Statesman

A WORLD ROCKED

Communities clamor for regulation as Texas mining industry explodes

Statesman

Shackelford, an industry consultant. "If you are mining in Texas now, you have to go beyond what is typically required." **Bronte Wittpenn** | American-Statesman

By Tony Plohetski American-Statesman

Kevin Baum gazes out from his second-floor porch across his 12-acre slice of Texas Hill Country heaven.

On a cloudy day, he points past live oak trees and a kaleidoscope of wildflowers to Horseshoe Bay 20 miles to the south. When it's clear, he says, he sees 30 miles farther, past rolling hills in the distance to the edges of Johnson City.

Baum retired in 2005 after more than two decades with the Austin Fire Department, rising from entry-level firefighter to acting chief, and bought this picturesque property he calls Triple Fox Ranch.

"This has always been our big dream," he says. "You want that scenic view, the sound of the birds, that tranquility and serenity that comes with living out in nature."

But several times each week, that serenity is violently interrupted. Massive blasts from a nearby quarry send his German shepherds, Bonnie and Clyde, into a barking frenzy. His house shakes so hard that pictures of Baum and his wife, Gwen, crash to the floor. Dust coats their patio furniture, and the former firefighter, who breathed smoke most of his career but never had to take medication, now regularly inhales prescription drugs.

From behind the wheel of his burgundy King Ranch Ford F-350 pickup driving along Texas 281 between Marble Falls and Burnet,

of, he says, turning it into “Quarry Land.”



Retired Austin Assistant Fire Chief Kevin Baum, 57, and his wife, Gwen, 56, with their dog Bonnie, live between Marble Falls and Burnet, 1.3 miles from an operation run by Lhoist, a producer of limestone and other minerals. He worries about the long-term impact quarries will have on the Hill Country and his health. “They keep growing and digging closer to our neighborhoods,” Baum says. “I want to know if the air I’m breathing is safe, if the water I’m drinking is safe.” **Bronte Wittpenn** | American-Statesman

The incursion Baum feels is real. Since 2012, the number of registered quarries, rock mining operations and aggregate plants operating in Texas has increased 1,690%, from dozens of mostly family-run enterprises to hundreds of sprawling operations. And a six-month American-Statesman and KVUE-TV investigation has found that the industry’s growth, particularly the rise of controversial quarries, has far outpaced state regulatory oversight.

The industry explosion is fueled largely by the dramatic population growth in Texas, with some 1,500 people moving to the state each day, creating urgent needs for roads, homes and other buildings that require mined resources, like limestone.

spurred on by Texas' lax regulatory environment. Quarries here generally face no extensive application process. The state hasn't examined the environmental impact of the proliferating operations, despite mounting concerns from neighbors and the medical community. And Texas has no process to ensure restoration of mined lands in most parts of the state, allowing operators to simply walk away from massive pockmarked properties.

Environmental advocates and Hill Country residents like Baum say the need for regulation is urgent. Quiet, gentle, rolling hills and tree-covered landscape that characterize the Texas treasure, drawing tourists from across the country to places such as Pedernales Falls and Lake LBJ, are quickly giving way to rumbling trucks and monstrous crushing equipment that chew up the land. What's more, they say, Texas has done little to ensure that quarry neighbors don't suffer ill health effects from the dust and chemicals the operations emit.

Repeated efforts to rein in the industry have fizzled at the Legislature, though, and industry leaders say existing rules are sufficient to protect the land and neighbors.

David Perkins, director of the Texas Aggregates and Concrete Association, said more than 15 local, state and federal agencies oversee every aspect of an operation.

"These standards are made to ensure that the health of people and the environment are protected," he said.

1/3 **Hill Country Alliance**

Hill Country Alliance, a nonprofit that works to raise public awareness



A doe and fawn walk through tall grass near retired fire chief Kevin Baum's ranchette between Marble Falls and Burnet. "This has always been our big dream," Baum said. "You want the scenic view, the sound of the birds, that tranquility and serenity that comes with living out in nature." **Bronte Wittpenn** | American-Statesman

advocating for what it considers a better balance between the rock mining industry and protecting the environment.

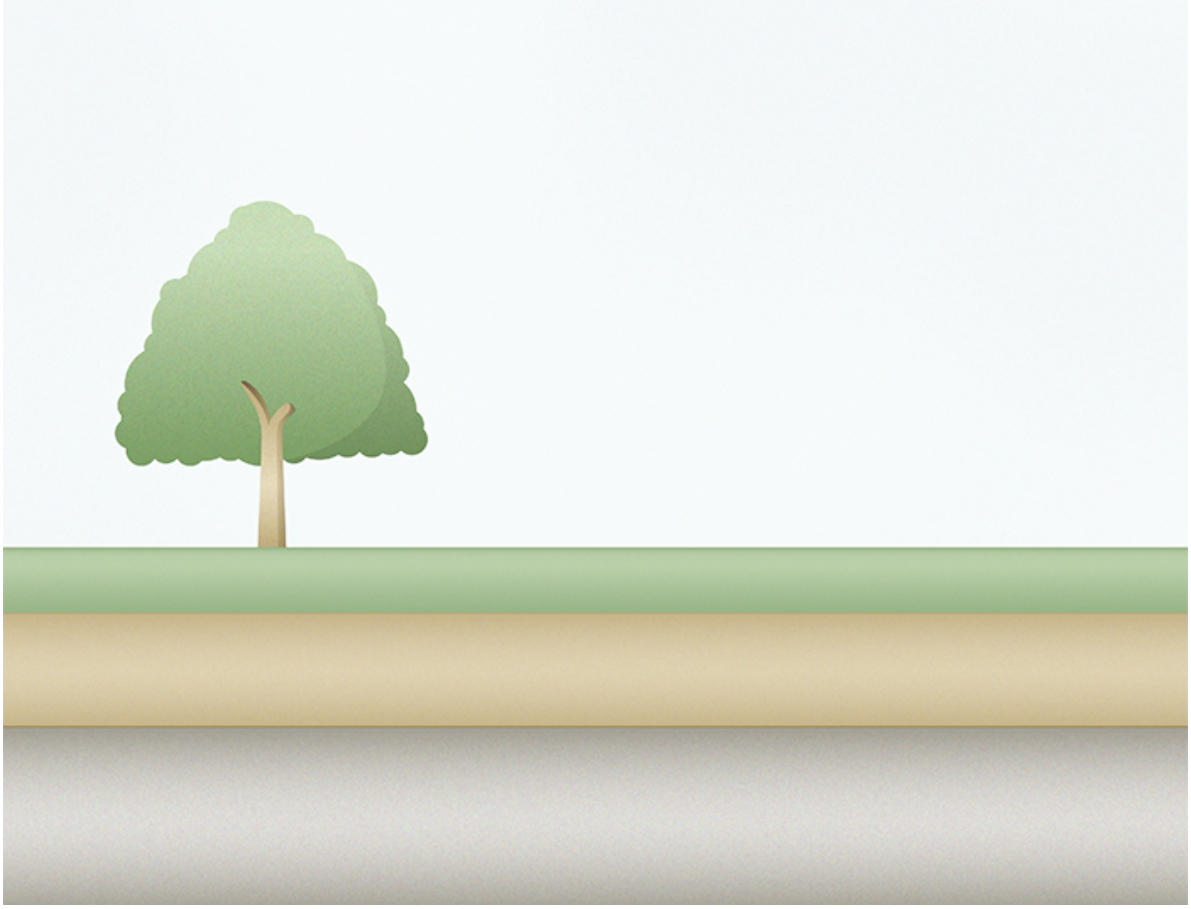
'We had no idea'

