

Brooke T. Paup, *Chairwoman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 27, 2025

TO: All interested persons.

RE: Hays Commons Development, Inc.
TCEQ Permit No. WQ0016373001

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclerk@tceq.texas.gov. A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at Kyle Public Library, 550 Scott Street, Kyle, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. The procedures for the commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. A brief description of the procedures for these two requests follows.

How to Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. Your hearing request must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (3) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."
- (4) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
 - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
 - (C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.

Additionally, your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to **your** comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

How to Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at www.tceq.texas.gov/agency/decisions/cc/comments.html or by mail to the following address:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the TCEQ's Alternative Dispute Resolution Program and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Public Education Program, toll free, at 1-800-687-4040.

Sincerely,



Laurie Gharis
Chief Clerk

LG/cb

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
Hays Commons Development, Inc.
TCEQ Permit No. WQ0016373001

The Executive Director has made the Response to Public Comment (RTC) for the application by Hays Commons Development, Inc. for TCEQ Permit No. WQ0016373001 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link:

<https://www.tceq.texas.gov/goto/cid>

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (WQ0016373001) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov.

Additional Information

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at Kyle Public Library, 550 Scott Street, Kyle, Texas.

MAILING LIST
for
Hays Commons Development, Inc.
TCEQ Permit No. WQ0016373001

FOR THE APPLICANT:

Terry LaGrone, CFO
Hays Commons Development, Inc.
2100 Northland Drive
Austin, Texas 78756

Daniel Ryan, P.E., Vice President &
Lauren Crone, P.E. Senior Project Manager
LJA Engineering, Inc.
7500 Rialto Boulevard, Building II
Suite 100
Austin, Texas 78735

INTERESTED PERSONS:

see attached list

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

Michael T. Parr II, Staff Attorney
Texas Commission on Environmental
Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Kimberly Kendall, Technical Staff
Texas Commission on Environmental
Quality
Water Quality Division MC-148
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

