

Alamo, Austin, and Lone Star chapters of the Sierra Club
Bexar Audubon Society
Bexar and Travis-Austin Green Parties
Bexar Grotto
Boerne Together
Bulverde Neighborhood Alliance
Bulverde Neighbors for Clean Water
Cibolo Center for Conservation
Citizens for the Protection of Cibolo Creek
Comal County Conservation Alliance
Environment Texas
First Universalist Unitarian Church of SA
Fitzhugh Neighbors
Friends of Canyon Lake
Friends of Castroville Regional Park
Friends of Dry Comal Creek
Friends of Government Canyon
Fuerza Unida
Green Society of UTSA
Guadalupe Riverkeepers
Guadalupe River Road Alliance
Guardians of Lick Creek
Headwaters at Incarnate Word
Helotes Heritage Association
Hill Country Alliance
Kendall County Well Owners Association
Kinney County Ground Zero
Leon Springs Business Association
Native Plant Society of Texas – SA
Northwest Interstate Coalition of NA's
Pedernales River Alliance – Gillespie Co.
Preserve Castroville
Preserve Lake Dunlop Association
Preserve Our Hill Country Environment
RiverAid San Antonio
San Antonio Audubon Society
San Antonio Conservation Society
San Geronimo Valley Alliance
San Marcos Greenbelt Alliance
San Marcos River Foundation
Save Barton Creek Association
Save Our Springs Alliance
Scenic Loop/Boerne Stage Alliance
Securing a Future Environment
SEED Coalition
Signal Hill Area Alliance
Sisters of the Divine Providence
Solar San Antonio
Texas Cave Management Association
Trinity Edwards Spring Protection Assoc.
Water Aid – Texas State University
Wildlife Rescue & Rehabilitation
The Watershed Association

September 20, 2023

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

Submitted electronically at <http://www14.tceq.texas.gov/epic/eComment/>

Re: Comments and Contested Case Hearing Request Regarding Hays Commons MUD application for Permit # D06282023060

Please accept the attached comments on behalf of the fifty-eight member groups of the Greater Edwards Aquifer Alliance.

1. **Background.** Milestone Community Builders, under the name Hays Commons Land Investments, LP, has applied to the Texas Commission on Environmental Quality (TCEQ) for a Municipal Utility District (MUD) for the proposed Hays Commons subdivision. The proposed subdivision consists of 290.1 acres consisting of a) twenty single-family lots of over 1.0 acre each, b) two multi-family/condo lots totaling 87.6 acres with 257 proposed condo units total, c) three parkland/open spaces totaling 139.7 acres, d) three utility lots totaling 15.5 acres, e) one commercial lot of 13.8 acres, and f) four public street right-of-ways.

The proposed subdivision is bounded on the north by an undeveloped 159.4 acre tract, on the east by State Highway 45 and F.M. 1626, on the south by County of Hays, Hays Country Oaks (Section 1), and Country Estates (Section 1 & Section 2), and on the west by an undeveloped 74.8 acre tract and an 11.01 acre ranch. The proposed subdivision is in Hays County, within the City of Hays Extraterritorial Jurisdiction, and within the Little Bear Creek Watershed. 248.4 acres of the proposed subdivision is within the Recharge Zone and 41.8 acres is within the Transition Zone of Edwards Aquifer.

2. **Greater Edwards Aquifer Alliance (GEAA).** GEAA submits the following comments on behalf of our fifty-eight member organizations and requests a contested case hearing regarding the Hays Commons MUD application. GEAA is a 501(c)(3) nonprofit organization that promotes effective broad-based advocacy for protection and preservation of the Edwards Aquifer, its springs, watersheds, and the Texas Hill Country that sustains it. GEAA has multiple members who would be adversely affected by the proposed

application of Milestone Community Builders for the Hays Commons MUD.