When he moved to the Hill Country a decade ago, Baum knew the area was home to several quarries. But he never dreamed they would become such an overwhelming presence in his life.

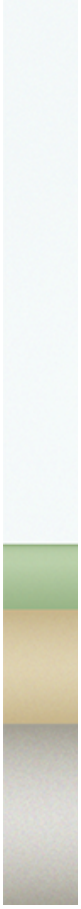
"All I knew was what I could see," he says. "We had no idea the scale."

As mining operations sprouted around his home, Baum made it his mission to understand the industry. He spent hours studying the history of Central Texas rock quarries and how they operate.

How quarries work



1/12 Before mining starts, a company must find and obtain access to the land and acquire necessary permits. That process can take many months, but the Texas Commission on Environmental Quality has rejected a rock crushing application just five times in the past 10 years.



2/12 (
layers

Limestone and granite from the region helped build the state Capitol in the late 1800s, when workers used hammers, picks and chisels to extract rock from the ground and haul it to Austin.

Today, experts say the aggregate, concrete and cement industries are more sophisticated and employ more than 100,000 people directly and in associated businesses. The aggregates association estimates that its members pump more than $4.8 billion annually into the Texas economy and that a single job at one facility

manufacturing, sales and servicing.

An analysis of state data shows that the number of registered rock, sand and gravel quarries and aggregate processing plants skyrocketed from 52 in 2012 to 934 through mid-2018. Lawmakers enacted the registration requirement in 2011, and industry experts say the apparent explosion in the number of newly registered operations is partly because some of the businesses waited months or years before complying with the new registration rules, even though they were already operating.



U.S. 281 runs near the Lhoist operation between Burnet and Marble Falls. Since 2012, the number of rock, sand and gravel quarries has increased dramatically. Industry experts say the Hill Country is rich in limestone

high demand development projects such as subdivisions and highways. **Bronte Wittpenn** | American-Statesman

Since 2012, the state has issued 334 air permits for rock crushing equipment that is most often associated with quarries — but may also include concrete plants and portable crushers at construction sites — as the industry has continued to blossom.

Among registered operations, more are in Williamson County than anywhere else in the state. Among Hill Country counties, Burnet — where Baum lives — has the second most behind Williamson.

Before a tract becomes a quarry, experts test rock under the surface to determine whether it's suitable for major construction or road projects. Then workers typically drill several feet down, set explosives and detonate them, creating a crater and loosening the rock.

Baum says he feels explosions several times a week, never with warning.

"Sometimes it literally sounds like the mother of all bombs going off right out in your front yard," he says. "It's so violent that you can feel the shock wave if you are outside when they do the blasting."

Big pieces of moving equipment scoop up hunks of broken rock and take it to a nearby rock crusher. The device then chops them into smaller rocks. Operators stock large piles of the product, sometimes several stories tall, to sell to anyone from the state

The material is taken to its destination by fleet of big rig.



Rock crushing equipment at a quarry in Buda. Before land can be mined, the rock below the surface is tested. Once approved for mining, the rock is drilled and a blast is detonated to loosen the desirable rock. The rock is then transferred from the blasting site to a rock crusher, where it is ground into smaller chunks. Operators stock the product into piles to be transported to construction projects. **Bronte Wittpenn** | American-Statesman



Crushed limestone falls in a pile. Operators say they have taken numerous steps to be good neighbors. Moving equipment that once blared loudly now has a soft squawk. Specially ordered covers on conveyor belts that churn in and out of the rock crusher minimize dust. And a text message system warns neighbors of a coming blast. **Bronte Wittpenn** | American-Statesman

"You see that big crack in my windshield?" Baum asks, pointing out the ding, as he drives along the highway. "That was from a stone from one of these haulers in front of me. He didn't adequately cover his load, stone came out, and 'crack!' "

Statewide, other urban and suburban counties also have become home to more aggregate operations, including Bexar, Harris and El Paso counties.

In some spots, the growth has gone largely unnoticed, either because it is not near residential areas or the business was already operating before neighborhoods grew around it.

But in this place, the scenic countryside has become a battleground between dream homes and quarries. The fight has

“If I could, I would sit down with Gov. (Greg) Abbott, and I’d say, ‘Are you aware of what is being done on your watch in the Texas Hill Country?’ ” Baum says. “ ‘Are you OK with 20 years from now your grandkids could drive through the Hill Country and all they see is scorched earth?’”

Health effects

Every day, sometimes twice a day, Baum inhales deeply from one of four white plastic dispensers in his medicine cabinet with drugs that help him breathe.

He thinks back to his final firefighting shift in 1998, when he removed his air mask to save a man who was struggling to breathe in the smoke-filled haze of a massive apartment fire.

Baum is sure those years of inhaling toxic smoke didn’t do him any favors. But it wasn’t until he moved to his little slice of Hill Country heaven that he started having trouble breathing and regularly needed an inhaler.