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

ABOUSSIE , KAREN
2402 CHAPARRAL PARK RD
MANCHACA TX 78652-4113

AKEROYD , DANIEL
SENATOR DONNA CAMPBELL
PO BOX 12068
AUSTIN TX 78711-2068

ARELLANO , DEBORAH
1220 W BARTLETT DR
BUDA TX 78610-3271

AYRES, JONATHAN & PERLMAN, DR. PAULA
13301 RAMROD DR
MANCHACA TX 78652-3037

BAKER , KATHLEEN
511 COUNTRY LN
BUDA TX 78610-9397

BEATTY , ALONNA MICHELLE
903 BLUEBIRD DR
MANCHACA TX 78652-4155

BECKER , TERESA
306 HIGH PLAINS DR
DRIPPING SPRINGS TX 78620-2748

BERKOWITZ , MR STUART
2500 ROBIN RD
MANCHACA TX 78652-4169

BERNHARD , BETH A
189 BELWOOD DR
BUDA TX 78610-2283

BIEN , DARREN
1002 MAGNOLIA CV
BUDA TX 78610-2876

BIRDWELL , SHANE CHIEF OF STAFF
SENATOR DONNA CAMPBELL
PO BOX 12068
AUSTIN TX 78711-2068

BLAKE , CANDACE
12620 LIVE OAK LN
BUDA TX 78610-9322

BORST , LAURA
10727 HOLLY SPRINGS DR
HOUSTON TX 77042-1411

BRISKY , PHILIP
2200 CHAPARRAL PARK RD
MANCHACA TX 78652-4109

BROCK-BATES , JODI
1401 MONTELL RD
WIMBERLEY TX 78676-9710

BRUNONE , ANDREW
330 WOODLAND OAKS TRL
BUDA TX 78610-3119

BRYAN-VALDEZ, LYDIA & VALDEZ, ANTONIO
SANCHEZ
546 COUNTRY LN
BUDA TX 78610-9398

BRYAN-VALDEZ , LYDIA
546 COUNTRY LN
BUDA TX 78610-9398

BUNCH , WILLIAM G EXECUTIVE DIRECTOR
SAVE OUR SPRINGS ALLIANCE
STE D401
4701 W GATE BLVD
AUSTIN TX 78745-1479

CALDWELL , BOB
301 AVOCET DR
BUDA TX 78610-2430

CAMP , ELIZABETH & JIM
W W NORTON
3803 CATTLEMAN DR
MANCHACA TX 78652-3042

CAMP , JAMES
3803 CATTLEMAN DR
MANCHACA TX 78652-3042

CAMP , MICHELLE
119 MEADOW WOODS DR
KYLE TX 78640-8832

CAMPBELL , THE HONORABLE DONNA STATE
SENATOR
THE SENATE OF TEXAS DISTRICT 25
RM 3E.8
PO BOX 12068
AUSTIN TX 78711-2068

CAMPBELL , THE HONORABLE DONNA STATE
SENATOR
THE SENATE OF TEXAS DISTRICT 25
STE 105
229 HUNTERS VLG
NEW BRAUNFELS TX 78132-5313