3. Hays Commons Municipal Utility District (MUD). The Hays Commons developer, Milestone, is requesting a MUD designation from TCEQ to finance the infrastructure costs associated with their proposed high-density Hays Commons development. These infrastructure costs include the development of municipal water wells, the development of a Wastewater Treatment Plant (WWTP) with corresponding Texas Land Application Permit (TLAP) infrastructure, and stormwater mitigation structures. Milestone has stated on the record that their plan is to drill multiple wells into the lower Trinity aquifer for water supply to the development and then to dispose of treated sewage effluent via land application within the “parkland” section of the tract that surrounds Little Bear Creek.

4. Specific Concerns Regarding MUD Application. GEAA and our member groups have numerous concerns with the Hays Commons MUD Application, which fall into 4 broad categories: a) Water Supply Impacts, b) Wastewater Impacts, c) Stormwater Impacts, and d) Further Impacts.

- a. Water Supply Impacts. The Hays Commons development and associated MUD will have negative impacts on the amount of water available to nearby residents and the quality of this water supply. As stated earlier in these comments, the developer is planning on drilling several wells into the lower Trinity Aquifer in order to serve the 257 condominium units, 20 single-family houses, and 14 acres of commercial development planned. Milestone also has planned a second phase of development which will include 280 condo units on an adjacent parcel of land to the north; the current plan is to have this adjacent parcel served by the same Hays Commons MUD. If allowed to move forward with the current plan, Hays Commons would more than quadruple the population in that immediate area, from 240 people currently to well over 1000, creating strain on the drought-challenged Trinity Aquifer and its ability to provide water to the surrounding area. Both the quantity and quality of the water supply would undoubtedly be affected by placing such a high-density development in such an environmentally sensitive area with limited water supply.

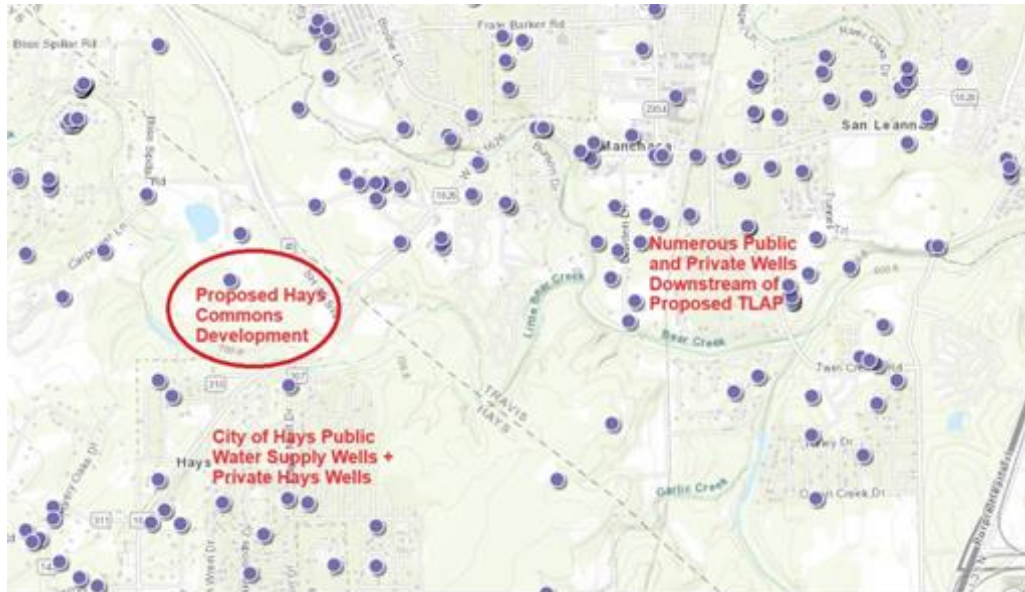


Fig. 1: Numerous existing public and private wells (shown in purple) are located near the proposed Hays Commons development

