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R. B. "Ralph" Marquez, *Commissioner*  
John M. Baker, *Commissioner*  
Jeffrey A. Saitas, *Executive Director*



## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

RECEIVED  
SEP 25 2001  
COUNTY ENGINEER

September 26, 2001

Mr. Eric W. Larson  
Cibolo Materials  
26321 Hwy 281 North  
San Antonio, TX, 78260

Re: Edwards Aquifer, Comal County  
NAME OF PROJECT: Cibolo Materials; Located 1/2 mile east of US Hwy 281 along the north side of Cibolo Creek; Comal County, Texas  
TYPE OF PLAN: Request for Modification of a Water Pollution Abatement Plan (WPAP), and Request for Exception from Modification Fees; 30 Texas Administrative Code (TAC) Chapter 213 Edwards Aquifer  
Edwards Aquifer Protection Program File No. 1440.01

Dear Mr. Larson:

The Texas Natural Resource Conservation Commission (TNRCC) has completed its review of the request for modification of the approved WPAP for the referenced project submitted to the San Antonio Regional Office by Mr. Gary Nicholls, P.E. of Westward Environmental, Inc. on behalf of Cibolo Materials on August 1, 2001. Final review of the WPAP submittal was completed after additional material was received on September 21, 2001.

The plan for modifying this project has been reviewed for compliance with 30 TAC §213.5(b) which sets forth pollution abatement criteria for any development on the recharge zone of the Edwards Aquifer. The proposed water pollution abatement plan modification is in general agreement with 30 TAC §213.5(b); therefore, approval of the plan is hereby granted subject to the specific condition listed below. 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, modification to a plan, or exception. A motion for reconsideration must be filed no later than 20 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% of the construction has commenced on the project or an extension of time has been requested.*

### PROJECT DESCRIPTION

This facility was previously approved by letter dated May 10, 2000. As presented, this proposed modification to the water pollution abatement plan will consist of revisions to the field sampling plan (enclosed).

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SPECIAL CONDITIONS

- I. In order to insure that the fill material being placed in the excavation is clean and inert, the field sampling plan (enclosed) must be followed.
- II. No asphalt may be used as fill material.
- III. The amended Field Sampling and Reclamation Plan for the Cibolo Materials (enclosed) must be deed recorded with this letter.
- IV. An affidavit certifying that all fill material placed on-site is inert material, as defined by 30 TAC 330.2, and free of hazardous materials, and free of all municipal solid waste, including asphalt and demolition materials must be submitted to the TNRCC's San Antonio regional office on or before September 1, 2002, and every anniversary thereafter for the life activities on site.
- V. All fill materials placed on site prior to the date of this letter must be tested in conformance with the originally approved sampling plan and Special Condition #5 of the May 10, 2000, TNRCC approval letter (enclosed). The sample result and certifying affidavit are due by October 31, 2001.

STANDARD CONDITIONS

1. Pursuant to §26.136 of the Texas Water Code, any violations of the requirements in 30 TAC Chapter 213 may result in administrative penalties.

Prior to Commencement of Construction:

2. 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, covered by the Edwards Aquifer protection plan, shall be included in the deed recordation in the county deed records. A suggested form (Deed Recordation Affidavit, TNRCC-0625) that you may use to deed record the approved WPAP is enclosed.
3. 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.
4. Modification to the activities described in the referenced plan 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.
5. 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 file 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 of an approved plan.

6. 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 TNRCC 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.
7. Abandoned injection wells must be closed under the requirements of 30 TAC Chapter 331 (relating to Underground Injection Control).
8. All borings with depths greater than or equal to 20 feet must be plugged with a 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:

9. 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.
10. If any sensitive feature 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 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.
11. One wells exists on the site. All identified abandoned water wells, including injection, dewatering, and monitoring wells must be plugged pursuant to requirements of the Texas Department of Licensing and Regulation under Title 16 TAC Chapter 76 (relating to Licensing and Regulation of Water Well Drillers and Water Well Pump Installers) and all other locally applicable rules, as appropriate. If any abandoned wells (including water, injection (injection well referenced in Item 7), dewatering, and monitoring well) are encountered during construction, they must be plugged pursuant to requirements of the Texas Department of Licensing and Regulation (16 TAC Chapter 76) and all other locally applicable rules, as appropriate.

12. 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%. 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).
13. 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.
14. 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.
15. To the maximum extent practicable, BMPs and measures must maintain flow to naturally-occurring sensitive features identified in either the geologic assessment, executive director review, or during excavation, blasting, or construction. The temporary sealing of a naturally-occurring sensitive feature which accepts recharge to the Edwards Aquifer as a temporary pollution abatement measure during active construction should be avoided. A request to temporarily seal the feature must include a justification that no reasonable and practicable alternative exists. The request will be evaluated by the executive director on a case-by-case basis.

After Completion of Construction:

16. 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.
17. 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 (TNRCC-10263) is enclosed.
18. 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.

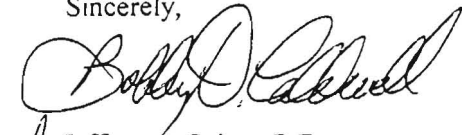


Mr. Eric W. Larson  
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19. An Edwards Aquifer protection plan approval or extension will expire and no extension will be granted if more than 50% of the total construction has not been completed within ten years from the initial approval of a plan. A new 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.
20. 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 John Mauser of the Edwards Aquifer Protection Program of the San Antonio Regional Office at 210/403-4024.

Sincerely,



Jeffrey A. Saitas, P.E.  
Executive Director  
Texas Natural Resource Conservation Commission

JAS/JKM/eg

- Enclosure:
1. Amended Field Sampling and Reclamation Plan
  2. May 10, 2000 letter from TNRCC to Mr. Eric W. Larson
  3. Deed Recordation Affidavit, Form TNRCC-0625
  4. Change in Responsibility for Maintenance of Permanent BMPs -TNRCC-10263

cc with Enclosures 1 & 3:

Mr. Gary Nicholls, P.E., Westward Environmental, Inc.  
Mr. Bob Barton, City of Bulverde  
Mr. Tom Hornseth, Comal County  
Mr. Greg Ellis, Edwards Aquifer Authority  
TNRCC Field Operations

**Amended Field Sampling  
& Reclamation  
Plan (FSP)**

**Cibolo Materials**

Prepared by:  
Westward Environmental, Inc.  
P.O. Box 2205  
Boerne, Texas 78006  
(830) 249-8284  
Project No. 10209-02



## **1.0 INTRODUCTION**

### **1.1 Purpose and Scope**

This Field Sampling Plan (FSP) has been prepared to replace a prior FSP for Cibolo Materials. The original FSP contained several conditions and requirements which were neither technical nor regulatory in basis. This FSP will address the placement of clean fill and inert materials at the site for the purpose of reclamation of the excavated areas. The purpose of this FSP is to allow for the practical reclamation of the site using off site fill materials while protecting the Edwards Aquifer. It has been prepared in compliance with 30 TAC 330, 30 TAC 335 and 30 TAC 213.

