

Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 21, 2008

Mr. John H. Davenport  
Heiser Hollow Partners, LLC  
12790 Merit Drive, Suite 100  
Dallas Texas 75251

Re: Edwards Aquifer, Comal County  
NAME OF PROJECT: Guadalupe River Club; Located on the north side of FM 306, approximately 1600' east of FM 2673; Comal County, Texas  
TYPE OF PLAN: Request for Approval of a Contributing Zone Plan (CZP); 30 Texas Administrative Code (TAC) Chapter 213 Subchapter B Edwards Aquifer  
Edwards Aquifer Protection Program ID No. 2799.00; Investigation No. 656865; Regulated Entity No. RN105506901

Dear Mr. Davenport:

The Texas Commission on Environmental Quality (TCEQ) has completed its review of the CZP application for the above-referenced project submitted to the San Antonio Regional Office by Jacobs Carter & Burgess on behalf of Heiser Hollow Partners, LLC on April 30, 2008. Final review of the CZP was completed after additional material was received on July 1<sup>st</sup>, 16<sup>th</sup>, and 18<sup>th</sup>, 2008. 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

Pursuant to 30 TAC 213, Subchapter B the site meets the definition of a larger common plan of development with the potential to disturb more than five acres, and is therefore subject to all applicable regulations of 30 TAC 213.

Approximately 2.68 acres of existing impervious cover from a water recreation area, walking areas, camp grounds, and buildings represent previous development within the 11.79 acre project area. In a document received on July 1, 2008, Jacobs Carter & Burgess maintained that the impervious cover was constructed in 1978, prior to the effective date of 30 TAC 213, Subchapter B, the governing rules of the Edwards Aquifer Contributing Zone.

### PROJECT DESCRIPTION

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](http://www.tceq.state.tx.us)

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The proposed commercial project will have an area of approximately 11.79 acres. The project area encompasses a 2.18 acre site and 9.61 acres of offsite area. It will include construction of a roadway with access drive, an offsite pervious parking area, and a reduction of the amount of existing impervious cover. The total impervious cover will be 1.66 acres (14.08%) of the 11.79 acre project, including: 0.53 acres of proposed impervious cover onsite, 0.11 acres of proposed impervious cover offsite, and 1.02 acres of existing offsite impervious cover. No wastewater will be generated by the proposed project.

#### 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, engineered vegetative filter strips designed using the TCEQ technical guidance document, Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices (2005) will be constructed to treat stormwater runoff. The required total suspended solids (TSS) treatment for this project is 575 pounds of TSS generated from the 0.64 acres of proposed impervious cover. The engineered filter strips are designed according to the following:

- The engineered vegetated filter strips are along roadways where runoff that would otherwise discharge directly to the Guadalupe River, passes through the filter strip before entering a conveyance system;
- The engineered vegetated filter strips extend along the entire length of the contributing area;
- The slope does not exceed 20%;
- The minimum dimension of the filter strips (in the direction of flow) is not less than 15 feet;
- The maximum width (in the direction of flow) of the contributing impervious areas does not exceed 72 feet;
- The minimum vegetated cover is 80%;
- The contributing area to the filter strips is relatively flat so that runoff is distributed evenly to the vegetated areas without the use of a level spreader;
- The vegetated filter strips are free of gullies or rills that can concentrate overland flow.

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

#### INVESTIGATION COMMENTS

During the review for the above referenced project, a site investigation was conducted on June 16, 2008. The investigation revealed that regulated activities had commenced onsite, prior to receiving this approval. In a Notice of Deficiency response received on July 1, 2008, the authorized agent stated that construction commenced for the project on May 2, 2008.

#### SPECIAL CONDITIONS

- I. 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 format (Deed Recordation Affidavit, TCEQ-0625A) that you may use to deed record the approved CZP is enclosed.
- II. All permanent pollution abatement measures shall be operational prior to use of the roadway and parking area.
- III. Within 15 days from the date of this letter, a copy of this letter shall be provided to the owners of properties located within the approved project limits.

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- IV. Based on the site investigation conducted on June 16, 2008, and subsequent comments provided by the authorized agent, regulated activities had commenced on the project. These activities were conducted without the prior approval of the contributing zone plan, as required by Commission rules (30 TAC Chapter 213). Therefore, the applicant is hereby advised that the after-the-fact approval of the proposed project, 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 §213.25 of Commission rules.
- V. As stated by the authorized agent, the project limits will not extend into the TXDOT/FM 306 right-of-way. No regulated activities shall occur within this right-of-way. A modification application to the approved plan must be submitted and approved prior to commencing regulated activities within the right-of-way.
- VI. The application proposed a pervious parking area. This vegetation in this area shall be maintained according to the maintenance agreement signed by the owner. If the vegetative parking area is not being maintained or has degraded from regular use, the parking area shall not be used until the vegetation is re-established according the approved plan. While vegetation is being established, temporary sediment and erosion control measures shall be in place to prevent discharge of sediment-laden stormwater from the area within the boundaries of this project.
- VII. Curbing located along the roadway, shall not obstruct or direct stormwater from/to the vegetative filter strips.
- VIII. Upon completion and prior to use, the applicant shall provide certification from a Texas Licensed Profession Engineer to certify that there are no areas of concentrated flow to the vegetative filter strips. If the vegetative filter strip are receiving concentrated flow, a modification application to the approved plan may be required to address additional, or new permanent BMPs.

#### 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 CZP must comply with all provisions of 30 TAC Chapter 213 and all best management practices and measures contained in the application.
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. 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 Contributing Zone Plan and this notice of approval shall be maintained at the project location until all regulated activities are completed.
5. Any modification to the activities described in the referenced CZP 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.
6. 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

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notification must include the name of the approved plan and file number for the regulated activity, the date on which the regulated activity will commence, and the name of the prime contractor with the name and telephone number of the contact person.

7. Temporary erosion and sedimentation (E&S) controls, i.e., silt fences, rock berms, stabilized construction entrances, or other controls described in the approved Storm Water Pollution Prevention Plan (SWPPP) 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.

During Construction:

8. 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.
9. 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 significantly reduced. 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).
10. 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.
11. 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.
12. 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.
13. 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. 5, above.

After Completion of Construction:

14. 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.

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15. 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 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 (TCEQ-10263) is enclosed.
16. Upon legal transfer of this property, the new owner(s) is required to comply with all terms of the approved Contributing Zone Plan. If the new owner intends to commence any new regulated activity on the site, a new Contributing Zone 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.
17. A Contributing Zone 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 Contributing Zone 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.
18. 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 Jason Jupe of the Edwards Aquifer Protection Program of the San Antonio Regional Office at (210) 403-4023.

Sincerely,



Mark Vickery, P.G.

Executive Director

Texas Commission on Environmental Quality

MV/JJ/eg

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

cc: Mr. Sandy Harwood, P.E., Jacobs Carter & Burgess  
Mr. Tom Hornseth, P.E., Comal County  
Ms. Velma Danielson, Edwards Aquifer Authority  
TCEQ Central Records, Building F, MC 212  
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July 18, 2008

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Sincerely,



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Executive Director

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