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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 29, 2021

Mr. Charlie Malmberg  
VEP Lemon Creek, LP  
1723 North Loop 1604 East, Suite 204  
San Antonio, Texas 78232

Re: Edwards Aquifer, Bexar County

NAME OF PROJECT: Lemon Creek Ranch; Located 29645 Old Fredericksburg Road, Boerne, Texas; San Antonio ETJ, Texas

TYPE OF PLAN: Request for Approval of a Contributing Zone Plan (CZP); 30 Texas Administrative Code (TAC) Chapter 213 Subchapter B Edwards Aquifer

Regulated Entity No. RN111093969; Additional Program ID No. 13001223

Dear Mr. Malmberg:

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 Kimley-Horn and Associates, Inc. on behalf of VEP Lemon Creek, LP on March 10, 2021. Final review of the CZP was completed after additional materials were received on April 22, 2021 and April 27, 2021. As presented to the TCEQ, the Temporary and Permanent Best Management Practices (BMPs) were selected 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.*

### PROJECT DESCRIPTION

The proposed commercial project will have an area of approximately 29.69 acres. It will include commercial retail and office space, associated parking, drives, utilities, and water quality facilities. The impervious cover will be 15.09 acres (50.82 percent). Project wastewater will be disposed of by conveyance to the existing Leon Creek Water Recycling Center owned by the San Antonio Water System.

#### 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, four JellyFish Filtration systems, 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 12,312 pounds of TSS generated from the 15.09 acres of impervious cover. The approved measures meet the required 80 percent removal of the increased load in TSS caused by the project. The individual treatment measures will consist of four JellyFish filtration systems installed in four vaults sized for the individual drainage area.

#### SPECIAL CONDITIONS

- I. All permanent pollution abatement measures shall be operational prior to occupancy of the facility.
- II. All sediment and/or media removed from the water quality basin during maintenance activities shall be properly disposed of according to 30 TAC 330 or 30 TAC 335, as applicable.

#### STANDARD CONDITIONS

1. Pursuant to Chapter 7 Subchapter C of the Texas Water Code, any violations of the requirements in 30 TAC Chapter 213 may result in administrative penalties.
2. The holder of the approved Edwards Aquifer protection plan must comply with all provisions of 30 TAC Chapter 213 and all best management practices and measures contained in the approved plan. Additional and separate approvals, permits, registrations and/or authorizations from other TCEQ Programs (i.e., Stormwater, Water Rights, UIC) can be required depending on the specifics of the plan.
3. In addition to the rules of the Commission, the applicant may also be required to comply with state and local ordinances and regulations providing for the protection of water quality.

#### Prior to Commencement of Construction:

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 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 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 ensure 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.
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.

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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 percent 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.

This action is taken under authority delegated by the Executive Director of the Texas Commission on Environmental Quality. If you have any questions or require additional information, please contact Don Vandertulip, PE, BCEE of the Edwards Aquifer Protection Program of the San Antonio Regional Office at (210) 403-4057.

Sincerely,



Robert Sadlier, Section Manager  
Edwards Aquifer Protection Program  
Texas Commission on Environmental Quality

RCS/dv

Enclosures: Change in Responsibility for Maintenance of Permanent BMPs, Form TCEQ-10263

cc: Mr. Aaron Parencia, PE, Kimley-Horn and Associates, Inc  
Ms. Renee Green, PE, Bexar County Public Works  
Mr. Roland Ruiz, Edwards Aquifer Authority  
Mr. Scott Halty, San Antonio Water System

**Change in Responsibility for Maintenance  
on Permanent Best Management Practices and Measures**

The applicant is no longer responsible for maintaining the permanent best management practice (BMP) and other measures. The project information and the new entity responsible for maintenance is listed below.

Customer: \_\_\_\_\_

Regulated Entity Name: \_\_\_\_\_

Site Address: \_\_\_\_\_

City, Texas, Zip: \_\_\_\_\_

County: \_\_\_\_\_

Approval Letter Date: \_\_\_\_\_

BMPs for the project: \_\_\_\_\_

New Responsible Party: \_\_\_\_\_

Name of contact: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ FAX: \_\_\_\_\_

\_\_\_\_\_  
Signature of New Responsible Party      Date

I acknowledge and understand that I am assuming full responsibility for maintaining all permanent best management practices and measures approved by the TCEQ for the site, until another entity assumes such obligations in writing or ownership is transferred.

If you have questions on how to fill out this form or about the Edwards Aquifer protection program, please contact us at 210/490-3096 for projects located in the San Antonio Region or 512/339-2929 for projects located in the Austin Region.

Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact us at 512/239-3282.