### **1.2 Project Description**

The project site consists of a 40 acre tract sand and gravel borrow pit located 2600 ft. east of Hwy. 281 along the north side of Cibolo Creek, in Comal County, Texas. Topsoil, sand and gravel and pit run materials are excavated from the site for use as construction materials in the area. Excavated and recyclable construction materials are also stockpiled at the site for future use. For the purposes of this project these recyclable materials may consist of limestone, sand, gravel, topsoil, clean concrete, RAP, or similar excavated materials. These materials do not meet the regulatory definitions of a hazardous material or municipal solid waste and therefore are not subject to regulation.

Once an area of the pit has been excavated, clean inert fill materials as defined by 30 TAC 330 will be hauled to the site for placement as reclamation fill. This fill will reclaim the site and ultimately make it suitable for surface enjoyment or construction. This will be done in accordance with TNRCC and Comal County requirements.

### **1.3 Fill Materials**

The fill materials for this site will fall into three separate and distinct categories. These are those materials excavated from natural sites, those materials excavated from new construction, and those excavated from urbanized or densely developed sites.

#### **Natural sites:**

A significant amount of the material which will be used for reclamation fill at this site will come from natural sites. Natural sites refers to areas which have been in a natural or open range condition. When these sites are developed for the first time raw stone and soil are excavated as part of the site work and utility trenching at the site. Much of this material will come from sites within the Edwards Aquifer Recharge Zone, Transition Zone and Contributing Zone. The primary component of this fill will be Edwards Limestone, Glen Rose Limestone and other sedimentary units associated with the Edwards and Glen Rose respectively. By nature these materials are considered inert. They are of the same or significantly similar chemical nature and stability as the underlying units at the site.

### **New Development Sites:**

When new development occurs there is often the need to tie the developmental infrastructure into the existing infrastructure. This is in the form of utility tie ins, street and curb tie ins, and drainage tie ins. This activity results in the excavation of natural stone and soils as well as new concrete and asphalt. As discussed above the natural stone and soils do not pose a threat to the Edwards Aquifer. The new concrete and asphalt likewise do not pose a threat to the aquifer. New concrete and asphalt are highly stable. They have not been subjected to contamination from years of exposure to traffic and other activity. The use of both of these materials are approved on a daily basis on the Recharge Zone.

### **Urbanized or densely developed sites:**

These sites represent those areas where sustained urban activity has occurred. This would include older residential areas, existing commercial and industrial areas. When development or redevelopment is done in these areas there is the potential that excavated materials could contain hazardous materials or chemicals which could affect the Edwards.

## **2.0 FIELD OPERATIONS**

### **2.1 Sampling requirements:**

Sampling will be based upon the source category for the fill material.

For the purposes of this FSP the categories will be as follows

- |              |  |
|--------------|--|
| Category I   | Clean fill from natural soil and stone excavations   |
| Category II  | Clean fill from natural soil and stone excavations, new concrete and asphalt from new construction |
| Category III | Clean fill from urbanized or densely developed sites   |

#### **Category I**

Category I materials are those naturally occurring soils and stone which are not considered a solid waste by definition and should not be subject to testing requirements. These materials themselves will often be Edwards Limestone and associated sedimentary rocks. New construction fill materials produced at local quarry sources will be composed of these same materials. There is no 30 TAC 213 requirement for the sampling and chemical analysis of these commercial construction products prior to their use on the use on the Recharge Zone. Based on the knowledge that these materials came from previously undeveloped open range or agricultural grazing properties and that they are of the same composition as construction materials currently in use over the Recharge Zone should suffice as demonstration that the materials are inert. Additionally these materials are defined below as not being solid wastes or subject to regulation..



A solid waste is defined by 30 TAC 330 as:

*(139) Solid waste - garbage, rubbish, refuse, sludge from a waste-water treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:*

*(A) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under the Water Code, Chapter 26;*

*(B) soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or*

Based on this clear definition the inert fill materials are not considered solid waste and are not regulated as such. Since the fill materials are not solid wastes and not regulated under Chapter 330 there typically is no requirement to notify the TNRCC of their use as construction fill. They are being used in a manner consistent with construction, in this case reclamation. Construction or reclamation activities of this type are not regulated by the TNRCC. There are no reclamation standards for non-coal mining in Texas at this time.

Additionally Chapter 330 specifically states that no permit or registration is required for this activity.

#### ***§330.4. Permit Required.***

*(f) A permit or registration under this chapter is not required for a facility or site that is used as: a citizens' collection station; as a collection and processing point for nonputrescible recyclable wastes or for composting of leaves, grass clippings, or wood chips; a collection point for parking-lot or street sweepings or wastes collected and received in sealed plastic bags from such activities as periodic citywide cleanup campaigns and cleanup of rights-of-way or roadside parks; or for the disposal of soil, dirt, rock, sand, or other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements. A permit or registration is not required for a baling operation at a recycling or materials recovery facility that handles only nonputrescible recyclable waste. Facilities that process recyclable wastes that contain more than incidental amounts of putrescible waste must apply for a permit or registration as applicable under subsections (a), (d) or (q) of this section*

## Category II

The materials in Category II fall within the same justification as those of Category I. These materials are either clean natural materials or concrete and asphalt. Both concrete and asphalt are used over the recharge zone in both surface and subsurface (buried) applications without any requirement for TNRCC approval. The use of these materials as fill material will be consistent with their use in subsurface applications such as road subgrades, foundations and footings. No testing will be required for the use of these materials as fill. A log will be kept denoting the source of these materials, total volume (in cubic yards or tons) and the location of their placement.

## Category III

The materials in this category have the potential to contain hazardous materials or chemicals which could affect the Edwards Aquifer. Prior to the placement of these materials the following protocol will be followed.

If an Environmental Site Assessment (ESA) exists for the source site it will be reviewed prior to stockpiling of the materials for possible use as fill. The potential for possible contamination will be evaluated and the material will be ranked as low risk, moderate risk or high risk. The material can then be stockpiled and segregated if necessary to further separate higher risk materials. The stockpiled materials will be sampled every 50 to 250 cubic yards depending on the risk ranking and segregation of the materials stockpiles. Analysis will consist of the following at a minimum:

Table 1.

Constituent	Method	Acceptable Levels
Total Petroleum Hydrocarbons	Method Tx 1005 or EPA 418.1 if applicable	Non-detect based on current testing PQLs as of the date of this FSP
RCRA 8 Metals (arsenic, barium, cadmium, chromium, lead, mercury, selenium and silver)	EPA 1131	Not to exceed the greater of the background levels or the MCLs listed in 30 TAC335.521(a)(3) Table 3
Chlordane	SW 3550/SW8080	Non-detect based on current testing PQLs as of the date of this FSP



All samples will be collected using accepted environmental sampling and decontamination techniques. All samples will be labeled and attributed to a specific material stockpile. The material stockpile will then be marked off to correspond to a particular sample. A written chain of custody will be completed by the sampler to insure the integrity of the sample. A laboratory will be selected for the analysis of the samples. Upon delivery of the sample to the laboratory the sample will be relinquished by the sample technician and received by the laboratory representative. Both of these will be represented by signatures on the chain of custody. The selected laboratory will be required to provide their own quality assurance program to insure that the laboratory results are accurate and valid.