CARLON , ALFONSO
2805 ROBIN RD
MANCHACA TX 78652-4105

CARRACEDO , LUCIA
21 COUNTRY OAKS DR
BUDA TX 78610-9338

CHUN , MARK
13410 COPPER HILLS DR
MANCHACA TX 78652-3135

CLEARLIN , MRS ANN
13501 TRAILS END
AUSTIN TX 78737-9117

CLEMENTS-LEMMAN , THERESA
12600 LIVE OAK LN
BUDA TX 78610-9315

CLIFFORD , MICHAEL
APT 605
512 EBERHART LN
AUSTIN TX 78745-4486

CLIFFORD , MICHAEL
5104 MAULDING PASS
AUSTIN TX 78749-1637

COYNE , KATIE
CITY OF AUSTIN
ATTENTION WATERSHED PROTECTION
PO BOX 1088
AUSTIN TX 78767-1088

CRAWFORD , MRS PAT N
3401 BARKER HOLLOW PASS
AUSTIN TX 78739-7540

CROSS , PETER
1910 W 39TH ST
AUSTIN TX 78731-6017

CUDA , MARK
1704 TREBLED WATERS TRL
DRIFTWOOD TX 78619-8109

CUMMINGHAM, DEBORAH & WESCOTT, DANIEL

1000 DOVE DR
MANCHACA TX 78652-4144

CUNNINGHAM , DIANA
208 BUTTERCUP TRL
BUDA TX 78610-2828

DAVIS , HARVEY LEE
HARVEY DAVIS CPA
12604 RED BUD TRL
BUDA TX 78610-9325

DEPENNING , JOANN B
J DEPENNING CONSULTING INC
12700 EAGLE NEST DR
BUDA TX 78610-2448

DEPENNING , JOEL THOMAS
523 COUNTRY LN
BUDA TX 78610-9397

DEPENNING , LAYTON
12700 EAGLE NEST DR
BUDA TX 78610-2448

DERRICK , DAVID
2706 ROBIN RD
MANCHACA TX 78652-4173

DUVAL , MRS SALLY CASSELL
13300 PAISANO TRL
AUSTIN TX 78737-9551

FAWCETT , LINDA
LLANO RIVER WATERSHED ALLIANCE
PO BOX 725
JUNCTION TX 76849-0725

GARBER , ELISA
12512 TAYLOR DR
BUDA TX 78610-2470

GRAU , MICAH CITY MANAGER
CITY OF BUDA
BLDG 100
405 E LOOP ST
BUDA TX 78610-4003

GREEN , AARON
12619 RED BUD TRL
BUDA TX 78610-9230

GROSEK , JESSICA
BOJORQUEZ LAW FIRM PC
STE 300
11675 JOLLYVILLE RD
AUSTIN TX 78759-3939

GRUBERT , MRS NORMA
ARROYO DOBLE WATER SYS INC
12710 EAGLE NEST DR
BUDA TX 78610-2448

GRUBERT , JEFF
PO BOX 587
MANCHACA TX 78652-0587

HALL , JASON
12607 CRYSTAL CREEK DR
BUDA TX 78610-2561

HALL , KRISTA
12607 CRYSTAL CREEK DR
BUDA TX 78610-2561

HARGROVE , FRANCES
2505 CARDINAL DR
MANCHACA TX 78652-4129

HASCHKE , MR GERALD
308 FOX HOLW
BUDA TX 78610-2827

HENDRICKSON , JACOB
1213 BURLESON ST
SAN MARCOS TX 78666-4766

HIRN , JESSICA N
2901 CHAPARRAL PARK RD
MANCHACA TX 78652-2906

HIXON , DAVID MICHAEL
APT E
1205 KINNEY AVE
AUSTIN TX 78704-2156

HOLLOWAY , MARK ALAN
TEXAS ATTORNEY GENERAL'S OFFICE
213 DEWBERRY CV
BUDA TX 78610-2821

JENKINS , GREG
13800 TRAIL DRIVER
AUSTIN TX 78737-9524

JOHNSON , JENNIFER M MUIR
12522 MISTY CRK
SAN ANTONIO TX 78232-4629

JOHNSTON , LIZ
CITY OF AUSTIN WATERSHED PROTECTION
DEPARTMENT
PO BOX 1088
AUSTIN TX 78767-1088

KATZ , JOSHUA D
BICKERSTAFF HEATH DELGADO ACOSTA LLP
STE C400
1601 S MOPAC EXPY
AUSTIN TX 78746-7009

KHAN , ROSIE
7640 NEZ PERCE TRCE
MANOR TX 78653-9600

KNIGHT , BILL
2208 CHAPARRAL PARK RD
MANCHACA TX 78652-4109

KNIGHT , MARTA E
305 RANGER DR
BUDA TX 78610-2539

KNIGHT , STACEY A
PENTECOST SPRINKLER
2208 CHAPARRAL PARK RD
MANCHACA TX 78652-4109

KNIGHT , DR. LESLIE
45 SABINAS SPRINGS RD
BOERNE TX 78006-8381

KURZAWSKI , KEN
3445 BLISS SPILLAR RD
MANCHACA TX 78652-3122

LAKEY , AIMEE
