

2010 MAR 25 PM 4:19

CHIEF CLERKS OFFICE

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March 23, 2010

Texas Commission on Environmental Quality
Chief Clerks Office, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Attention: Tracy Gross

Subject: Motion For Reconsideration - Comments
Water Pollution Abatement Plan (WPAP) – RN 105835375 (EAPP No. 2897.00)
H.L. Zumwalt Construction, Inc. – CN 602748824
FM 1283 Ranch Quarry, Mico, Medina County, Texas

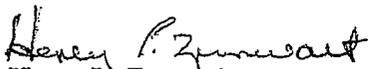
Ms. Gross,

H.L. Zumwalt Construction, Inc. submitted a Water Pollution Abatement Plan (WPAP) on November 6, 2009 for a proposed 30 acre quarry in Medina County, Texas. The Texas Commission on Environmental Quality (TCEQ) approved the WPAP on February 4, 2010. Per Standard Condition 4, proof of deed recordation was submitted to the TCEQ on February 23, 2010. Per Standard Condition 7, the intent to commence construction was filed on March 12, 2010. Construction activities began at the FM 1283 Ranch Quarry on March 17, 2010.

The approved WPAP was prepared in accordance with the TCEQ (30 TAC 213) and current policies for construction over the Edwards Aquifer Recharge Zone.

In response to a TCEQ letter dated March 11, 2010, I am writing the TCEQ to give comments to the filed Motion to Overturn (titled Motion for Reconsideration). Attached are Westward Environmental, Inc.'s technical responses to the above mentioned Motion.

Respectfully submitted,



Henry L. Zumwalt

President

Attachment:

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY*Westward Environmental, Inc.*2010 MAR 25 PM 4:19 P.O. Box 2205
BOERNE, TEXAS
78006

CHIEF CLERKS OFFICE

March 25, 2010

H.L. Zumwalt Construction, Inc.
12354 FM 1560 North
Helotes, Texas 78023

Project No.: 10022-39

Attention: Henry L. Zumwalt

Subject: Motion For Reconsideration - Comments
Water Pollution Abatement Plan (WPAP) – RN 105835375 (EAPP ID No. 2897.00)
H.L. Zumwalt Construction, Inc. – CN 602748824
FM 1283 Ranch Quarry, Mico, Medina County, Texas

Mr. Zumwalt,

At your request, Westward Environmental, Inc. has reviewed the Motion For Reconsideration (MFR) filed by Lowerre, Frederick, Perales, Allmon, & Rockwell and prepared these technical responses to the seven topics represented in the filed MFR.

Hydrologic and Hydraulic Analysis of Berms

Topographically the 30 acre site is on top of a ridge. The northern Final Earthen Berm, which resides near the top of the hill, has a very small upgradient drainage area. Sheet flow moves east and west off the ridge essentially paralleling the earthen berm. Concentrated flow and erosion of the Final Earthen Berm are not anticipated due to the small upgradient contributing area of the hill top.

The temporary "interim" upgradient earthen berms are used to divert upgradient sheet flow around the disturbed area. The diversion of upgradient flow around the disturbed area is important to limit stormwater contact with exposed soils. The undisturbed portion of the site, upgradient of the temporary berms, is heavily vegetated with trees and it slopes east and west from the center of the property therefore limiting the concentration of the upgradient flow. The temporary berms are not in a permanent location but will be relocated intermittently to the north as the quarry pit expands, therefore eliminating the upgradient watershed as the pit and berm move northward. Scheduled inspections of all BMPs, including the temporary berms, are required in the WPAP application, TPDES General Permits TXR050000 (Pollution Prevention Measures and Controls (d)(g)(i)), and TPDES General Permit TXR150000 (Section F - Contents of SWPPP). These mandatory biweekly and monthly inspections are designed and intended to determine if maintenance of the berms is needed or if additional BMPs are needed in conjunction with the earthen berms, such as rock berms, check dams or silt fencing.