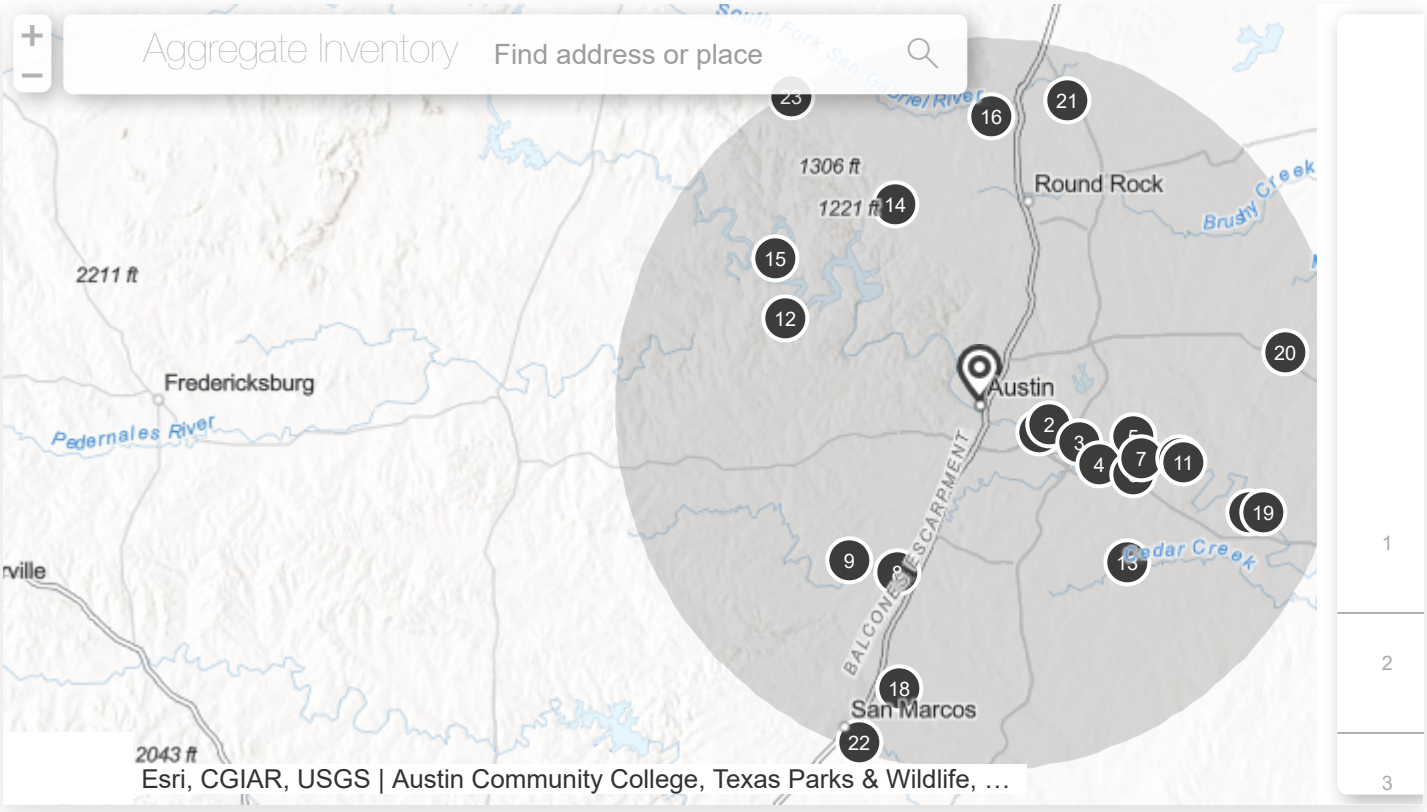
“I don’t go anywhere without it,” he said.

From his home office next to his firefighting memorabilia, Baum has studied the relationship of quarries to the health of nearby residents, trying to find answers. Scientists haven’t established a conclusive link between health problems and quarry emissions, but they have identified a threshold for the amount of “particulate matter” — microscopic particles — in the air that is considered dangerous. Yet the Texas Commission on Environmental Quality,

Some medical experts fear a lack of oversight could set the stage for future health problems among Hill Country residents, particularly because some of the particles may contain silica, which has been linked to various cancers.

“It is a serious problem,” said R. Keith Randolph, a recently retired biomedical scientist who is now working with a Comal County group that is trying to stop a quarry. “It would be my prediction in the coming decade, if nothing happens, that we are going to have some seriously ill people living in proximity to these quarry operations.”

How close do you live to a quarry or another aggregate production facility in Texas? Find out:



comparing the health of people in a community near a quarry to that of people elsewhere. Those exposed to particulate matter from quarries and diesel exhaust had a higher prevalence of some respiratory illnesses — 17% higher for nasal allergies and 7% higher for bronchitis.

The Texas Medical Association has voiced concerns, too. In October 2017, as the city of Marble Falls launched a court fight against a proposed quarry, the association weighed in with a letter to the TCEQ about its worries that the operation would be only a mile away from the 46-bed Baylor Scott & White Medical Center.

“The dust and other particles emitted from a rock crushing site quickly become airborne and are known to create health emergencies for many who are exposed — even for short periods of time,” wrote Dr. Carlos J. Cardenas, the association’s president.

No organization fighting quarries has gathered comprehensive data on the number of people who blame illness on a nearby operation. But opponents point to a handful of examples, including 4-year-old Tanner Addison.

Tanner lived about 2,000 feet from the Vulcan quarry on the northeastern outskirts of San Antonio for seven months in 2013. He developed serious respiratory issues that a pediatric pulmonologist treated with seven medications, including steroids and antibiotics, according to his mother and medical records.

“His breathing would get really bad, and I noticed when we went out of town, his symptoms would disappear,” Krystal Henagan said.

lungs, which they attributed to limestone and silica dust exposure."

Tanner's family left their rented three-bedroom, two-story home as fast as they could.

"His breathing problems got better as soon as we moved away," Henagan says. "But we still don't know the long-term effects."

Vulcan officials said in a statement that they contracted with a company to analyze material in Henagan's home.

"Lab testing concluded the samples from Ms. Henagan's home did not match materials produced at the Vulcan," the statement said.

The TCEQ has an "extensive and rigorous" application process for a rock crushing permit, industry leaders say.

But the agency allows companies to conduct their own analysis to determine the amount of dust particles released into the air and whether it is dangerous to human health. The agency says it thoroughly reviews that data, and that under that scrutiny, 72 of the 1,220 applicants, 5.9%, have withdrawn in the past decade. The agency has denied five permits in that time.

Industry leaders acknowledge that dust from quarries is a nuisance, but they say it's hardly a health hazard. The organization contends that most particles released from rock crushing operations are too large to inhale and fall to the ground long before traveling to neighborhoods.