1165 CLARK BROTHERS DR
BUDA TX 78610-5127

LATHAM , TINA
811 DOVE DR
MANCHACA TX 78652-4141

LEMMAN , TOM E
12600 LIVE OAK LN
BUDA TX 78610-9315

LEVINSKI , BOBBY
248 CAMARO WAY
SAN MARCOS TX 78666-3034

LITTLEJOHN , NICHOLAS
APT 185
1200 BARTON HILLS DR
AUSTIN TX 78704-1902

LOFTUS , DR. TIMOTHY T
BARTON SPRINGS - EDWARDS AQUIFER
CONSERVATION DISTRICT
1124 REGAL ROW
AUSTIN TX 78748-3701

LORINI , EVA
UNIT B
7003 TREASURE CV
AUSTIN TX 78745-5472

LOWDER , KELLY
1359 HEEP RUN
BUDA TX 78610-5093

LOZANO , BRENDA K
13102 TURKEY ROOST DR
MANCHACA TX 78652-3066

MATTHEWS , GLENDA
3415 BLISS SPILLAR RD
MANCHACA TX 78652-3121

MCALESTER , AGGIE L
DELTA DENTAL
13201 WELLS FARGO TRL
AUSTIN TX 78737-9535

MCCORKLE , JUSTIN
12618 LIVE OAK LN
BUDA TX 78610-9322

MCGLOTHLIN , RUDYE
1008 SPANISH OAK TRL
MANCHACA TX 78652-4001

MCKNIGHT , GERALD & LINDA
12628 RED BUD TRL
BUDA TX 78610-9325

MEEK , RICHARD
507 MCKINNON LOOP
BUDA TX 78610-9313

MENARD , VALERIE
PODER
7215 HARTNELL DR
AUSTIN TX 78723-1518

MERCER , PHILLIP NEIL
12708 DOVE DR
BUDA TX 78610-2501

MUGAN , MRS MONICA
16001 SCENIC OAKS TRL
BUDA TX 78610-9336

NAPIORKOWSKI , MRS CARRIE
UNIT B
14909 FITZHUGH RD
AUSTIN TX 78736-6300

NICHOLS , KATHRYN
2704 CHAPARRAL PARK RD
MANCHACA TX 78652-4121

NOVAK , MR ROB
40 COUNTRY OAKS DR
BUDA TX 78610-9338

NOVAK , TIFFANY
40 COUNTRY OAKS DR
BUDA TX 78610-9338

OLIVER , BILL
TRLR 12
2728 S CONGRESS AVE
AUSTIN TX 78704-6445

PANCAKE , AMY
STE A
8105 S 1ST ST
AUSTIN TX 78748-5406

PATTERSON , DAVID
BUDA TREEHOUSE STUDIOS
16220 REMUDA TRL
BUDA TX 78610-9349

PEACE , ANNALISA
GREATER EDWARDS AQUIFER ALLIANCE
1809 BLANCO RD
SAN ANTONIO TX 78212-2616

PEACE , ANNALISA
GREATER EDWARDS AQUIFER ALLIANCE
PO BOX 15618
SAN ANTONIO TX 78212-8818

PENNINGTON , CAROL
1005 BLUEBIRD DR
MANCHACA TX 78652-4157

PERELSTEIN , DAVID & DAVID
1010 BENDEL RANCH RD
NEW BRAUNFELS TX 78133-5931

PERELSTEIN , DAVID & DAVID
1010 BENDEL RANCH RD
NEW BRAUNFELS TX 78133-5931

PERRY , ROBIN T
307 LAKEWOOD DR
BUDA TX 78610-2507

PESEK , CHRIS
12450 SUMMIT PASS
AUSTIN TX 78737-9641

POLLOCK , PATSY
2402 SANDERS LN
AUSTIN TX 78748-1345

POLLOCK , JOEL
2402 SANDERS LN
AUSTIN TX 78748-1345

POTTS , KENDRA
UNIT 27456
3575 FAR WEST BLVD
AUSTIN TX 78731-3064

PUGANINI , NICHOLAS
APT 465
3320 HARMON AVE
AUSTIN TX 78705-2131

RAINEY , AMANDA
12908 BUCKWHEAT PASS
BUDA TX 78610-2835

RAINEY , ZEPHYR
12908 BUCKWHEAT PASS
BUDA TX 78610-2835

REEVES , BARBARA
3411 BLISS SPILLAR RD
MANCHACA TX 78652-3121

REYNOLDS , MR EDWARD J
13104 WELLS FARGO TRL
AUSTIN TX 78737-9587

RICE , LEONARD
300 SUNDOWN RDG
AUSTIN TX 78737-9596

RODRIGUEZ , MR WILLIAM A
701 N CANYONWOOD DR
DRIPPING SPRINGS TX 78620-3974

ROSE , VICTORIA ANN
SAVE OUR SPRINGS ALLIANCE
STE D401
4701 W GATE BLVD
AUSTIN TX 78745-1479

ROSS , JEFF
12607 TAYLOR DR
BUDA TX 78610-2453

RUFF , MATT
207 DEWBERRY CV
BUDA TX 78610-2821

SCHLEGEL , LISA
8434 OAK THICKET
SAN ANTONIO TX 78255-3642

SCULLARY , LINDA
