



## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

April 23, 2001

Ms. Janet Ahmad, President  
Homeowners for Better Building  
P.O. Box 791438  
San Antonio, TX 78279

Re.: Solid Waste - Bexar County  
Northampton Subdivision  
Possible Construction Over Closed Municipal Solid Waste Landfill

Dear Ms. Ahmad:

After a number of meetings at the Texas Natural Resource Conservation Commission (TNRCC) Regional Office in San Antonio and site visits to the Northampton Subdivision in San Antonio, we have come to the conclusion that there is no municipal solid waste landfill under this subdivision. Of the many borings that were advanced into the subsurface in this subdivision, none provided evidence of waste deposits beneath the homes in this subdivision. For this reason, the regulations governing the construction over closed landfills do not apply in this instance.

During our meeting in San Antonio, reference was made to some surface dumping of waste near the subdivision. Such waste can be placed into a permitted municipal solid waste disposal facility. I do not believe such activity has caused foundations to shift.

While my particular division had the responsibility of focusing on the landfill allegation, I asked my staff to identify other possible remedies that could apply to your concerns.

From what you have reported, and from visual observations during our visit to the site, it appears that most of the problems at this subdivision may be related to poor surface and subsurface drainage. To help you gather additional information in that regard, I have contacted the following people:

1. My staff contacted Mr. Norm Sear of the Environmental Protection Agency (EPA) Region 6 Office in Dallas. After describing the situation we noticed at the Northampton Subdivision to Mr. Sear, he made the observation that this would not be considered a "jurisdictional wetland" and therefore would not come under the jurisdiction of his office. We reached Mr. Sear at (214) 665-8336.
2. We also contacted Mr. Presley Hatcher of the United States Army Corps of Engineers (COE) at (817) 978-3990. He remembered talking to you about two months earlier. As he related to you then, he feels that the situation at this subdivision would not qualify as an interstate wetlands. He quoted a recent U.S. Supreme Court decision which held that "isolated

wetlands" are not under the jurisdiction of the COE. Working closely with Mr. Hatcher on the wetlands 401/404 Certification at the State level, is Mr. Mark Fisher of the TNRCC Water Quality Standards Team. Mr. Fisher supported what we had been told by Mr. Hatcher. Mr. Fisher may be reached at (512) 239-4586.

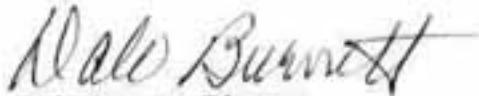
3. Since a part of the problem at the Northampton Subdivision may be the result of poor drainage, we contacted Mr. Bobby Caldwell, Manager of Water Programs at the TNRCC Region 13 Office in San Antonio at (210) 403-4020. Mr. Caldwell informed us that the TNRCC does not have jurisdiction reviewing drainage plans for residential subdivisions. Local city or county planning departments appear to be responsible for reviewing and regulating residential subdivision drainage plans. He stated further that although the TNRCC has obtained the National Pollution Discharge Elimination System (NPDES) delegation from the EPA, it only applies to storm water runoff from industrial sites, not residential areas. Furthermore, the NPDES storm water regulations look only at water quality and not water quantity or the drainage pattern of storm water from a site.
4. Another concern expressed at our meeting with you was that the water supply mains to the Northampton Subdivision may be leaking. The water is supplied by the Bexar Metropolitan Water District (BMWD). Mr. Caldwell reported that he had spoken with Mr. Mike Allbach of BMWD. Mr. Allbach may be reached at (210) 357-5707. According to Mr. Allbach, BMWD has done extensive testing, using the latest available testing methods, and has found no evidence of any water leaks in their lines.
5. In an Engineering Report created for you by Mr. Al Hays, P.E. of Hays Environmental Engineering, dated October 9, 2000, reference is made to two possible unpermitted closed landfills which are in proximity to the Northampton Subdivision. Since these sites were unpermitted, we do not have a record of them in the TNRCC Waste Permits Division. Apparently these sites were identified during the state-wide survey of closed municipal solid waste landfills conducted by Dr. Robert D. Larsen, Ph.D., of Southwest State University under contract to the TNRCC and given numbers beginning with the "U" prefix. The twenty-four Council of Governments of the State of Texas were given the task of verifying the existence of the closed landfill sites within their jurisdiction. It appears that Mr. Hays has utilized the survey by Dr. Larsen to note that one of the landfills is approximately 1100 feet from one of the residential areas. From our discussions, I understand that you have also been in communication with the Alamo Area Council of Governments regarding the existence of these two sites. From the information available to us, we do not think that these sites exist directly under the residences in this subdivision.
6. I know that you have already been in contact with the Housing and Urban Development (HUD) Agency. This agency may have a large amount of jurisdiction over the issues that you have raised. It appeared to me that there was reason to believe that several homes could have been built over or near springs and ponds.

We have looked at possible environmental concerns from a number of angles relating to the Northampton Subdivision and have come to the conclusion that the TNRCC has no jurisdiction regarding the housing foundation problems that appear to exist there.

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If you have any questions regarding this letter, please feel free to contact Mr. Hans J. Mueller, P.E., of my staff at (512) 239-6788.

Sincerely,



Dale Burnett, Director  
Waste Permits Division  
Office of Permitting, Remediation & Registration  
Texas Natural Resource Conservation Commission

DB/hjm