H.L. Zumwalt Construction, Inc.
MFR Response

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3/25/2010

On-Site Electrical Generation

The rock crushing plant, associated conveyors and screens will be powered by a generator. Three phase line power is required for this rock crushing plant and this type of electrical power is not available onsite. The installation of equipment required to make three phase power available onsite is very costly and is therefore not considered feasible at this time. Air emissions from the generator and 300 gallon tank have been accounted for in the Air Quality Standard Permit application and meet state and federal requirements.

Stormwater Discharge Standards

The expectation that stormwater in the quarry pit will evaporate is based on the observed site geology, our experience with numerous quarries throughout this region and published climatological data (see herein). Few karst features were found at the site and no sensitive or significant features were identified. No faults were identified in the quarry area, either in the field or on the geologic maps for the area. In our experience, we have found quarry floors to typically consist of in place bedrock or densely compacted limestone material. Furthermore, the annual average rainfall in the area is 30 inches (per TCEQ TGM), while the annual pan evaporation rate is approximately 80 inches (EPA) and the mean annual free water (lake) evaporative rate is 62 inches (USDA – NRCS – Soil Survey of Medina County). Therefore, based on these facts we expect infiltration into the quarry floor to be minimal compared to evaporation.

Any quarry pit dewatering required at the site would be physically accomplished using a pump to remove the water from the pit. This would only occur after solids have settled out, the water is tested and it is found to be in compliance with the numeric effluent limitations of TPDES General Permit No. TXR050000 Section J, (5)(ii) of 45 mg/L for a daily maximum and 25 mg/L for a daily average. The water would be discharged to a natural drainage area onto a rip rap pad such that soil erosion would be mitigated. Appropriate rock berm(s) would be constructed downgradient of the rip rap pad if needed to further control velocity and prevent erosion.

The background storm water runoff from undisturbed vegetated areas has a Total Suspended Solids (TSS) concentration of 80mg/L (per TCEQ TGM 3-29). The quarry pit captures this stormwater with 80mg/L and lets the sediment (TSS) settle. After sampling is done and the results meet the 45 mg/L for a daily maximum and 25 mg/L for a daily average, a pump is used to direct the water out of the pit. The water released after testing is therefore cleaner than if there were no pit. In addition, the water is released well after the stormwater in the streams have diminished which reduces stream flow volume and velocity during rain events thus reducing downstream erosion.

Sensitive Features/Geological Assessment Standards

An "independent geologic assessment" of the site has been performed by Westward Environmental, Inc. This geologic assessment (GA) was performed by a licensed Texas Professional Geoscientist with many years of experience performing GAs. The GA went through further internal review by a similarly experienced licensed Texas Professional Geoscientist. The GA was performed in accordance with Chapter 213 and the *Instructions to Geologists for Geologic Assessments on the Edwards Aquifer Recharge/Transition Zones* (TCEQ-0585-Instructions Rev. 10-01-04). The TCEQ performed a site inspection on Wednesday, January 13, 2010 to field verify the condition of the site and the assessment of the geology. The TCEQ's own site inspection revealed the site as described by the GA. There is no statutory or customary reason for an additional GA to be performed on the site.

H.L. Zumwalt Construction, Inc.
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The Movants provided discussion relative to the sealing of naturally occurring features which have not yet been discovered. It seems quite obvious that the applicant cannot "commit" to not sealing naturally occurring sensitive features that have not yet been discovered. Upon discovery of these features the applicant/operator is required to notify the TCEQ, have the features inspected by a Professional Geoscientist, develop and submit a plan to address the feature to the TCEQ and to obtain TCEQ approval before addressing the feature. Sealing of sensitive features discovered during mining may be an appropriate method for dealing with a feature.

Potential for Subsurface Contamination

The Movants assume that smaller unidentified features will be present in the quarry floor and that these smaller unidentified features will somehow have a connection to the subsurface. They fail however to provide any evidence to support this assumption. In fact the size of the feature isn't the only criteria used in assessing its sensitivity. If a feature is small it can still be rated as "sensitive" per the *Instructions to Geologists for Geologic Assessments on the Edwards Aquifer Recharge/Transition Zones* (TCEQ-0585-Instructions Rev. 10-01-04). This document defines a Sensitive Feature as:

Permeable geologic or manmade feature located in the recharge zone or transition zone where a potential for hydraulic interconnectedness between the surface and the Edwards Aquifer exists, and rapid infiltration to the subsurface may occur.