HUMANE SOCIETY OF THE NEW BRAUNFELS AREA
28535 OAK CREEK DR
NEW BRAUNFELS TX 78132-3626

SEYMOUR , DUSTIN
UNIT 30
301 W STASSNEY LN
AUSTIN TX 78745-3145

SMITH , MR COURTNEY CRAIG
1908 BARTON PKWY
AUSTIN TX 78704-3212

SORAHAN , KYLE
13301 TRAIL DRIVER
AUSTIN TX 78737-9531

SPINN , ROSLYNN MCDOUGAL
13315 TRAIL DRIVER
AUSTIN TX 78737-9531

STARR , MRS & MR MICHAEL
2301 SPARROW DR
MANCHACA TX 78652-4180

STARR , DARLENE
2301 SPARROW DR
MANCHACA TX 78652-4180

STARR , MR MICHAEL
2301 SPARROW DR
MANCHACA TX 78652-4180

STEWART , DAVID
12617 DARRYL DR
BUDA TX 78610-2553

STOLZENBURG , LUCINDA L
13310 TRAIL DRIVER
AUSTIN TX 78737-9579

SYMINGTON , CINDY S
2602 RIVER HILLS RD
AUSTIN TX 78733-2135

TALBOT , JAMES
305 W MILTON ST
AUSTIN TX 78704-3017

TANCREDO , ALEXIS
16002 SCENIC OAKS TRL
BUDA TX 78610-9337

TAYLOR , RICHARD P
BLUE MOUNTAIN PEAK RANCH
3699 BLUE MOUNTAIN LN
MASON TX 76856-5521

THERIOT , COLLEEN
3404 CHERRY LN
AUSTIN TX 78703-2610

THOMAS , NICHOLAS
2003 SPANISH OAK TRL
MANCHACA TX 78652-4004

TOOKOIAN , ANNELOUISE
12607 TAYLOR DR
BUDA TX 78610-2453

TROMBLEY , MRS VALERIE
2701 CARDINAL DR
MANCHACA TX 78652-4133

TUCKER , TOBIE
12705 DARRYL DR
BUDA TX 78610-2554

TUTTLE , CHARLES L
12503 SHADY ACRES DR
BUDA TX 78610-2517

VALDEZ , ANTONIO S
546 COUNTRY LN
BUDA TX 78610-9398

VALDEZ , MR ELOY
211 OAK FOREST DR
BUDA TX 78610-3117

VALDEZ , MRS TINA
211 OAK FOREST DR
BUDA TX 78610-3117

VENHUIZEN , DAVID
DAVID VENHUIZEN P E
5803 GATESHEAD DR
AUSTIN TX 78745-3526

WHITE , BARBARA DARE
APT B
3312 DOOLIN DR
AUSTIN TX 78704-5965

WHITTINGTON , KEITH L
LYNX PROPERTY SERVICES.COM
13511 CARPENTER LN
MANCHACA TX 78652-3142

WOOD , CAROLYN
310 LAKEWOOD DR
BUDA TX 78610-2575

WRIGHT , LOIS
527 TANGLEWOOD TRL
BUDA TX 78610-9316

YANNUZZI , JOYCE
SENATOR DONNA CAMPBELL
PO BOX 12068
AUSTIN TX 78711-2068

ZABCIK , BRIAN
SAVE BARTON CREEK ASSOCIATION
UNIT 670
15241 STATE HIGHWAY 53
TEMPLE TX 76501-3489

ZAVALETA JR , EDGAR
UNIT A
2502 HOWELLWOOD WAY
AUSTIN TX 78748-5954

ZWIENER , THE HONORABLE ERIN STATE
REPRESENTATIVE
TEXAS HOUSE OF REPRESENTATIVES DISTRICT 45
PO BOX 2910
AUSTIN TX 78768-2910

TCEQ PERMIT NO. WQ0016373001

**APPLICATION BY
HAYS COMMONS DEVELOPMENT
INC. FOR TCEQ PERMIT
NO. WQ0016373001**

**§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL
QUALITY**

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ / Commission) files this Response to Public Comment (Response) on the application submitted by Hays Commons Development, Inc. (Applicant) and on the ED's preliminary decision on the application (Application) for a new Texas Land Application Permit (TLAP) TCEQ Permit No. WQ0016373001 (draft permit) and on the construction and operation of the Hays Commons Wastewater Treatment Facility and Disposal Site (proposed facility). According to Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156 before issuing a permit the ED prepares a response to all timely comments received on the application.