- b. Wastewater Impacts. The Hays Commons MUD will be used to finance a WWTP and the associated infrastructure necessary to irrigate up to 150,000 gallons per day (initially) of treated sewage over the Edwards Aquifer Recharge Zone (EARZ), according to the wastewater permit application recently submitted to TCEQ; Permit # WQ0016373001. Currently, there are no other developments irrigating treated sewage over the Edwards Aquifer Recharge Zone (EARZ), simply because it is unsafe and could lead to a public health crisis, passing treated sewage directly into the groundwater supply that is being used by many local wells. Yet, that is exactly what is being proposed, even though there are numerous public and private wells that serve the communities of Hays, Manchaca, and elsewhere, all located a short distance from where Hays Commons will be disposing of their treated sewage (see Fig. 1).

As can be seen from Fig. 2 below, the proposed TLAP treated sewage irrigation fields for the Hays Commons MUD will be located at the confluence of Little Bear Creek and an unnamed tributary, an area that sits over the EARZ. The red dots show significant karst features - faults and fractures where surface water flows freely to groundwater. In this sensitive region, anything that flows across the surface, including treated sewage, will end up in groundwater, if the Hays Commons MUD is allowed to be established by TCEQ.

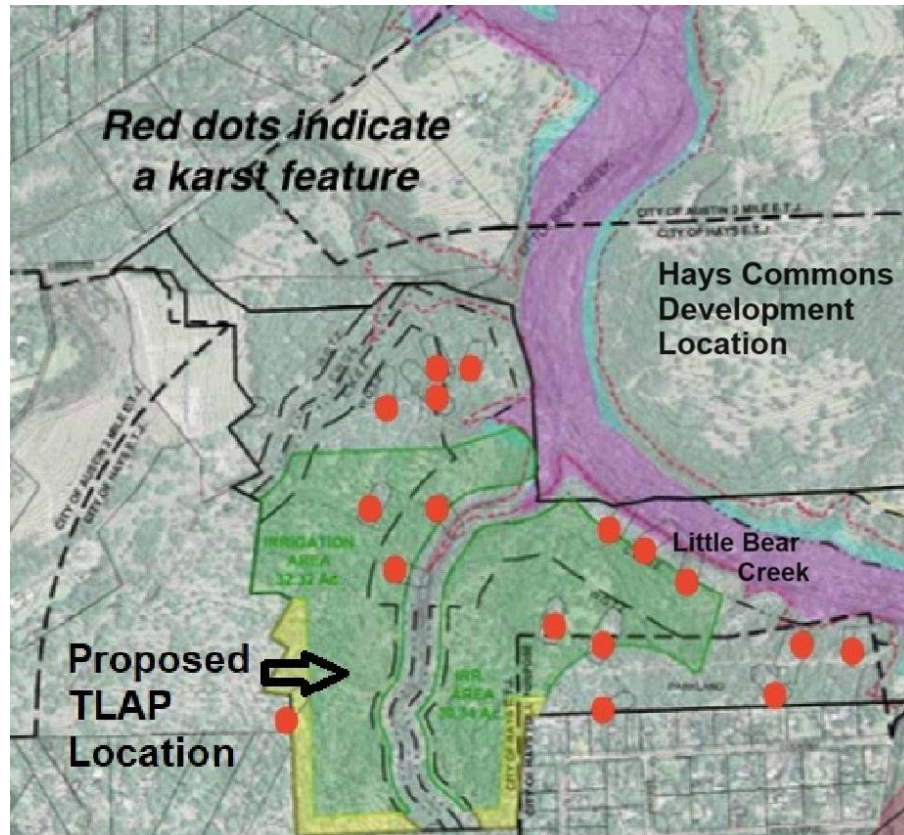


Fig. 2: The proposed area for disposing of Hays Commons treated sewage contains many karst features which provide a direct path from the surface to groundwater

- c. Stormwater Impacts. The proposed Hays Commons tract is known for flooding, with a substantial area of the tract in the 100-year and 500-year flood plains of Little Bear Creek, according to the Hays Commons preliminary plat. Seven of the proposed twenty single-family homes are surrounded on three sides by floodplains. Furthermore, the area contains thin soils that do not absorb water very well; in fact, 97% of the proposed Hays Commons soils are Category D soils, the highest runoff rating of all soils.