When residents raised concerns about air quality, the TCEQ agreed to install monitors. In one instance, officials found no dangerous toxins in the air; they are still putting the second system in place.

Baum's studies left him with more questions than answers. His concerns remain for people like little Tanner and retirees who come to the Hill Country to live out their dreams.

"We have a right to know how serious that health concern is, and the state has an obligation to do the study to tell us," Baum says.



A blast sends chunks of limestone into the air in a mining pit at a quarry in Hays County in June. Quarry operators blast the rock to loosen it for processing. Before detonating a blast, some quarry operators send

Statesman

Water, wildlife and soil

On a sunny summer afternoon, Baum strides across his sprawling property. It has been a few days since the last rain, and the live oak trees are covered in a milky white film of dust. He walks up to one and shakes it, releasing a plume of dust.

“It makes me angry,” he says. “The trees are just being so assaulted by the particulate and the dust.”

He worries that the dust is not only making it harder for residents to breathe but is also taking a toll on the water, wildlife and soil that make the Hill Country the treasure it is.

Ninety miles to the southeast of Baum, a group fighting a proposed 1,500-acre Vulcan quarry between Bulverde and New Braunfels has made the environment a centerpiece in its effort to stop the company’s permit.

They predict the site will threaten endangered species such as the whooping crane and golden-cheeked warbler by disturbing their habitat.

Opponents also say they fear excessive water use could cause neighboring wells to run dry.

Quarries use water in a variety of ways, including washing rocks to rid them of impurities. Crews at many sites also use water to suppress dust, sprinkling it on roads and stockpiles.

water sources with debris from the mining process.

Quarries in one of the state's 100 local groundwater conservation districts have more specific regulations: They must seek a special license from the district, and the industry points out that such permits regulate how much and how often crews can tap into groundwater. To conserve, many operations recycle water.

But critics say districts do not require operators to prove there is enough water or that the amount used will not eventually suck dry the wells of residents, including many who use the water for farming and ranching. Additionally, TCEQ has no program to monitor water quality around quarries, but officials say that oversight is part of a broader water quality monitoring program around the state. The agency also points out it aggressively monitors the quality of public water systems.

Water was a major community concern in 2017 when Asphalt Inc. announced plans to open a quarry northwest of Georgetown, in Williamson County. Neighbors who rely on private wells wondered whether their water quality would suffer — and if their wells would run dry.

Michael Payne, who retired from the Army on a sliver of land near the site, was among those who raised concerns. Two years later, he says he has other concerns about the lack of state oversight, but his fears about water have not borne out.

Baum remains concerned about his water — not necessarily whether there will be enough, but whether quarries are contaminating it.

Statesman



A crowd watches bareback bronc riding during the Marble Falls Rodeo in July. The rodeo was started in 1957 by residents Charlie Taylor, Bobby Burnam and Jack Rogers when Marble Falls was a predominantly rural ranching community. “It’s economically advantageous for the community to have mining,” Marble Falls resident Mary Ann Fletcher says. “But we just don’t want it to interfere with our quality of life.” **Bronte Wittpenn** | American-Statesman

‘You have to coexist’

It comes to oversight of rock mining comes from lawmakers.

In the last Legislative session, lawmakers proposed dozens of regulations on the industry, but only one measure became law.

Still, the agency says as the number of aggregate producers has grown, it has increased oversight. The agency established teams to find operators who hadn't registered with the state and were illegally producing. Since 2013, TCEQ has issued $1.1 million in fines for operations that failed to register or renew their registrations. Additionally, the agency assessed at least $215,000 in fines for violations, such as water discharges and air quality issues — findings that resulted from inspections or public reports of a problem.

Industry leaders say the growth of quarrying underscores the divide between thoughtful, neighborly operators and others who mine with less regard for nearby landowners.

Jill Shackelford, who converted a cattle ranch into a quarry in Hays County in 2011, says she learned from her own mistakes that quarry operators must engage the nearby community. Now as an industry consultant, that's a point she emphasizes to her clients.

"Fifty years ago, you didn't have the population boom and expansion," she says. "You could mine aggregate in what was considered remote places. Those days are gone, and if you are mining in Texas now, you have to go beyond what is typically required. You have to coexist."

Shackleford no longer manages Industrial Asphalt and Aggregates, but its current operators built on her philosophy. Moving equipment that once blared loudly now has a softer squawk.

established a text message system warning neighbors of a coming blast.



1/13 A collection of Kodachrome slides featuring Texas Crushed Stone Company throughout the years. **Bronte Wittpenn** | American-Statesman

Leading the charge

As quarry growth became more intrusive, shaking their homes, dusting their yards and shortening their breath, Baum and his neighbors in two different subdivisions off Park Road 4 decided it was time to take action.

Statesman

Now, instead of living the land back retiree life he'd planned from his busy desk in the fire station, Baum is leading the charge. He's determined that if the state won't look out for his home, his neighbors' health and this jewel of Texas landscape, he'll fight to protect them.

When Baum learned last fall that Lhoist, which operates 1.3 miles from his home, had applied for a new state permit for a vertical lime kiln to make quicklime, a chemical compound used in manufacturing, he began gathering protest signatures from neighbors.

"We are already dusted daily by their stone crushing process, and I encourage you to send an inspector out here any day to take a sample of the dust," he wrote in a letter to the TCEQ.

Baum has also become a self-appointed emissary with the industry, meeting with Lhoist officials and touring the facility.

The company has made some concessions, including limiting overnight machinery noise that Baum says sounded like jet engines at a busy airport.

But Baum says his concerns are bigger than a single company or improving his personal situation.

While the state is allowing a billion-dollar industry to operate virtually unchecked, he said, a travesty is unfolding in the Hill Country. That should worry every Texan, Baum says.

"The rest of us are out here in the dust."

Statesman

Growth spurs battle over resources in the Texas Hill Country

Video by Ana Ramirez, aerial photography by Bronte Wittpenn, directed by James Gregg | American-Statesman

Statesman



Statesman

A COMMUNITY BATTLE

Residents take quarry fights to town halls, courtrooms

By Tony Plohetski American-Statesman

As towns go, Double Horn, a community of upper middle-class homes along Texas 71, is still in its infancy.

And it's already fighting for its life.

The 9-month-old town with 230 people and no city hall is embroiled in a David and Goliath-style battle with a hulking industry and the Texas attorney general. Staged largely in an open-air pavilion that serves as a makeshift town center, community leaders have spent months fighting a massive quarry in their backyards.