The TCEQ's Office of the Chief Clerk (OCC) received a public meeting request from State Representative Erin Zwiener and received timely comments from State Senator Donna Campbell M.D.

Due to the volume of comments and commenters received by the TCEQ's OCC on this Application unless otherwise noted in the comment the ED organized the comments from those members of the public who made similar comments to other members of the public in the Appendices (A-E) below for clarity.

Groups, entities, and organizations also provided timely comments on the Application. On behalf of the Cities of Buda, Hays, and Austin comments were provided by Micah Grau, Joshua Katz, Liz Johnston, and Katie Coyne. On behalf of the Coves of Cimarron Homeowners' Association, the Llano River Watershed Alliance, Save Barton Creek Association, and the Barton Springs-Edwards Aquifer Conservation District comments were provided by Darren Bien, Linda Fawcett, Brian Zabcik, and Michelle Camp and Timothy Loftus respectively.

On behalf of the Save Barton Creek Association comments were received from Brian Zabcik and Michelle Camp, and on behalf of the City of Austin comments were received from Liz Johnston and Katie Coyne.

On behalf of the Greater Edwards Aquifer Alliance, Lucinda Stolzenburg, Annalisa Peace, and Michael Clifford provided comments, and on behalf of Save Our Springs Alliance, William Bunch, Nicholas Paganini, and Bobby Levinski provided comments.

This Response addresses all public comments received from the entities and individuals above whether withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Public Education Program at 1-800-687-4040 or the website below.

➤ www.tceq.texas.gov/agency/decisions/participation/permitting-participation

BACKGROUND

The Applicant applied for new TCEQ/TLAP Permit No. WQ0016373001 (draft permit) to serve the wastewater needs of areas in both Travis and Hays Counties that will contain restaurants, apartments, and commercial spaces proposed in the Hays Commons Development by authorizing the land application as opposed to the discharge of treated domestic wastewater (effluent) at a daily average flow rate not to exceed flow not to exceed 0.05, 0.10, and 0.15 million gallons per day (MGD) in the Interim I, II, and Final phases; via surface irrigation of 60 acres of non-public access land only according to the effluent limitations (limits) in the draft permit which does not authorize any effluent discharges into Waters in the State.

DESCRIPTION OF FACILITY

When constructed the Proposed facility will be located approximately 0.25 miles southwest of the intersection of Farm-to-Market Road 1626 and State Highway 45 Southwest in Hays County, Texas 78610. The facility and disposal site will be located in the drainage basin of Onion Creek in Segment No. 1427 of the Colorado River Basin.

The Application indicated that the Proposed facility will be a membrane bioreactor (MBR) facility. Treatment units in the Interim I phase will include bar screens, an anoxic/equalization basin, a pre-aeration basin, a membrane basin, a sludge digester, and a chlorine contact chamber. Treatment units in the Interim II phase will include bar screens, an anoxic/equalization basin, two pre-aeration basins, two membrane basins, two sludge digesters, and two chlorine contact chambers. Treatment units in the Final phase will include bar screens, an anoxic/equalization basin, three pre-aeration basins, three membrane basins, three sludge digesters, and three chlorine contact chambers.

The Application indicated that the Proposed facility will also include a storage pond with a total surface area of 5.34 acres and total capacity of 68.67 acre-feet for storage of treated effluent prior to irrigation of Bermuda grass and rye grass during the cool season. Application rates to the irrigated land must not exceed 2.80 acre-feet per year per acre irrigated. Table No. 1 below lists across all phases of the draft permit the proposed limits and monitoring requirements which are consistent with 30 TAC Chapter 309 and Table 1 in § 309.4. All flows are expressed in Million Gallons Per Day (MGD) and all pH values are expressed in standard units (SU). Concentration values are expressed in Milligrams per Liter (mg/L).