Once the sample results verify that the materials meet the acceptable limits it may be used as construction fill at the site. A log will be kept denoting the source of these materials, total volume (in cubic yards or tons) and the location of their placement.

### **Background Sampling**

Background sampling will be performed at the site to determine the background levels of the constituents listed above. Once excavation has reached the bottom of the pit at the site soil samples will be collected. Three soil samples will be collected, one from the floor of the pit, and two composites from the pit sidewalls. These samples will be analyzed for the constituents in Table 1 using the methodologies found in Table 1.

## **3.0 RECORD KEEPING**

- 3.1** The operator will maintain a record of all required records for until reclamation of the facility and for a period not to exceed 5 years after the completion of reclamation. These records include this FSP, field observations, testing results, chain of custody forms, and related correspondence.

The operator will inform the TNRCC on an annual basis if Category III materials are placed as fill at the site. Placement of Category I and II materials will not require reporting to the TNRCC. Records of the fill placed at the site will be made available to the TNRCC upon request at the operator's main office.

## **4.0 DEED RECORDATION**

- 4.1** This FSP will be deed recorded in accordance with the requirements of 30 TAC 213.

Robert J. Huston, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
John M. Baker, *Commissioner*  
Jeffrey A. Saitas, *Executive Director*



## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

May 10, 2000

Mr. Eric W. Larson  
Cibolo Materials  
26321 Hwy. 281 North  
San Antonio, TX, 78260

Re: Edwards Aquifer, Comal County  
NAME OF PROJECT: Cibolo Materials Gravel Quarry; Located approximately 2,600 feet east of the intersection of U.S. Highway 281 North and Cibolo Creek; Comal County, Texas  
TYPE OF PLAN: Request for Approval of a Water Pollution Abatement Plan (WPAP); 30 Texas Administrative Code (TAC) Chapter 213 Edwards Aquifer  
Edwards Aquifer Protection Program File No. 1440.00

Dear Mr. Larson:

The Texas Natural Resource Conservation Commission (TNRCC) has completed its review of the WPAP application for the referenced project submitted to the San Antonio Regional Office by Mr. John Luce, P.E. on behalf of Cibolo Materials on February 23, 2000. As presented to the TNRCC, 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, modification to a plan, or exception. A motion for reconsideration must be filed no later than 20 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% of the construction has commenced on the project or an extension of time has been requested.*

### PROJECT DESCRIPTION

The proposed project occupies 96.5 acres and will consist of an excavation and fill operation. Excavation of the quarry will continue within the limits of the property boundary to a depth of 20-25 feet and will occur in phases. The first phase will consist of excavating a 15 acre parcel within the original 96.5 acre tract in order to retrieve gravel. The remaining excavations will occur in 20 acre parcels and will require approximately 10 years to complete. Any overburden generated by the site will be kept within the pit area to prevent runoff.

According to the applicant, no wastewater will be generated by this development.

### PERMANENT POLLUTION ABATEMENT MEASURES

According to the application, the quarry on the site will be expanded and leveled, extending nearly to the boundaries of the 96.5 acre property. Stormwater will be allowed to flow across the site throughout the

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May 10, 2000  
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excavation and filling process. The site, while being excavated, will be self contained, and no upgradient flow or flow from on site will leave the site.

Since no additional impervious cover is proposed, no permanent measures have been proposed.

### GEOLOGY

According to the geologic assessment included with the submittal, a total of eight geologic features were identified on the proposed project site. According to the geologist these features consisted of four man-made features, and three closed depressions, and a single fractured rock outcropping. Six of the features were assessed as possibly sensitive, while the remaining two features were assessed as not sensitive. The San Antonio Regional Office did not conduct a site inspection of the site.

### SPECIAL CONDITIONS

1. Based on previous on-site inspections of the project site, Commission records indicate that construction activities related to the proposed commercial facility were actually initiated prior to February 3, 2000. These activities were conducted without the prior approval of the water pollution abatement plan for the project, as required by Commission rules (30 TAC Chapter 213). Therefore, the applicant is hereby advised that the after-the-fact approval commercial facility, 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.
2. Placement of hydrocarbon or hazardous substance storage facilities regulated pursuant to 213.5(d) and 213.5(e), requires submittal of all appropriate applications with appropriate fees and must receive prior approval from the TNRCC.
3. Any use of this commercial property, for activities other than those approved shall require prior approval from the regional office of the TNRCC and may require submittal an approval of a WPAP.
4. The TNRCC may monitor stormwater discharges from the site to evaluate the adequacy of permanent erosion and sedimentation control measures. Additional controls may be necessary if excessive solids are being discharged form the site.
5. In order to insure that the fill material being placed in the excavation is clean and inert, the field sampling plan must be followed. All sample results must be reported annually to the San Antonio region office. Additionally, a certification indicating that all material brought to the site from each source is clean, inert fill material must be provided with sample results. Any material that is rejected should also be noted in the annual report. The first report will be due September 1, 2000, and each report thereafter will be due by September 1.
6. The field sampling plan must be deed recorded with this letter.

### STANDARD CONDITIONS

1. Pursuant to §26.136 of the Texas Water Code, any violations of the requirements in 30 TAC Chapter 213 may result in administrative penalties.

Prior to Commencement of Construction:

2. 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, covered by the Edwards Aquifer protection plan, shall be included in the deed recordation in the county deed records. A suggested form (Deed Recordation Affidavit, TNRCC-0625) that you may use to deed record the approved WPAP is enclosed.
3. 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.
4. 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.
5. 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 file 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 of an approved plan.
6. 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 TNRCC 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.
7. Abandoned injection wells must be closed under the requirements of 30 TAC Chapter 331 (relating to Underground Injection Control).
8. All borings with depths greater than or equal to 20 feet must be plugged with a 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:

9. 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.

10. If any sensitive feature 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 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.
11. A single man-made well exists on the site. All identified abandoned water wells, including injection, dewatering, and monitoring wells must be plugged pursuant to requirements of the Texas Department of Licensing and Regulation under Title 16 TAC Chapter 76 (relating to Licensing and Regulation of Water Well Drillers and Water Well Pump Installers) and all other locally applicable rules, as appropriate. If any abandoned wells (including water, injection (injection well referenced in Item 7), dewatering, and monitoring well) are encountered during construction, they must be plugged pursuant to requirements of the Texas Department of Licensing and Regulation (16 TAC Chapter 76) and all other locally applicable rules, as appropriate.
12. 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%. 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).
13. 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.
14. **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.
15. To the maximum extent practicable, BMPs and measures must maintain flow to naturally-occurring sensitive features identified in either the geologic assessment, executive director review, or during excavation, blasting, or construction. The temporary sealing of a naturally-occurring sensitive feature which accepts recharge to the Edwards Aquifer as a temporary pollution abatement measure **during active construction should be avoided. A request to temporarily seal the feature must include** a justification that no reasonable and practicable alternative exists. The request will be evaluated by the executive director on a case-by-case basis.

After Completion of Construction:

16. 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.
17. 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



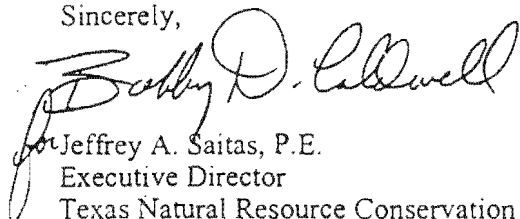
Mr. Eric W. Larson  
May 10, 2000  
Page 5

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 (TNRCC-10263) is enclosed.