"It's certainly about the health and safety of our citizens, but it's also about property value and property rights," Mayor Cathy Sereno said.

industry to try to limit its growth, particularly in the Hill Country, and force the state to enact regulations to better protect the health and safety of nearby communities.



A quarry operated by Vulcan Materials sits across Texas 71 near the entrance to Double Horn. The quarry has been in the area since the early 2000s and distributes its products for construction of roads, homes, bridges and more. In an effort to limit future quarry operations nearby, Double Horn incorporated in December. **Bronte Wittpenn** | American-Statesman

aggregate production facilities operating in Texas has grown from about 50 to nearly 1,000, many of which are centered in the Hill Country. As communities and neighborhoods grow around them, an industry that had largely operated out of sight in deeply rural areas is confronting opposition forces that argue their increase has outpaced state oversight.

Local community leaders say they are stepping into the void, taking to courtrooms, public halls and hearing rooms to advocate for limits on operations that are changing the landscape they call home.

In Marble Falls, officials and property owners filed a lawsuit against the Texas Commission on Environmental Quality when a quarry planned to open within shouting distance of a new hospital.

In Comal County, dozens of residents used the state's administrative court system to try to stop the TCEQ from permitting a proposed quarry.

David Perkins, who leads the Texas Aggregates and Concrete Association, said the industry acknowledges that in some instances, it is going against the wishes of landowners. But he thinks stronger partnerships between the industry and neighbors, not more regulation, is the answer.

"It's the process; it's the journey. And that's something that we as producers, as well as those who live in the areas where we are, all have to be willing to work toward and walk along together," he said.

Statesman



Double Horn resident RG Carver points to his home on a map of the city. He demonstrates how close his home would be to the proposed Spicewoood Crushed Stone quarry in Double Horn. Carver worries that the quarry could hurt his health and property value. **Bronte Wittpenn** | American-Statesman

Community incorporates

Last year, someone put up a makeshift, handwritten billboard on the side of the highway in Double Horn. Bold black letters demanded an answer to the question many neighbors had more quietly pondered: “What kind of company would put a rock crusher between two subdivisions?” Scrawled in green were the answers: “We aim to pollute” and “Evil Inc.”

Double Horn residents say they already knew all they needed to know about quarries. A massive quarry operated by Vulcan Materials just across the highway from their community was already drawing enough big rigs to make the busy stretch of road treacherous.

A handful of residents banded together to explore options to stop the quarry but quickly learned they were too late.

important license to operate, had already been approved.

So some Double Horn residents turned to the idea of incorporation. They believed it would allow them to put local restrictions on a company buying vacant land and opening a quarry, as Spicewood Crushed Stone had done.

“It became about future growth,” Sereno said.



Six Welch speaks with her son, Jake, 7, at their home in Double Horn. The home is one of several that will share a fence line with the proposed Spicewood Crushed Stone quarry. **Bronte Wittpenn** | American-Statesman

1/4 **Sixian Welch**

Dr. Six Welch moved with her husband and three young children to Double Horn in June 2015 for its beauty.

“It’s easy on the eyes,” she says. “It’s just beautiful and a great place to live and raise our children.”

On Dec. 6, the community voted 75-65 to incorporate. Sereno was elected mayor, and five aldermen were chosen.

That victory proved short-lived.

Four weeks later, the state sued Double Horn, saying it did not meet legal standards to become a city. Attorney General Ken Paxton’s office accused the residents of attempting to incorporate purely to block quarry operators from legally using their land.

was doing. They wondered whether Paxton had taken the action on behalf of the quarry industry.



Double Horn resident RG Carver worries about what the proposed Spicewood Crushed Stone quarry will do to his health and property value. He is one of several residents who have contested the construction of the quarry since the community incorporated last year. **Bronte Wittpenn** | American-Statesman

The state's lawsuit contends that to incorporate, Double Horn had to first be a village or town but instead was merely a residential subdivision. It also said Double Horn's 2-square-mile incorporation wrongfully included the quarry — that the site was not part of the subdivision before the vote.

In April, a state district judge in Burnet County ruled in favor of Double Horn and issued a stern rebuke of the state, saying the actions of the attorney general's office constituted an abuse.

Judge Evan Stubbs said other cities similar to Double Horn have incorporated across Texas without interference. He wondered whether the difference was that those cities were not fighting a rock crushing quarry.

pounding on the attorney general's door," Stubbs said.

Spicewood Crushed Stone owns the quarry site and is a subsidiary of Dalrymple Construction Co. of Pine City, N.Y. Its attorneys declined to comment. The company has not begun mining at its Double Horn site but is preparing to start those operations.

Paxton's office is appealing. In a statement, the agency said the case is a matter of "defending the rule of law, preventing an abuse of power by a neighborhood, and protecting property rights for all Texans."

Asked whether the attorney general's office is pursuing the case at the company's request, the office said, "Any member of the public can inform district attorneys, county attorneys, or the attorney general of suspected abuses of government power."

Perkins said Spicewood Crushed Stone has been taking steps in recent months to ease residents' concerns and, it hopes, be a better neighbor. Among the array of actions, the company is increasing the distance between mining and its property line, allowing more vegetation to grow that will help with noise and the view.

Statesman



Haley Welch, 4, reads a book in her bedroom at her home in Double Horn last month. The home is one of several that would share a fence line with the proposed Spicewood Crushed Stone quarry. The Welch family has already experienced several blasts from another nearby quarry, and Haley's reaction is always the same. "She drops what she is doing, screams and crawls into my lap," says Six Welch, Haley's mother. "The whole house vibrates, and it's just a scary experience for a little 4-year-old." The Welches were among several Double Horn residents who contested the construction of the proposed quarry.
Bronte Wittpenn | American-Statesman

It also is constructing hills to help diminish the sound of blasting, and it is paving roads on its property to make it less dusty, Perkins said. Operators also plan to eventually situate their rock crushing equipment in an excavated area, which they think will help with

"We encourage all of our members to be proactive and responsive, and this is one example of that," Perkins said.

But the dispute is now putting a wedge between many residents in Double Horn, some of whom have proposed that the city disband instead of continuing the fight. Residents will vote on that measure in November.