TABLE NO. 1 EFFLUENT LIMITATIONS

Parameter/Pollutant	Daily Average	7-day Average	Daily Maximum	Single Grab
	mg/L	mg/L	mg/L	mg/L
Flow (MGD)	0.05/ 0.10/ 0.15	N/A	N/A	N/A
Biochemical Oxygen Demand 5-day (BOD ₅)	5.0	10.0	20.0	30.0
Total Suspended Solids (TSS)	5.0	10.0	20.0	30.0
Ammonia Nitrogen (NH ₃ -N)	2.0	5.0	10.0	15.0
Total Phosphorus (TP)	1.0	2.0	4.0	6.0
Total Chlorine Residual	1.0 mg/L min.	-	4.0 mg/L	-
Ph	6.0 SU	-	9.0 SU	-

If the effluent is to be transferred to a holding pond or tank, re-chlorination prior to the effluent being delivered into the irrigation system is required. A trace total chlorine residual shall be maintained in the effluent at the point of irrigation application. The monitoring must be done after the final treatment unit and prior to storage of the treated effluent. If the effluent is land applied directly from the treatment system monitoring must be done after the final treatment unit and prior to land application.

Sludge generated from the Proposed facility will be hauled by a registered transporter to Walnut Creek WWTF TPDES Permit No. WQ0010543001 to be digested, dewatered, and then disposed of with the bulk of the sludge from the plant accepting the sludge. The draft permit also authorizes the disposal of sludge at a TCEQ-authorized land application site co-disposal landfill, wastewater treatment facility, or facility that further processes sludge.

PROCEDURAL BACKGROUND

The TCEQ received the application on July 27, 2023, and declared it administratively complete on September 5, 2023. The Applicant published the Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) in Travis County Texas in the *Austin American-Statesman* on October 3, 2023. The ED completed the technical review of the application on March 12, 2024, and prepared the draft permit which if approved would establish the conditions under which the proposed facility must operate. On March 25, 2024, the ED approved a Public Meeting on the application to be held later. The Applicant published a Combined Notice of Public Meeting and Notice of Application and Preliminary Decision (NAPD) in Travis County Texas in the *Austin American-Statesman* on June 12, 2024. On July 16, 2024, the public meeting requested by State Representative Erin Zwiener was held in Buda Texas. The comment period for the application closed on July 25, 2024, to ensure that all those that attended the public meeting could submit comments. Because the application was received after September 1, 2015, and declared administratively complete after September 1, 1999, it is subject to both the procedural requirements adopted pursuant to House Bill 801 76th Legislature 1999 and the TCEQ rules in 30 TAC Chapters 39 50 and 55 which implement the procedural requirements of Senate Bill 709 84th Legislature 2015.

ACCESS TO RULES - LAWS - RECORDS

Please see below the applicable rules and regulations for TPDES permits:

- All administrative rules: Secretary of State Website: www.sos.state.tx.us
- TCEQ rules: Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/
- (select TAC Viewer on the right then Title 30 Environmental Quality)
- Texas statutes: www.statutes.capitol.texas.gov
- TCEQ website: www.tceq.texas.gov (for downloadable rules in WordPerfect or Adobe PDF formats select "Rules Policy & Legislation" then "Current TCEQ Rules" then "Download TCEQ Rules");
- Federal rules: Title 40 of the Code of Federal Regulations (C.F.R.)
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40tab_02.tpl
- Federal environmental laws: <http://www.epa.gov/lawsregs/>

For information about this permit application or the permitting process please contact TCEQ's Public Education Program at (800) 687-4040 or the website below. The TCEQ's community outreach initiatives which aim to educate the public about

pollution prevention and water conservation can be found on the Take Care of Texas Program's website below

- <https://www.tceq.texas.gov/agency/decisions/participation/permitting-participation>
- www.takecareoftexas.org

El aviso de idioma alternativo en español está disponible en (Alternative language notice in Spanish is available at):

- www.tceq.texas.gov/permitting/wastewater/plain-language-summaries-and-public-notice

Commission records for this facility are available for viewing and copying at TCEQ's central office in Austin 12100 Park 35 Circle Building F 1st Floor (Office of Chief Clerk (OCC) for the current application until final action is taken. Some documents located in the OCC may also be found in the Commissioners' Integrated Database.