18. 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.
19. An Edwards Aquifer protection 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 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.
20. 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 Tom Gutierrez of the Edwards Aquifer Protection Program of the San Antonio Regional Office at 210/403-4025.

Sincerely,



for Jeffrey A. Saitas, P.E.  
Executive Director  
Texas Natural Resource Conservation Commission

JAS/TG/eg

Enclosure: Deed Recordation Affidavit, Form TNRCC-0625  
Change in Responsibility for Maintenance or Permanent BMPs-Form TNRCC-10263

cc: Mr. Bob Barton, City of Bulverde  
Mr. John Bohuslav, TXDOT San Antonio District  
Mr. Tom Hornseth, Comal County  
Mr. Greg Ellis, Edwards Aquifer Authority  
TNRCC Field Operations, Austin



Westward Environmental

0002076

"RECEIVED TNRCC"  
SAN ANTONIO  
REGION

2001 AUG -1 PM 1:39

*Handwritten signature*

P.O. Box 2205  
Boerne, Texas  
78006

August 1, 2001

Project No. 10209-02

Jeff Saitas, P.E.  
Executive Director  
Texas Natural Resource Conservation Commission  
P.O. Box 13087  
Austin, Texas 78711-3087

RECEIVED

AUG 2 2 2001

COUNTY ENGINEER

**Delivered in C/O TNRCC Region 13**

Re: Exception from Modification Fee and  
Modification of a previously Approved WPAP  
Approved May 10, 2000  
Cibolo Materials 96.5 acre tract - Field Sampling Plan  
Edwards Aquifer Protection Program File No. 1440.00

Mr. Saitas:

We are submitting the attached Exception Request and Modification of a Previously Approved WPAP on behalf of our client Cibolo Materials. This WPAP authorizes sand and gravel excavation activities and the filling of the excavation with clean inert fill material. This modification requests an amendment to the Field Sampling Plan (FSP) covering the clean inert fill material. The amendment will bring the FSP into alignment with the requirements of 30 TAC 330 and 30 TAC 335, while still protecting the Edwards Aquifer. Since this modification does not change the physical operation or extent of the excavation activities, there will be no changes in the Geologic Assessment or the Temporary or Permanent Erosion controls. Likewise, there will be no change in the area or the site plan for the site. The lone change will be in the Field Sampling Plan. We, therefore, respectfully request approval of this modification and approval of an exception request to waive the modification fee. We have attached the appropriate forms and information necessary for the staff to review and process these requests. If you or the staff have any questions, please feel free to call me at (830) 249-8284.

Sincerely,  
WESTWARD ENVIRONMENTAL, INC.

*Handwritten signature of Gary D. Nicholls*

Gary D. Nicholls, P.E.  
Senior Engineer

CC: Mr. Eric W. Larson, Cibolo Materials  
File 10209-02

SAN ANTONIO WATER SYSTEM  
AQUIFER STUDIES  
2001 AUG -6 P 7:44

## Recharge and Transition Zone Exception Request Form Checklist

- X General Information Form, *TNRCC-0587*  
ATTACHMENT A - Road Map  
ATTACHMENT B - USGS / Edwards Recharge Zone Map  
ATTACHMENT C - Project Description
- N/A Geologic Assessment Form, *TNRCC-0585*, if necessary  
ATTACHMENT A - Geologic Assessment Table, *TNRCC-0585-Table*  
Comments to the Geologic Assessment Table  
ATTACHMENT B - Soil Profile and Narrative of Soil Units  
ATTACHMENT C - Stratigraphic Column  
ATTACHMENT D - Narrative of Site Specific Geology  
Site Geologic Map(s)  
Table or List for the Position of Features Latitude/Longitude, if GPS was used to map features
- X Recharge and Transition Zone Exception Request Form, *TNRCC-0628*  
ATTACHMENT A - Nature of Exception.  
ATTACHMENT B - Documentation of Equivalent Water Quality Protection.
- N/A Temporary Stormwater Section, *TNRCC-0602*, if necessary  
ATTACHMENT A - Spill Response Actions  
ATTACHMENT B - Potential Sources of Contamination  
ATTACHMENT C - Sequence of Major Activities  
ATTACHMENT D - Temporary Best Management Practices and Measures  
ATTACHMENT E - Request to Temporarily Seal a Feature, if sealing a feature  
ATTACHMENT F - Structural Practices  
ATTACHMENT G - Drainage Area Map  
ATTACHMENT H - Temporary Sediment Pond(s) Plans and Calculations  
ATTACHMENT I - Inspection and Maintenance for BMPs  
ATTACHMENT J - Schedule of Interim and Permanent Soil Stabilization Practices
- N/A Permanent Stormwater Section, *TNRCC-0600*, if necessary  
ATTACHMENT A - 20% or Less Impervious Cover Waiver, if project is multi-family residential, a school, or a small business and 20% or less impervious cover is proposed for the site  
ATTACHMENT B - BMPs for Upgradient Stormwater  
ATTACHMENT C - BMPs for On-site Stormwater  
ATTACHMENT D - BMPs for Surface Streams  
ATTACHMENT E - Request to Seal Features, if sealing a feature  
ATTACHMENT F - Construction Plans  
ATTACHMENT G - Inspection, Maintenance, Repair and Retrofit Plan  
ATTACHMENT H - Pilot-Scale Field Testing Plan, if using guidance other than the Edwards Aquifer Protection Program Guidance Manual to design Permanent BMPs  
ATTACHMENT I - Measures for Minimizing Surface Stream Contamination
- X Agent Authorization Form, *TNRCC-0599*, if submitted by agent
- X Fee Application Form, *TNRCC-0574*
- X Check Payable to the Texas Natural Resource Conservation Commission



**GENERAL INFORMATION FORM**  
FOR REGULATED ACTIVITIES ON THE  
EDWARDS AQUIFER RECHARGE AND TRANSITION ZONES  
AND RELATING TO 30 TAC §213.4(b) & §213.5(b)(2)(A), (B)  
EFFECTIVE JUNE 1, 1999

PROJECT NAME: Cibolo Materials Amended Field Sampling Plan  
COUNTY: Comal STREAM BASIN: Cibolo Creek

EDWARDS AQUIFER: ☒ RECHARGE ZONE  
☐ TRANSITION ZONE

PLAN TYPE: ☐ WPAP ☐ AST ☒ EXCEPTION  
☐ SCS ☐ UST ☒ MODIFICATION

**APPLICANT INFORMATION**

1. Applicant: Cibolo Materials

Contact Person: Eric W. Larson  
Entity: Cibolo Materials  
Mailing Address: 26321 Hwy. 281 North  
City, State: San Antonio, TX Zip: 78260  
Telephone: (830) 438-4600 FAX: (830) 438-4604

2. Agent/Representative (If any):

Contact Person: Gary D. Nicholls, P.E.  
Entity: Westward Environmental, Inc. - Senior Engineer  
Mailing Address: P.O. Box 2205  
City, State: Boerne, TX Zip: 78006  
Telephone: (830) 249-8284 FAX: (830) 249-0221

**PROJECT LOCATION**

3. Site Address: 2600 ft. East of U.S. Hwy. 281 intersection with Cibolo  
Street: Creek  
City: Comal County Zip: 78260

4. ☐ This project is inside the city limits of \_\_\_\_\_.  
☒ This project is outside the city limits but inside the ETJ (extra-territorial jurisdiction)  
of City of San Antonio.  
☐ This project is not located within any city's limits or ETJ.