Into this flood-prone area with high-runoff soils, Milestone has proposed 14 acres of commercial property with 70% impervious cover, which will lead to potential flooding and groundwater contamination whenever there are heavy rains. They attempt to mitigate the impervious cover problem by including high-density condo units in the tract. However, the overall impervious cover for the entire proposed development is still 31%, which is 16% more than the 15% maximum impervious cover specified in the Save Our Springs (SOS) Ordinance for development over the EARZ.

The construction phase of this potential development is also of great concern, especially given the proximity of the proposed construction to both Little Bear Creek and the underlying Edwards Aquifer. There are legitimate concerns that the temporary erosion and sedimentation control facilities proposed by the developer will not be adequate to

prevent pollution of Little Bear Creek and the Edwards Aquifer during the construction phase.

Once construction is completed, Milestone proposes two batch detention ponds as the sole means of maintaining water quality for this development. Batch detention ponds can be effective for removing total suspended solids (TSS), with properly maintained systems. However, they are less effective at removing fluid pollutants such as oil, gasoline, and wastewater nutrients such as nitrogen and phosphorous that may not be absorbed within a land application irrigation field. More importantly, there are no batch detention ponds proposed between the TLAP field and Little Bear Creek, meaning any overflow from the TLAP field would run directly into Little Bear Creek and by extension the Edwards Aquifer, since this development is located on the EARZ.

If the two proposed batch detention ponds aren't properly maintained, solid pollutants in addition to fluid pollutants could find their way into Little Bear Creek and then groundwater. During the past eighteen years, we have seen numerous stormwater detention plans that were never fully implemented or that failed to function properly coupled with a failure on the part of TCEQ staff to make sure approved plans were adhered to and functional through follow-up inspections. Given the budgetary and staff shortages of TCEQ, we urge caution in approving high maintenance plans such as this one, especially given the environmentally-sensitive location on the EARZ.

- d. Further impacts. If approved by TCEQ, the Hays Commons MUD wouldn't just impact nearby wells and water supply; because of the interconnected nature of the Edwards Aquifer and its surface waterways, the impacts of aquifer contamination with treated sewage and stormwater runoff could be seen quite some distance away. Fig. 3 below shows the groundwater flow path in northern Hays County and southern Travis County.