Cathy Sereno was elected mayor of Double Horn in December, when the community voted to incorporate. The community has worked to stop a quarry from operating nearby and has asked the state to implement regulations to better protect residents and quality of life in the Hill Country. "It's certainly about the health and safety of our citizens, but it's also about property value and property rights," Sereno says. **Bronte Wittpenn** | American-Statesman

Meanwhile, Sereno said the fight is draining the city's paltry coffers. With no tax system in place yet, the entire legal fund comes from donations, now totaling about $30,000. Residents have started a fundraising website with a goal of $32,000.

"It definitely feels like big business is more of a concern than the citizens of Texas and protecting the Texas Hill Country," Sereno said.

Statesman

Two years ago, Grant Dean learned that a company called Asphalt Inc. planned to open a quarry just 3,000 feet from his rustic, ranch-style home in Marble Falls.

A little research confirmed his fears about the operations. He learned that potentially toxic rock dust would probably cover the tomatoes and vegetables he grows to donate to a local ministry. Regular blasting would interrupt pool playtime with his grandkids in the backyard.

Then he thought about the potential effects of all that dust and blasting on the new 46-bed Baylor Scott & White Medical Center just a mile down the road.

Dean went to city officials, and together they realized that if they wanted to do something, they should act quickly and aggressively.



Hill Country resident Grant Dean and his dog Townes ride into a subdivision off U.S. 281 built by his custom homebuilding company. When Dean learned that a company planned to build a quarry 3,000 feet from his home and near the new 46-bed Baylor Scott & White Medical Center, he joined the city of Marble Falls to file a lawsuit against the Texas Commission on Environmental Quality. The lawsuit seeks to reform how the agency permits quarries. Dean says he is not against

know there is a better way for everyone to do business." **Bronte Wittpenn** | American-Statesman

In January 2018, Dean, the city of Marble Falls and two other plaintiffs sued the TCEQ. They say the agency approved Asphalt Inc.'s permit without verifying claims on its application.

The lawsuit alleges that the agency failed to consider the city's objections, even though municipalities are due "maximum consideration" under the law.

Steve Spinn, chief financial officer of Asphalt Inc. and one of the company's founders, said he couldn't comment on the ongoing case or future of the site. He said the company tries to be a good neighbor and mine responsibly.

In a court filing, attorneys for Asphalt Inc. said TCEQ did not simply "rubber stamp" its permit application. The document was "heavily scrutinized" by private and public officials, the company contends.

The company also said it established that its dust emissions would not exceed legal limits and accused the plaintiffs of wanting to turn the land into a subdivision for financial gain.

"Asphalt's goal is to be a good partner to local communities like Marble Falls," the company said in the filing.

A year and a half after the lawsuit was filed, the land where Asphalt Inc. had planned the quarry is marked with a "for sale" sign. But Dean says he and other plaintiffs plan to continue the

how it permits quarries.

"We are not anti-mining. We are by no means looking for anyone's job. We just know there is a better way for everyone to do business," he said.



Homes in the Mayfield Ranch neighborhood share a fence line with a quarry in Georgetown. The quarry, owned by Edwin Brazelton Snead, has been in the area since 1958. Kent Snead, Edwin's grandson and part of the third generation to work at the quarry, noticed homes beginning to approach the fence line in 2011. "The idea was to quarry (the area) before the houses got in so we didn't create a disturbance," Kent says. "We established a relationship with the developer

the homes, the cliff is still an active quarry wall and has rock that is still available to be mined. “The quarry business is not a typical neighbor, and so it’s easy to be vilified,” Kent says. **Bronte Wittpenn** | American-Statesman

Fight over permit

When some Comal County residents learned two years ago that Vulcan Materials planned to mine for the next 80 years on a 1,500-acre tract stretching nearly 3 miles southwest of Texas 46 and FM 3009, between New Braunfels and Bulverde, they got busy trying to block its air quality permit for rock crushing equipment.

They formed a group called Stop 3009 Vulcan Quarry and filed paperwork with the TCEQ to oppose the permit after Vulcan received tentative approval.

Over the past decade, the agency has rejected only five out of 1,220 rock crusher permit applications.Over the past six months, attorneys for the group have deposed experts, quarry operators and neighbors. In a sterile hearing room in June, they told a state administrative judge that the proposed quarry operation, based on samples taken by their group, could release up to five times the amount of crystalline silica, a dust that has been linked with various cancers, as the company indicated in its permit application.

All that dust, lawyers and experts told the judge, would threaten the health of the 12,000 residents who live within 5 miles of the operation, particularly children, elderly people and those with pulmonary conditions.

Statesman

suppress property values by up to a third.



Sunlight hits the side of a historic building in downtown Marble Falls last month. The building was constructed by H.T. Ellison in the 1890s or 1900s. It is made of sandstone, which came from a quarry that was once on U.S. 281 and Mormon Mill Road, now a residential street. **Bronte Wittpenn** | American-Statesman



A sign says “Texas Quarry Liquors” on East RM 1431 near Granite Shoals. Several quarries surround the Hill Country towns of Granite Shoals, Burnet and Marble Falls. **Bronte Wittpenn** | American-Statesman

Vulcan disputed those claims and created a website aimed at addressing concerns in Comal County, saying that the company is investing in the community and that it plans to recycle water, provide up to 50 jobs and create 600-acre setbacks.

Vulcan spokesman Scott Burnham said, “We operate in one of the most regulated industries in the country. We have presented a responsible plan for this site that demonstrates we’re committed to Comal County and doing things the right way. We look forward to the next steps in the process.”

In early September, the group learned the administrative judge had ruled against them. The judge decided Vulcan had met its burden of proof to receive the permit.

far from over," said David Drewa, a spokesman for Stop the Vulcan Quarry.

Push for legislation fails

Their fights might be playing out in different venues, but quarry opponents across Central Texas share the same frustration: They say they are being forced to step into a regulatory vacuum that lawmakers and state regulators have failed to fill.

During the 2019 legislative session, quarry opponents unsuccessfully proposed two dozen bills aimed at reeling in the exploding industry. If lawmakers had approved even a few of those measures, especially implementing routine air monitoring, activists in these communities argue, they could have staved off protracted legal fights now underway.

“Despite hundreds of citizens testifying in support of these bills, and thousands of supportive phone calls and emails, most of this legislation was not backed,” Drewa said.