5. The location of the project site is described below. The description provides sufficient detail and clarity so that the TNRCC's Regional staff can easily locate the project and site boundaries for a field investigation.

The termination of a gravel road which runs east from U.S. Hwy 281  
paralleling the north side of the Cibolo Creek for a distance of 2600 ft.

6. X **ATTACHMENT A - ROAD MAP.** A road map showing directions to and the location of the project site is attached at the end of this form.
7. X **ATTACHMENT B - USGS / EDWARDS RECHARGE ZONE MAP.** A copy of the official 7 ½ minute USGS Quadrangle Map (Scale: 1" = 2000') of the Edwards Recharge Zone is attached behind this sheet. The map(s) should clearly show:
- X Project site.
  - X USGS Quadrangle Name(s).
  - X Boundaries of the Recharge Zone (and Transition Zone, if applicable).
  - X Drainage path from the project to the boundary of the Recharge Zone.
8. X Sufficient survey staking is provided on the project to allow TNRCC regional staff to locate the boundaries and alignment of the regulated activities and the geologic or manmade features noted in the Geologic Assessment. **The TNRCC must be able to inspect the project site or the application will be returned.**
9. X **ATTACHMENT C - PROJECT DESCRIPTION.** Attached at the end of this form is a detailed narrative description of the proposed project.
10. Existing project site conditions are noted below:
- Existing commercial site
  - X Existing industrial site
  - Existing residential site
  - X Existing paved and/or unpaved roads
  - Undeveloped (Cleared)
  - Undeveloped (Undisturbed/Uncleared)
  - X Other: Existing Sand and Gravel Pit

#### PROHIBITED ACTIVITIES

11. X I am aware that the following activities are prohibited on the **Recharge Zone** and are not proposed for this project:
- (1) waste disposal wells regulated under 30 TAC Chapter 331 of this title (relating to Underground Injection Control);
  - (2) new feedlot/concentrated animal feeding operations, as defined in 30 TAC §213.3;
  - (3) land disposal of Class I wastes, as defined in 30 TAC §335.1;
  - (4) the use of sewage holding tanks as parts of organized collection systems; and
  - (5) new municipal solid waste landfill facilities required to meet and comply with Type I standards which are defined in §330.41(b), (c), and (d) of this title (relating to Types of Municipal Solid Waste Facilities).
12. X I am aware that the following activities are prohibited on the **Transition Zone** and are not proposed for this project:
- (1) waste disposal wells regulated under 30 TAC Chapter 331 (relating to Underground Injection Control);

- (2) land disposal of Class I wastes, as defined in 30 TAC §335.1; and
- (3) new municipal solid waste landfill facilities required to meet and comply with Type I standards which are defined in §330.41 (b), (c), and (d) of this title.

#### ADMINISTRATIVE INFORMATION

13. The fee for the plan(s) is based on:

- ☐ For a Water Pollution Abatement Plan and Modifications, the total acreage of the site where regulated activities will occur.
- ☐ For an Organized Sewage Collection System Plans and Modifications, the total linear footage of all collection system lines.
- ☐ For a UST Facility Plan or an AST Facility Plan, the total number of tanks or piping systems.
- ☐ A Contributing Zone Plan.
- ☒ A request for an exception to any substantive portion of the regulations related to the protection of water quality.
- ☐ A request for an extension to a previously approved plan.

14. Application fees are due and payable at the time the application is filed. If the correct fee is not submitted, the TNRCC is not required to consider the application until the correct fee is submitted. Both the fee and the Edwards Aquifer Fee Form have been sent to the Commission's:

- ☐ TNRCC cashier
- ☐ Austin Regional Office (for projects in Hays, Travis, and Williamson Counties)
- ☒ San Antonio Regional Office (for projects in Bexar, Comal, Kinney, Medina, and Uvalde Counties)

15. ☒ Submit one (1) original and three (3) copies of the completed application to the appropriate regional office for distribution by the TNRCC to the local municipality or county, groundwater conservation districts, and the TNRCC's Central Office.

16. ☒ No person shall commence any regulated activity until the Edwards Aquifer Protection Plan(s) for the activity has been filed with and approved by the executive director.

☐ No person shall commence any regulated activity until the Contributing Zone Plan for the activity has been filed with the executive director.

To the best of my knowledge, the responses to this form accurately reflect all information requested concerning the proposed regulated activities and methods to protect the Edwards Aquifer. This **GENERAL INFORMATION FORM** is hereby submitted for TNRCC review. The application was prepared by:

Gary D. Nicholls, Engineer  
Print Name of Applicant/Owner/Engineer

  
Signature of Applicant/Owner/Engineer

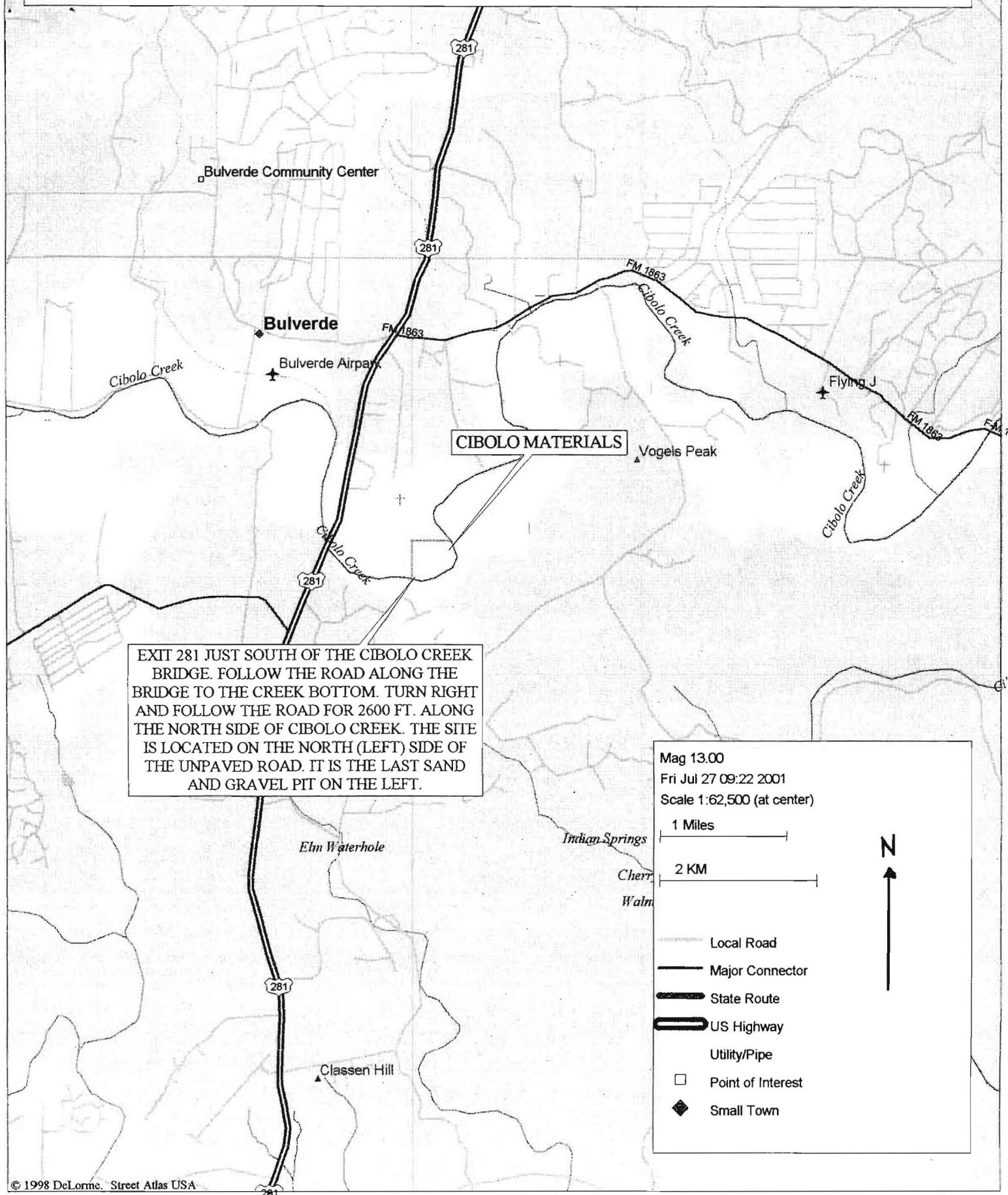
7-31-01  
Date



# **Attachment A**

## **Road Map**

# CIBOLO MATERIALS



## **Attachment B**

### **USGS - Edwards Recharge Zone Map**



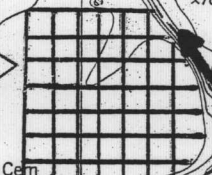
BULVERDE QUADRANGLE  
TEXAS  
7.5 MINUTE SERIES (TOPOGRAPHIC)

6343 IV SE  
(SMITHSON VALLEY)

The flow continues within the Cibolo  
Creek Channel to and past the  
Recharge Zone Boundary

RECHARGE ZONE

Site



NORTH

Cibolo Materials - WPAP Modification  
Amended Field Sampling Plan  
Prepared: July 2001  
Scale: 1" = 2000'  
Westward Environmental, Inc.



# **Attachment C.**

## **Project Description**

The project occupies 96.5 acres and consists of excavation and fill operations. Excavation at the site extends to a depth of approximately 20 - 25 feet. Materials are excavated from the site for use as construction building materials in the northern Bexar and southern Comal Counties. The excavation will be filled back (reclaimed) to the ground surface with clean, inert fill material until the site is level. The fill material will be excavation from predominately new construction. In these cases the materials will be composed of natural soils, stone and clay.

A WPAP was approved for the project on May 20, 2000. This WPAP included a field sampling plan which was intended to insure that the fill material being brought to the excavation is clean and inert. The Field Sampling Plan (FSP) as it is currently written is cumbersome and places undue and unnecessary burden on the operator and exceeds the regulatory requirements for the placement of clean fill by 30 TAC 335 and 30 TAC 330.

**This modification seeks to amend the FSP and to bring it into alignment with 30 TAC 335 and 330 requirements, while insuring the quality of the fill material and protection of the Edwards Aquifer.**

**RECHARGE AND TRANSITION ZONE  
EXCEPTION REQUEST FORM  
30 TAC §213.9 EFFECTIVE JUNE 1, 1999**

Project Name: Cibolo Materials Amended Field Sampling Plan

1. X **ATTACHMENT A - Nature of Exception.** A narrative description of the nature of each exception requested is provided as **ATTACHMENT A** at the end of this form. All provisions of 30 TAC §213 Subchapter A for which an exception is being requested have been identified in the description.
2. X **ATTACHMENT B - Documentation of Equivalent Water Quality Protection.** Documentation demonstrating equivalent water quality protection for the Edwards Aquifer is provided as **ATTACHMENT B** at the end of this form.

**ADMINISTRATIVE INFORMATION**

3. X One (1) original and three (3) copies of the completed application has been submitted to the appropriate regional office of the TNRCC.
4. X The applicant understands that no exception will be granted for a prohibited activity in Chapter 213.
5. X The applicant understands that prior approval under this section must be obtained from the executive director for the exception to be authorized.

To the best of my knowledge, the responses to this form accurately reflect all information requested concerning the proposed regulated activities and methods to protect the Edwards Aquifer. This **RECHARGE AND TRANSITION ZONE EXCEPTION REQUEST FORM** application is hereby submitted for TNRCC review and executive director approval. The request was prepared by:

Gary D. Nicholls, Engineer  
Print Name of Required Signatory

  
Signature of Required Signatory

7-31-01  
Date



# **Attachment A**

## **Nature of the Exception**

An Exception from payment of the Modification fee is being requested. There will be no changes to the physical operation of the site, or to either the temporary or permanent pollution measures. Section 4.1.2.2 of the Complying with the Edwards Aquifer Rules: Administrative Guidance Document states that fees are charged to cover the life of a WPAP. The fee covers the professional review of the WPAP and periodic inspections of the site for the life of the facility. It includes the geologic assessment of the plan and other components of the plan such as the temporary and permanent pollution control measures. In the case of this modification, there will be no changes in any of those components of the WPAP. The change involves a simple amendment to the Field Sampling Plan covering the reclamation of the land with clean inert fill. The proposed amendment to the plan incorporates the requirements and definitions found in 30 TAC 330 and 30 TAC 335. The amendment also notes that the majority of the clean inert fill which will be returned to the site originates from natural sites within the Contributing Zone, Recharge Zone or Transition Zone. These materials in their natural location are not regulated as posing a threat to the Edwards Aquifer and their placement as fill at this location should not pose a threat to the Edwards Aquifer. In many cases these materials are processed at other locations to produce construction materials, such as road base or topsoil, which in turn are placed over the recharge zone without additional analytical demonstration as being inert materials. The review of this request involves the verification that these fill materials are not wastes and that they are not regulated as such under TNRCC Regulations. The simple modification of the Field Sampling Plan to come into alignment with existing TNRCC regulations should be a simple review process and in no way requires the extensive staff resources that the review of a full WPAP does. Due to these facts, we feel that it is justified for the Executive Director to approve this exception request from payment of the modification fee.

# **Attachment B**

## **Documentation of Equivalent Water Protection**

Relative to the Documentation of Equivalent Water Protection the following facts are offered:

1. There will be no change in the size of the operation
2. There will be no change in the temporary or permanent storm water controls at the site.
3. Any potential fill material which has the potential to contain hazardous materials or chemicals will undergo review and testing prior to approval as fill for the site.
4. Fill material which results from excavation of natural materials will be treated in accordance with 30 TAC 330 and 30 TAC 335. These materials will be used in lieu of processed construction materials which are made from the same or significantly similar sources.

