applicant shall provide soil stabilization in accordance with TCEQ TGM RG-348 for the improved drainage channel from outfall of Basin #2.

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:

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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.

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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. No wells exist on 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 the permanent BMPs after construction until such time as the maintenance obligation is either assumed in writing by another entity having

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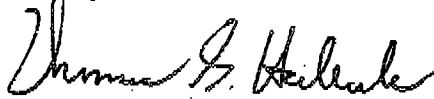
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ownership or control of the property (such as without limitation, an owner's association, a new property owner or lessee, a district, or municipality) or the ownership of the property is transferred to the entity. The regulated entity shall then be 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 San Antonio Regional Office within 30 days of the transfer. A copy of the transfer form (TCEQ-10263) is enclosed.

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 Agnieszka Hobson of the Edwards Aquifer Protection Program of the San Antonio Regional Office at (210) 403-4075.

Sincerely,



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

MRV/AMH/eg

Enclosures: Deed Recordation Affidavit, Form TCEQ-0625
Change in Responsibility for Maintenance of Permanent BMPs, Form TCEQ-10263

cc: Mr. Mark B. Hill, P.E., Ford Engineering, Inc.
Mr. James Klein, City of New Braunfels
Mr. Thomas H. Hornseth, P.E., Comal County
Ms. Velma Reyes Danielson, Edwards Aquifer Authority
TCEQ Central Records, Building F, MC 212