

Barry R. McBee, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
John M. Baker, *Commissioner*  
Dan Pearson, *Executive Director*



TNRCC Corresp.  
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## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

October 20, 1997

Mr. William H. Borchers  
251 South Seguin Avenue  
New Braunfels, TX 78130

Re: EDWARDS AQUIFER, Comal County  
PROJECT: Property on SE corner of Loop 337 & California Blvd., Project #600.01, Located on southeast corner of Loop 337 & California Blvd., New Braunfels, Texas  
TYPE: Water Pollution Abatement Plan; 30 Texas Administrative Code (TAC) §213.5(b); Edwards Aquifer Protection Program

Dear Mr. Borchers:

On October 9, 1997 the Texas Natural Resource Conservation Commission (TNRCC) received your letter concerning the above referenced project. You stated that since there are no current plans or opportunities for any construction or development on the property, if it would be agreeable to defer the obtaining of a water pollution abatement plan until plans are initiated for development and/or construction?

Under 30 TAC 213.4:

No person shall commence the construction of any regulated activity until an Edwards Aquifer protection plan or modifications to the plan as required by §213.5 of this title (relating to Required Edwards Aquifer Protection Plans, Notification, and Exemptions) has been filed with the appropriate regional office, and the application has been reviewed and approved by the executive director.

Under 30 TAC 213.3, "regulated activity" is defined as:

Any construction-related activity on the recharge zone of the Edwards Aquifer, such as, but not limited to: construction of buildings, utility stations, roads, highways, or railroads; clearing, excavation or any other activities which alter or disturb the topographic, geologic, or existing recharge characteristics of a site; any installation of aboveground or underground storage tank facilities on the recharge or transition zone of the Edwards Aquifer; or any other activities which may pose a potential for contaminating the Edwards Aquifer and hydrologically connected surface streams. "Regulated activity" does not include:

- (A) the clearing of vegetation in a 10-foot wide path, for the sole purpose of surveying;
- (B) agricultural activities, except feedlots/concentrated animal feeding operations;

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Mr. William H. Borchers  
October 20, 1997  
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(C) activities associated with the exploration, development, and production of oil or gas or geothermal resources as defined in Chapter 335 of this title (relating to Industrial Solid Waste and Municipal Hazardous Waste);

(D) the routine maintenance of existing structures that does not involve additional site disturbance, such as but not limited to, the resurfacing of existing paved roads, parking lots, sidewalks, or other development-related impervious surfaces and the building of fences, or other similar activities in which there is little or no potential for contaminating groundwater, or there is little or no change to the topographic, geologic, or existing sensitive features; or

(E) construction of single-family residences on lots that are larger than five acres, where no more than one single-family residence is located on each lot.

Under 30 TAC 213.10 (Enforcement):

Failure to comply with any provision of this chapter or of any applicable regulation or order of the commission issued pursuant to this chapter and in accordance with Chapter 26 and other relevant provisions of the Texas Water Code may result in liability for penalties and may subject a noncompliant person to enforcement proceedings initiated by the executive director under Texas Water Code, Chapter 26.

Since the clearing activity which has occurred on this property constitutes a regulated activity, an application for a water pollution abatement plan is required for the regulated activity. A copy of the Mass Grading WPAP is enclosed. Please inform this office by November 3, 1997 of when you intend to submit the required WPAP. Should clarification of this letter be desired or if we may be of any other assistance, please contact John Mauser of our San Antonio office at 210/490-3096. Reference project number 600.01.

Sincerely,



Bobby D. Caldwell,  
Water Program Manager

BDC/JKM/eg

Enclosure: Mass Grading WPAP Application

cc: Craig Hollmig, S.Craig Hollmig, Inc.  
Mike Shands, City of New Braunfels  
Tom Hornseth, Comal County  
Greg Ellis, Edwards Aquifer Authority  
TNRCC Field Operations, Austin

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## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

October 2, 1997

CERTIFIED MAIL N° Z 375 234 035  
RETURN RECEIPT REQUESTED

Mr. William H. Borchers  
251 South Seguin Avenue  
New Braunfels, TX 78130

Re: EDWARDS AQUIFER, Comal County  
PROJECT: Site Clearing, Project #600, Located on southeast corner of Loop 337 & California Blvd., New Braunfels, Texas  
TYPE: Unauthorized Construction Activity; 30 Texas Administrative Code (TAC) §213.4(a); Edwards Aquifer Protection Program

Dear Mr. Borchers:

On May 5, 1997, a representative of the San Antonio Regional Office conducted a compliance inspection of the above referenced location. During the inspection, certain outstanding alleged violations/deficiencies were identified and are listed on the attached summary.

A water pollution abatement plan (WPAP) application must be submitted for review and approval consideration. Until the WPAP application receives written approval from the TNRCC, no construction activity is approved. Therefore, all active construction must cease and any necessary temporary erosion and sedimentation controls must be maintained.

The staff of the Texas Natural Resource Conservation Commission is dedicated to working with the regulated community to achieve compliance with the state's environmental laws and regulations. Therefore, our Regional Office wishes to resolve the outstanding alleged violations/deficiencies with you as soon as possible. Please inform this office in writing by November 1, 1997, of the steps you will take to correct this alleged violation.

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**SUMMARY OF OUTSTANDING ALLEGED VIOLATIONS**

**Site Clearing**

**Southeast corner of Loop 337 & California Blvd**

**New Braunfels, Texas**

**Edwards Aquifer File No.: 600**

**Investigation Date: May 5, 1997**

30 Texas Administrative Code (TAC) Section 213.4(a) - Application Processing and Approval.

Approval by the executive director. No person shall commence the construction of any regulated activity until an Edwards Aquifer protection plan or modifications to the plan as required by §213.5 of this title (relating to Required Edwards Aquifer Protection Plans, Notification, and Exemptions) has been filed with the appropriate regional office, and the application has been reviewed and approved by the executive director.

Under 30 TAC 213.3, "regulated activity" is defined as,

Any construction-related activity on the recharge zone of the Edwards Aquifer, such as, but not limited to: construction of buildings, utility stations, roads, highways, or railroads; clearing, excavation or any other activities which alter or disturb the topographic, geologic, or existing recharge characteristics of a site; any installation of aboveground or underground storage tank facilities on the recharge or transition zone of the Edwards Aquifer; or any other activities which may pose a potential for contaminating the Edwards Aquifer and hydrologically connected surface streams.

The TNRCC investigator observed that the referenced site, located on the Edwards Aquifer recharge zone, had been cleared of all vegetation. The San Antonio regional office has no record of an approved Edwards Aquifer Water Pollution Abatement Plan for this regulated activity. By letter dated May 6, 1997, the San Antonio Regional Office received Mr. Borchers' written commitment to construct appropriate temporary erosion and sedimentation controls on the site.