We feel that the amended FSP does not reduce the water protection of the WPAP at the site. The amended FSP brings the fill program into alignment with existing TNRCC solid waste rules and requirements, it recognizes that natural materials excavated from the Recharge Zone, Transition Zone and the Contributing Zone do not pose a threat when used as fill, and it reduces unnecessary record keeping and testing.

**AGENT AUTHORIZATION FORM**  
**FOR REQUIRED SIGNATURE**  
**EDWARDS AQUIFER PROTECTION PROGRAM**  
**RELATING TO 30 TAC CHAPTER 213**  
**EFFECTIVE JUNE 1, 1999**

I Eric W. Larson  
Print Name

President  
Title - Owner/President/Other

of Cibilo Materials  
Corporation/Partnership/Entity Name

have authorized Gary D. Nicholls  
Print Name of Agent/Engineer

of Westward Environmental, Inc.  
Print Name of Firm

to represent and act on the behalf of the above named Corporation, Partnership, or Entity for the purpose of preparing and submitting this plan application to the Texas Natural Resource Conservation Commission (TNRCC) for the review and approval consideration of regulated activities.

I also understand that:

1. The applicant is responsible for compliance with 30 Texas Administrative Code Chapter 213 and any condition of the TNRCC's approval letter. The TNRCC is authorized to assess administrative penalties of up to \$10,000 per day per violation.
2. A notarized copy of the Agent Authorization Form must be provided for the person preparing the application, and the forms must accompany the completed application.
3. Application fees are due and payable at the time the application is submitted. The application fee must be sent to the TNRCC cashier or to the appropriate regional office. The application will not be considered until the correct fee is received by the commission.



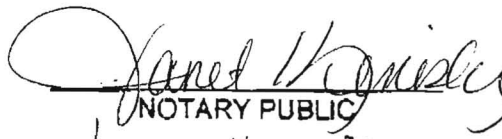
4. For applicants who are not the property owner, but who have the right to control and possess and control the property, additional authorization is required from the owner.

  
Applicant's Signature Date

THE STATE OF TX §  
County of Comal §

BEFORE ME, the undersigned authority, on this day personally appeared ERIC LARSON  
known to me to be the person whose name is subscribed to the foregoing instrument, and  
acknowledged to me that (s)he executed same for the purpose and consideration therein expressed.

GIVEN under my hand and seal of office on this 31 day of July

  
NOTARY PUBLIC  
Janet Kenisky  
Typed or Printed Name of Notary



MY COMMISSION EXPIRES: 2-1-05

**TEXAS NATURAL RESOURCE CONSERVATION COMMISSION  
EDWARDS AQUIFER PROTECTION PLAN  
APPLICATION FEE FORM**

NAME OF PROPOSED PROJECT: Cibolo Materials Amended Field Sampling Plan  
 PROJECT LOCATION: 96.5 acre tract located 2600 ft. East of U.S. Hwy 281 along the north side  
Of the Cibolo Creek, Comal County Texas  
 NAME OF APPLICANT: Cibolo Materials  
 APPLICANT'S ADDRESS: 26321 Hwy 281 N., San Antonio, TX 78260  
 CONTACT PERSON: Eric W. Larson PHONE: (830) 438-4600  
Please Print

**AUSTIN REGIONAL OFFICE (3373)**

- ☐ Hays  
☐ Travis  
☐ Williamson

**SAN ANTONIO REGIONAL OFFICE (3362)**

- ☐ Bexar  
☒ Comal  
☐ Kinney  
☐ Medina  
☐ Uvalde

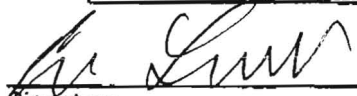
APPLICATION FEES MUST BE PAID BY CHECK, CERTIFIED CHECK, OR MONEY ORDER, PAYABLE TO THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION. YOUR CANCELED CHECK WILL SERVE AS YOUR RECEIPT. THIS FORM MUST BE SUBMITTED WITH YOUR FEE PAYMENT. THIS PAYMENT IS BEING SUBMITTED TO (CHECK ONE):

☒ **SAN ANTONIO REGIONAL OFFICE**

- ☐ **Mailed to TNRCC:**  
 TNRCC - Cashier  
 Revenues Section  
 Mail Code 214  
 P.O. Box 13088  
 Austin, TX 78711-3088

- ☐ **AUSTIN REGIONAL OFFICE**  
☐ **Overnight Delivery to TNRCC:**  
 TNRCC - Cashier  
 12100 Park 35 Circle  
 Building A, 3rd Floor  
 Austin, TX 78753  
 512/239-0347

Type of Plan	Size	Fee Due
Water Pollution Abatement, One Single Family Residential Dwelling	Acres	\$
Water Pollution Abatement, Multiple Single Family Residential and Parks	Acres	\$
Water Pollution Abatement, Non-residential	Acres	\$
Sewage Collection System	L.F.	\$
Lift Stations without sewer lines	Acres	\$
Underground or Aboveground Storage Tank Facility	Tanks	\$
Piping System(s)(only)	Each	\$
Exception	1 Each	\$ 250.00
Extension of Time	Each	\$

  
 Signature

7/31/01  
 Date

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION  
**EDWARDS AQUIFER PROTECTION PLAN**  
 APPLICATION FEE SCHEDULE  
 30 TAC §213.14 (effective 11/14/97) & 30 TAC §213.9 (effective 6/1/99)

**WATER POLLUTION ABATEMENT PLANS AND MODIFICATIONS**

PROJECT	PROJECT AREA IN ACRES	FEE
One Single Family Residential Dwelling	<5	\$500
Multiple Single Family Residential and Parks	<5	\$1,000
	5 < 10	\$2,000
	10 < 50	\$3,000
	≥ 50	\$5,000
Non-residential (Commercial, industrial, institutional, multi-family residential, schools, and other sites where regulated activities will occur)	< 1	\$2,000
	1 < 5	\$3,000
	5 < 10	\$4,000
	≥ 10	\$5,000

**ORGANIZED SEWAGE COLLECTION SYSTEMS AND MODIFICATIONS**

PROJECT	COST PER LINEAR FOOT	MINIMUM FEE MAXIMUM FEE
Sewage Collection Systems	\$0.50	\$500 - \$5,000

**UNDERGROUND AND ABOVEGROUND STORAGE TANK SYSTEM  
 FACILITY PLANS AND MODIFICATIONS**

PROJECT	COST PER TANK OR PIPING SYSTEM	MINIMUM FEE MAXIMUM FEE
Underground and Aboveground Storage Tank Facility	\$500	\$500 - \$5,000

**EXCEPTION REQUESTS**

PROJECT	FEE
Exception Request	\$250

**EXTENSION OF TIME REQUESTS**

PROJECT	FEE
Extension of Time Request	\$100



# **Amended Field Sampling & Reclamation Plan (FSP)**

**Cibolo Materials**

Prepared by:  
Westward Environmental, Inc.  
P.O. Box 2205  
Boerne, Texas 78006  
(830) 249-8284  
Project No. 10209-02

## **1.0 INTRODUCTION**

### **1.1 Purpose and Scope**

This Field Sampling Plan (FSP) has been prepared to replace a prior FSP for Cibolo Materials. The original FSP contained several conditions and requirements which were neither technical nor regulatory in basis. This FSP will address the placement of clean fill and inert materials at the site for the purpose of reclamation of the excavated areas. The purpose of this FSP is to allow for the practical reclamation of the site using off site fill materials while protecting the Edwards Aquifer. It has been prepared in compliance with 30 TAC 330, 30 TAC 335 and 30 TAC 213.