Statesman



Hannah Welch, 10, watches her sister Haley, 4, on the swing outside their home in Double Horn last month. The home is one of several that would share a fence line with the proposed Spicewood Crushed Stone quarry. Their parents, Six and Jason Welch, both doctors, are worried about the health of their family if the quarry opens. “Can you imagine it being 500 yards away from my house?” Six Welch asks. “What that can do to our foundation and our house in general, being so close?” **Bronte Wittpenn** | American-Statesman

Industry leaders say those measures failed for good reason. More regulation is unnecessary, they say. Rules on the books already sufficiently protect the land and people who live near quarries. More regulation would drive up the cost of homes and transportation that this growing area of Central Texas desperately

"I think the best thing we as an industry and as an association can do is work to educate and to have a good, productive dialogue," Perkins said.

And so, the fights continue in communities and courtrooms as both sides prepare for another go-round when legislators meet again in 2021.



An image shows the "original crew" of Texas Crushed Stone Company on February 1, 1951. **Courtesy of Kent Snear** | Executive Vice President

materials," he says.

1/4 **Texas Crushed Stone**

Almost three quarters of a century ago, Kent Snead's grandfather started Texas Crushed Stone on a tract that is now home to retail stores, a school and a community center near Far West Boulevard and MoPac Boulevard (Loop 1) in Austin.

Statesman



Construction workers smooth out concrete on Texas 130 northbound under the Manor Expressway toll road and U.S. 290 near Austin last month. The limestone used for this project is from Oldcastle Materials in Marble Falls. The sand for the concrete is from Austin Aggregates, now called Texas Materials Group. “Whenever possible, the (Central Texas Regional) Mobility Authority uses materials sourced from local suppliers in Central Texas on all of our projects,” Director of Engineering Justin Word says. “Using local suppliers is both cost-efficient and contributes significantly to the local economy.” By 2050, the Texas Concrete and Aggregate Association says, Texas will need at least 135 million more tons of aggregate per year. **Bronte Wittpenn** | American-Statesman

Statesman

A RELUCTANCE TO ACT

Proposals meet resistance at Capitol

By Tony Plohetski American-Statesman

Before they scream down a 171-foot descent on the Iron Rattler, thrill seekers at Six Flags Fiesta Texas hover briefly above a giant jagged cliff blasted out of the San Antonio red clay by quarry operators a half-century ago.

Ninety miles north of Six Flags, along a rural road in Burnet County, the neighbors of an abandoned quarry site are left with the dismal reminder of its demise: a barren, dust- and dirt-covered moonscape dotted with rusted and long forgotten equipment.

In Texas, either of those scenes could mark the ending of a quarry's useful life. Land reclamation is one of many aspects of surface mining in the state that generally goes unregulated by state agencies. There is no statewide requirement for restoration of most retired quarry land. No regulations require routine air quality monitoring around mining sites to ensure nearby residents won't get sick from dust particles. Permitting requirements are

“I was really surprised to understand that frankly, Texas is No. 50 in terms of managing or providing oversight to surface mining,” said state Rep. Terry Wilson, a Republican from Burnet County. “There is very little regulation.”

For a decade and a half, quarry opponents — from community activists to lawmakers — have repeatedly called upon the Texas Legislature to adopt laws that would protect Texans, and the beauty of the Hill Country, from the hazards of the quarry industry.

But even after a state-commissioned study recommended a series of significant steps, legislators have remained reluctant to act, approving only one measure among dozens proposed this year to expand oversight.

It’s difficult to identify a single reason for the state’s hesitancy to regulate quarries. But some point to an industry backed by a robust political action committee that has consistently wielded money as a weapon in its fight against regulation, donating hundreds of thousands to Texas lawmakers.

“Many members privately gave us a lot of positive feedback but when push came to shove stated that they just couldn’t support this kind of legislation right now,” said David Drewa, spokesman for the groups Stop 3009 Vulcan Quarry and Friends of Dry Comal Creek, which is fighting a proposed quarry near New Braunfels.

Industry leaders, however, contend that Texas has ample regulatory procedures in place to protect the public safety. What’s

Statesman

operators and their neighbors.



Several bulldozers level ground to build homes in the Sweetwater community off Texas 71 in Bee Cave last month. The development is one of several in the Hill Country. As more people move to the area, the demand for products from quarries, such as limestone and other aggregates, has increased dramatically. **Bronte Wittpenn** | American-Statesman

Air, water quality not checked

The Texas Commission on Environmental Quality is the primary agency that oversees quarries, although an operation may face

but, however, that it follows the direction of the Legislature.

Before quarry operators can begin work, they must register with the TCEQ under an 8-year-old law aimed at tracking the number and location of Texas quarries. The TCEQ says it aggressively enforces that law by scouring the state for unregistered operations. In the past six years, the agency has issued $1.1 million in penalties to companies that have not followed the requirement.

The registration, though, simply documents the business operation. It provides no examination of its environmental or health effects.



Double Horn resident Jason Welch, a gastrointestinal doctor, rides up to the fence line with a four-wheeler on his property near his home in Double Horn. Welch's home would share a fence with the proposed Spicewood Crushed Stone quarry. He is worried about the long-term impact the quarry would have on his health and the health of his family. **Bronte Wittpenn** | American-Statesman

To actually crush and grind rock, the companies must seek a permit from the TCEQ and produce evidence that they will not exceed standards for releasing dust particles into the air. The

voice their objections.

The TCEQ, though, does not conduct independent testing of quarry operators' claims that their facilities will not emit excessive dust. And the agency rarely denies permit applications.

TCEQ officials said that under scrutiny, 72 of 1,220 applicants have withdrawn their applications in the past 10 years. But the agency denied only five during that time.

Quarries that operate in one of the state's 100 local groundwater conservation districts also must receive a permit from the district that evaluates how much water they will use.

The TCEQ inspects facilities once every two years for the first six years and every three years after that. The inspections generally include confirmation that operations are properly registered, have active permits and are keeping legally required documentation, such as logging the hours they are crushing rock.

But the TCEQ does not routinely test air quality in areas around a quarry — a gap in oversight that critics say is putting their health and the environment at risk. It also does not regularly monitor water quality to ensure that the operations are not contaminating it.

1/4 **Mark Friesenhahn**

The land retired ExxonMobil executive Mark Friesenhahn calls home has been in his family for generations.