If a feature doesn't rate as "sensitive" then it either doesn't have a hydraulic interconnectedness and/or the potential for **rapid** (emphasis) infiltration does not exist. The method of sensitive feature protection approved in the WPAP is essentially the same methodology that is used by grading contractors and utility contractors working in the Recharge, Transition and Contributing Zones. Visual inspections of the excavation, whether a quarry, building pad or sewer line trench, are used to identify potential recharge features, which are then addressed according to TCEQ guidelines.

Spill Response Action

While some of the Spill Response Actions found in the WPAP are general in nature many have specific timelines and response actions for different kinds of spills. Storm Water Pollution Prevention Plans (SWPPP) have been implemented and the corresponding permit coverages under the TPDES General Permit No. TXR050000 and the TPDES General Permit No. TXR150000 have been obtained at the FM 1283 Ranch Quarry site. Each of these TPDES Permits include spill response actions specific to the respective permit. The SWPPP's each address spill response actions which have been implemented at the site. It is neither practical nor required to list every possible scenario which may or may not occur at a given site; therefore more general instructions can be more useful in the event of a spill. The applicant already has to follow several different spill programs: Environmental Protection Agency (EPA), Texas Commission on Environmental Quality (TCEQ), Edwards Aquifer Authority (EAA) and the Texas Commission on Environmental Quality Edwards Aquifer Protection Program (TCEQ-EAPP). The notion presented by the Movants that this site is without clear guidance is unfounded, especially given that there several state, federal and local regulatory programs whose spill response requirements apply to the site and the approved activities.

H.L. Zumwalt Construction, Inc.
MFR Response

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Post-Mining Plans for Storm Water

30 TAC Chapter 213 does not require a quarry reclamation plan. Furthermore, the State of Texas does not require a quarry reclamation plan for limestone quarries. At the end of quarry activities, all manmade structures will be removed from the 30 acre quarry pit and the pit will essentially become a rain fed stock pond with little upgradient drainage area. If a new land use is proposed, then a WPAP Modification or a new WPAP would be submitted to the TCEQ.

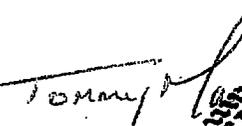
Since sensitive features discovered during mining will have already been assessed and appropriate methods for dealing with the features constructed, no long term water quality impacts due to the quarry are foreseen.

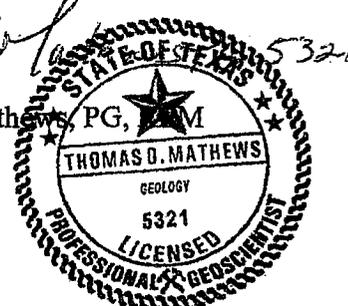
If you have any questions regarding this letter please contact our office at 830-249-8284.

Respectfully submitted,
WESTWARD ENVIRONMENTAL, INC.


Gary D. Nicholls, P.E.
Vice President




Tommy Mathews, PG, M
President



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WEI 10022-39 File

H. L. Zumwalt Construction, Inc.
TCEQ Docket No. 2010-0317-EAQ

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COMPANY: TCEQ - MC-105	DATE: March 25, 2010
FAX NUMBER: 512-239-3311	NO. OF PAGES INCLUDING COVER:
PHONE NUMBER:	PROJECT NUMBER: 10022-37
RE: ZUMWALT MFR	

 URGENT

 FOR REVIEW

 PLEASE COMMENT

 PLEASE REPLY

NOTES/COMMENTS:

Docket Clerk:

Attached are comments to the filed MFR for **H.L. Zumwalt Construction, Inc.'s approved WPAP.**

If you have any questions give me a call. Thanks.

Thank you,

WESTWARD ENVIRONMENTAL, INC.

Matt Bellos

Environmental Specialist

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