### **1.2 Project Description**

The project site consists of a 40 acre tract sand and gravel borrow pit located 2600 ft. east of Hwy. 281 along the north side of Cibolo Creek, in Comal County, Texas. Topsoil, sand and gravel and pit run materials are excavated from the site for use as construction materials in the area. Excavated and recyclable construction materials are also stockpiled at the site for future use. For the purposes of this project these recyclable materials may consist of limestone, sand, gravel, topsoil, clean concrete, RAP, or similar excavated materials. These materials do not meet the regulatory definitions of a hazardous material or municipal solid waste and therefore are not subject to regulation.

Once an area of the pit has been excavated, clean inert fill materials as defined by 30 TAC 330 will be hauled to the site for placement as reclamation fill. This fill will reclaim the site and ultimately make it suitable for surface enjoyment or construction. This will be done in accordance with TNRCC and Comal County requirements.

### **1.3 Fill Materials**

The fill materials for this site will fall into three separate and distinct categories. These are those materials excavated from natural sites, those materials excavated from new construction, and those excavated from urbanized or densely developed sites.

#### **Natural sites:**

A significant amount of the material which will be used for reclamation fill at this site will come from natural sites. Natural sites refers to areas which have been in a natural or open range condition. When these sites are developed for the first time raw stone and soil are excavated as part of the site work and utility trenching at the site. Much of this material will come from sites within the Edwards Aquifer Recharge Zone, Transition Zone and Contributing Zone. The primary component of this fill will be Edwards Limestone, Glen Rose Limestone and other sedimentary units associated with the Edwards and Glen Rose respectively. By nature these materials are considered inert. They are of the same or significantly similar chemical nature and stability as the underlying units at the site.

### **New Development Sites:**

When new development occurs there is often the need to tie the developmental infrastructure into the existing infrastructure. This is in the form of utility tie ins, street and curb tie ins, and drainage tie ins. This activity results in the excavation of natural stone and soils as well as new concrete and asphalt. As discussed above the natural stone and soils do not pose a threat to the Edwards Aquifer. The new concrete and asphalt likewise do not pose a threat to the aquifer. New concrete and asphalt are highly stable. They have not been subjected to contamination from years of exposure to traffic and other activity. The use of both of these materials are approved on a daily basis on the Recharge Zone.

### **Urbanized or densely developed sites:**

These sites represent those areas where sustained urban activity has occurred. This would include older residential areas, existing commercial and industrial areas. When development or redevelopment is done in these areas there is the potential that excavated materials could contain hazardous materials or chemicals which could affect the Edwards.

## **2.0 FIELD OPERATIONS**

### **2.1 Sampling requirements:**

Sampling will be based upon the source category for the fill material.

For the purposes of this FSP the categories will be as follows

- |              |  |
|--------------|--|
| Category I   | Clean fill from natural soil and stone excavations   |
| Category II  | Clean fill from natural soil and stone excavations, new concrete and asphalt from new construction |
| Category III | Clean fill from urbanized or densely developed sites   |

#### **Category I**

Category I materials are those naturally occurring soils and stone which are not considered a solid waste by definition and should not be subject to testing requirements. These materials themselves will often be Edwards Limestone and associated sedimentary rocks. New construction fill materials produced at local quarry sources will be composed of these same materials. There is no 30 TAC 213 requirement for the sampling and chemical analysis of these commercial construction products prior to their use on the use on the Recharge Zone. Based on the knowledge that these materials came from previously undeveloped open range or agricultural grazing properties and that they are of the same composition as construction materials currently in use over the Recharge Zone should suffice as demonstration that the materials are inert. Additionally these materials are defined below as not being solid wastes or subject to regulation..



A solid waste is defined by 30 TAC 330 as:

*(139) Solid waste - garbage, rubbish, refuse, sludge from a waste-water treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities. The term does not include:*

*(A) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under the Water Code, Chapter 26;*

*(B) soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or*

Based on this clear definition the inert fill materials are not considered solid waste and are not regulated as such. Since the fill materials are not solid wastes and not regulated under Chapter 330 there typically is no requirement to notify the TNRCC of their use as construction fill. They are being used in a manner consistent with construction, in this case reclamation. Construction or reclamation activities of this type are not regulated by the TNRCC. There are no reclamation standards for non-coal mining in Texas at this time.

Additionally Chapter 330 specifically states that no permit or registration is required for this activity.

#### **§330.4. Permit Required.**

*(f) A permit or registration under this chapter is not required for a facility or site that is used as: a citizens' collection station; as a collection and processing point for nonputrescible recyclable wastes or for composting of leaves, grass clippings, or wood chips; a collection point for parking-lot or street sweepings or wastes collected and received in sealed plastic bags from such activities as periodic citywide cleanup campaigns and cleanup of rights-of-way or roadside parks; or for the disposal of soil, dirt, rock, sand, or other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements. A permit or registration is not required for a baling operation at a recycling or materials recovery facility that handles only nonputrescible recyclable waste. Facilities that process recyclable wastes that contain more than incidental amounts of putrescible waste must apply for a permit or registration as applicable under subsections (a), (d) or (q) of this section*

## Category II

The materials in Category II fall within the same justification as those of Category I. These materials are either clean natural materials or concrete and asphalt. Both concrete and asphalt are used over the recharge zone in both surface and subsurface (buried) applications without any requirement for TNRCC approval. The use of these materials as fill material will be consistent with their use in subsurface applications such as road subgrades, foundations and footings. No testing will be required for the use of these materials as fill. A log will be kept denoting the source of these materials, total volume (in cubic yards or tons) and the location of their placement.

## Category III

The materials in this category have the potential to contain hazardous materials or chemicals which could affect the Edwards Aquifer. Prior to the placement of these materials the following protocol will be followed.

If an Environmental Site Assessment (ESA) exists for the source site it will be reviewed prior to stockpiling of the materials for possible use as fill. The potential for possible contamination will be evaluated and the material will be ranked as low risk, moderate risk or high risk. The material can then be stockpiled and segregated if necessary to further separate higher risk materials. The stockpiled materials will be sampled every 50 to 250 cubic yards depending on the risk ranking and segregation of the materials stockpiles. Analysis will consist of the following at a minimum:

Table 1.

Constituent	Method	Acceptable Levels
Total Petroleum Hydrocarbons	Method Tx 1005 or EPA 418.1 if applicable	Non-detect based on current testing PQLs as of the date of this FSP
RCRA 8 Metals (arsenic, barium, cadmium, chromium, lead, mercury, selenium and silver	EPA 1131	Not to exceed the greater of the background levels or the MCLs listed in 30 TAC335.521(a)(3) Table 3
Chlordane	SW 3550/SW8080	Non-detect based on current testing PQLs as of the date of this FSP