Statesman



Mark Friesenhahn stands for a portrait near his pecan orchard in New Braunfels. Friesenhahn is a fifth-generation Comal County resident and started growing pecans in 1989. His land borders one quarry and he can see another from his property. He said growing up in the mid to late 50s there was only one quarry and more of a balance between the industry and farmers. **Ana Ramirez** | American-Statesman



Mark Friesenhahn is a fifth-generation Comal County resident who started growing pecans in 1989. Friesenhahn says his father was fascinated by vast agricultural areas. “He would stop, crawl the fence and pick up a handful of plowed dirt and smell it — looking up with a faraway look in his eye,” he says. “In other words, the land was important to him, and he taught us to appreciate it, use it and make it better or leave it better than when we found it.” **Ana Ramirez** | American-Statesman

Little progress in Legislature

Texas has wrestled with more regulation of aggregate producers for at least 16 years.

In 2003, former state Sen. Troy Fraser, a Republican from Burnet County, proposed bills to establish new quarry requirements after

The measures failed, but the debate prompted an executive order from then-Gov. Rick Perry to create the Advisory Committee on Rock Crushers and Quarries, with nine members, including lawmakers and industry representatives.

They studied the impact of local truck traffic around quarries, and the effects on water supplies, air quality and land reclamation, and they held two public hearings.



About 70 people attend a Texas Commission on Environmental Quality hearing in June to express concerns about Vulcan Materials' proposed limestone quarry in Comal County.
Ana Ramirez | American-Statesman

intensive permitting process for quarries that would include site plans, information about how and when an operator would use blasting, and a plan to restore the land “to a useful purpose.”

The recommendations were not signed by a majority of the committee but still led to a smattering of new regulations, including new and stiffer penalties for certain environmental violations such as operating without proper storm water permits. The state also strengthened some of its requirements to notify neighboring communities about permit applications and agreed trucks hauling aggregate materials must be properly covered.

But some of the most significant ideas were not made law.

Fast forward to 2019, and those issues — and the legislative reluctance — remain.

Bills filed this year would have required a “general operating permit” with stricter guidelines for a quarry to begin operations.

One proposal would have required quarry operators to pay a bond to the state, promising to restore land after mining and allowing the state to use the money to repair a property if the operator didn’t. Another would have imposed at least an 880-yard buffer zone between quarries and schools, churches and homes.

State Sen. Donna Campbell, a Republican from Comal County, authored the lone bill that became law this year. The measure requires three state inspections of quarries in their first six years of operation — instead of one every three years — and allows unannounced TCEQ inspections at aggregate operations with previous environmental violations.

originally did not get a hearing before the House Environmental Regulation Committee. Campbell said she worked with fellow Sen. Brandon Creighton to amend the language onto another bill.

“Hopefully, we can come back and build on this success two years from now,” she said.



Murchison Middle School’s football players run down a hill during practice last month in Northwest Austin. The land was once a quarry owned and operated by Texas Crushed Stone Co. After the company moved to its current location in Georgetown, the land was purchased by a developer and turned into a school. “The lesson we learned there was that you could quarry with an eye for

Statesman

Crushed Stone. **Bronte Wittpenn** | American-Statesman

Growth creates need

The Texas Concrete and Aggregates Association, which represents 80% of aggregate producers statewide and is the largest group of its kind nationally, has strongly opposed more industry oversight.

The association says the industry pumps $4.8 billion into the state economy each year and provides tens of thousands of jobs with an average annual salary of $75,000.

The group also has impressed on the Legislature that with an estimated 1,500 people moving to Texas each day, the work is crucial for the homes, roads and other infrastructure the state needs. By 2050, the group says, Texas will need at least 125 million more tons of aggregate per year for an array of projects.

More regulations, the group says, are unnecessary because quarries already operate safely. And more rules will make their products and providing for the state's growing needs more expensive.

As it has grown, the association has become a power player in Texas politics. The group has donated nearly $400,000 in campaign contributions to Texas lawmakers in the past five years, with amounts ranging from $250 to $20,000 to Republican Gov. Greg Abbott and $27,500 to Republican Lt. Gov. Dan Patrick.

"You go to these meetings, and people say there aren't regulations," said Larry Bateman, formerly a vice president and

county. "There are plenty of regulations."

Other states have regulations that include posting a bond to ensure that land is restored and regular air monitoring around quarries.

David Perkins, who heads the Texas Aggregates and Concrete Association, said he thinks the state's strong stance on property rights is one reason lawmakers have not enacted reclamation laws. Doing so would force lawmakers to tell property owners what to do with their land.

"Establishing statewide quarry reclamation would have a significant impact on private landowner rights, which have long been an important part of the fabric of Texas," he said.

'Looking for a balance'

Without more state oversight, though, Hill Country residents who feel bombarded by the blasting, crushing and dust spewing in their neighborhoods said they will continue fighting to rein in the industry. And they'll keep pushing lawmakers to pass more protections for the land, air and people.

Kevin Baum, a retired Austin assistant fire chief who now owns a ranchette outside Burnet, says lawmakers should approve more regulations if for no other reason than to preserve the Hill Country beauty that so many Texans cherish.

"You don't have to be some fanatical environmentalist to be deeply concerned about what the state is allowing these quarries to do," Baum said.

Statesman



Gary “Bubba” Dodd, 57, rides his horse Josie on FM 1861 near his home outside Liberty Hill last month. After graduating from Liberty Hill High School in the 1980s, Dodd worked for Texas Crushed Stone Co. in Georgetown for five years as a Euclid truck and scraper operator. **Bronte Wittpenn** | American-Statesman

Cathy Sereno, the mayor of the new town of Double Horn, which is embroiled in a legal fight with the state over its efforts to keep a quarry at bay, said lawmakers should enact more oversight of the industry so that communities like hers don’t have to take extreme steps to protect themselves.

“The problem we have today, where every local group is fighting, is that there is no regulation or guidance in place for these

looking for a balance.

Grant Dean, who is suing the TCEQ with the city of Marble Falls and others over its permitting process, said mining operators should be willing to compromise to better coexist with communities.

“Our goal is to hopefully be able to manifest some kind of change in the industry to make people more aware of what the realities are and the fact that we believe the current permitting process is unacceptable,” he said.

Despite the fact that five of his proposals to increase regulation failed this year, Wilson said he plans another push in the 2021 legislative session and hopes he’s laid the groundwork for success.

“There are some very simple things that our citizens are asking for that we should try to meet,” he said.

Real journalism. Real local impact.
Subscribe to the Austin American-Statesman.

Statesman



The sun begins to set along the horizon near Marble Falls. As urban sprawl continues to increase in both Austin and San Antonio, many people are choosing to live in the Hill Country. The area is also known for its mining of aggregates, which are used to construct homes and roads. **Bronte Wittpenn** | American-Statesman

© GateHouse Media 2019