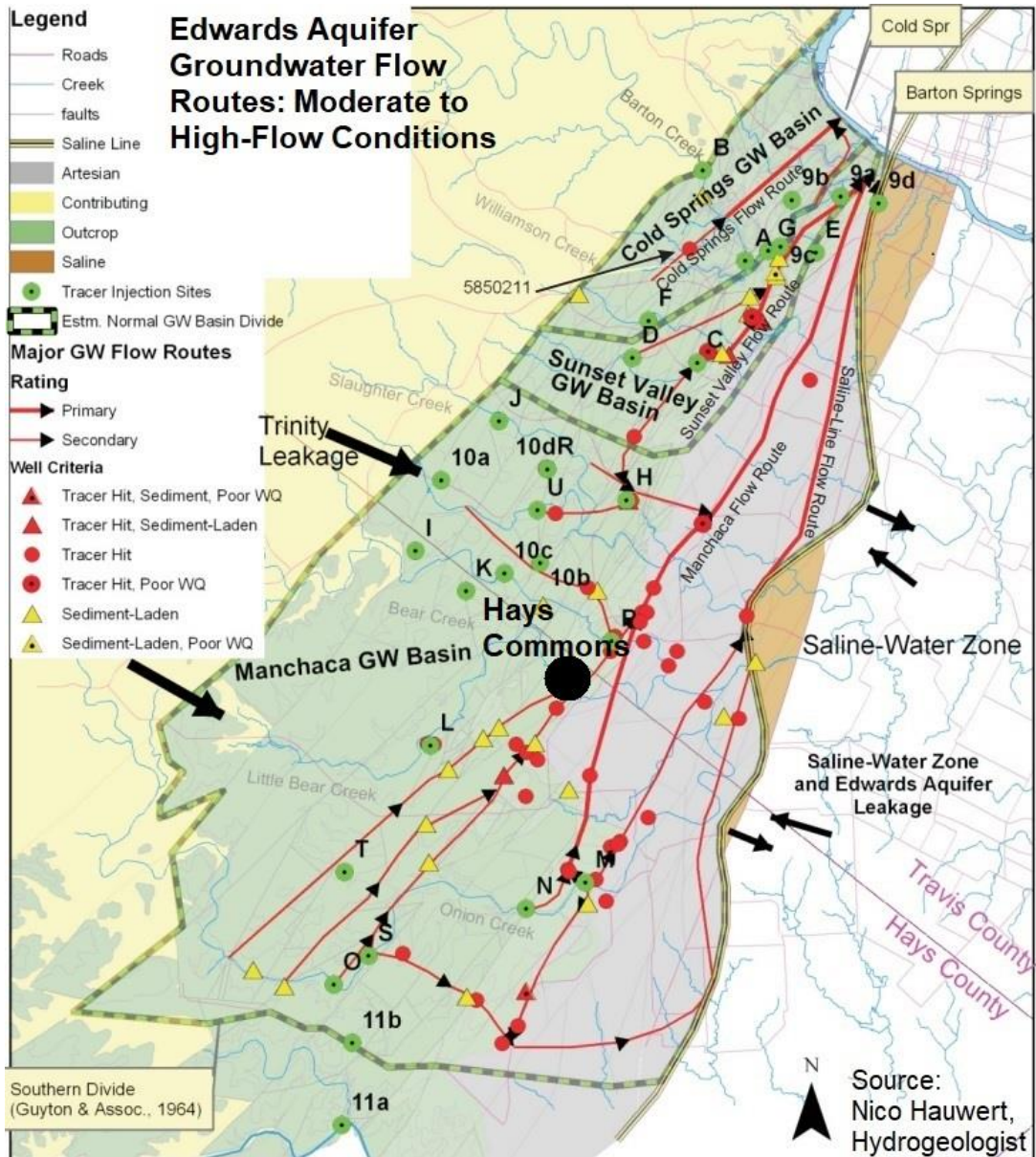


Fig. 3: The Manchaca Flow Route runs near the proposed area for Hays Commons; any surface pollutants from Hays Commons would likely end up in the Edwards Aquifer and

Note the primary Manchaca Flow Route passes right next to the proposed Hays Commons development and extends all the way to Barton Springs. Any contaminants entering the Edwards Aquifer from the many karst features on the proposed Hays Commons tract would travel fairly quickly down a flow path from northern Hays County into Travis County, through South Austin, and directly into Barton Springs pool, contaminating water wells along the way.

5. Conclusion. In summary, the type of development proposed by Milestone and the supporting MUD infrastructure required are ill-suited for the environmentally-sensitive nature of the area. Existing development in this area respects the location over the EARZ and consists predominantly of single-family homes on one acre plus lots, with On-Site Septic Facilities (OSSFs) for wastewater. Dropping in a high-density development with 14 acres of 70% impervious cover commercial space, plus a 32-acre treated sewage irrigation field is not only incongruous to the existing area aesthetic but will likely lead to significant groundwater contamination. We urge TCEQ to reject the Hays Commons MUD application in its entirety.

Thank you for the opportunity to submit these comments.

Respectfully,

Annalisa Peace
Executive Director
Greater Edwards Aquifer Alliance