- www.tceq.texas.gov/goto/cid

The permit application has been available for viewing and copying at the Kyle Public Library located at 550 Scott Street, Kyle, Texas 78640 since publication of the NORI. The final permit application, proposed permit, statement of basis/technical summary, and the ED's preliminary decision have been available for viewing and copying at the same location since the publication of the NAPD.

The ED has determined that the proposed permit if issued meets all statutory and regulatory requirements and is protective of the environment, water quality and human health. However, if individuals wish to file a complaint about the proposed facility concerning its compliance with the provisions of its permit or with TCEQ rules the TCEQ's Office of Compliance and Enforcement (OCE) should be contacted. The TCEQ Regional OCE Office in Austin Texas (Region 11) may be contacted at (512) 339-2929 or the statewide toll-free number at 1-888-777-3186 to address potential permit violations. In addition, complaints may be filed electronically through the link to the TCEQ's compliance website below or sending an email to:

- complaint@TCEQ.Texas.gov.
- www.tceq.texas.gov/compliance/complaints

If an inspection by the TCEQ finds that the Applicant is not complying with all requirements of the proposed permit or that the proposed facility is out of compliance with TCEQ rules, enforcement actions may arise.

COMMENTS AND RESPONSES

For readability purposes the TCEQ's Water Quality Division is abbreviated below as "WQD;" treated domestic wastewater as "effluent;" a wastewater treatment facility as "WWTF;" the Texas Surface Water Quality Standards (30 TAC Chapter 307) as "TSWQS;" the TCEQ's *Procedures to implement the Texas Surface Water Quality Standards (June 2010)* as the "IPs;" the Edwards Aquifer Recharge Zone as "EA-RZ;" and the TCEQ rules found in Title 30 of the Texas Administrative Code generally as the "TCEQ Rules." The groups and entities the Greater Edwards Aquifer Alliance, Save Our Springs Alliance, Llano River Watershed Alliance, Barton Springs-Edwards Aquifer Conservation District, Save Barton Creek Association, the Coves of Cimarron Homeowners' Association, and

the cities of Austin, Buda, Hays, and Kyle as “GEAA, SOS, LRWA, BSEACD, SBCA, HOA, Austin, Buda, Hays, and Kyle” respectively.

COMMENT 1:

GEAA, SOS, SBCA, HOA, Austin, Buda, Hays, LRWA, BSEACD, Texas State Senator Donna Campbell, and the individuals listed below in Appendix A commented expressing concerns about the quality of the EA-RZ due to the effluent irrigation at the proposed facility and raised concerns about human health risks from contamination of water wells in the area. The comments state there have been studies of the area that show several karst features and relatively shallow soils that will lead to the irrigated effluent reaching the water table. Additionally dye tracing studies have shown that if the treated effluent were to reach groundwater there is a possibility of it reaching Barton Springs within five days.

The comments requested that the TCEQ deny the application because of TCEQ precedent denying similar applications because of the unique geologic features of the region. Austin requested that the Applicant be required to submit a Seeps/Springs Monitoring Plan to the TCEQ within 30 days of permit issuance

RESPONSE 1:

The TCEQ rules found at 30 TAC § 309.13(c) state that a treatment unit at the proposed facility may not be located closer than 500 feet from a public water well nor 250 feet from a private water well.

The Applicant applied for a Texas Land Application Permit which does not authorize the discharge of treated domestic wastewater into water in the state. Accordingly, the draft permit expressly prohibits the Applicant from discharging into waters in the state. Any deviation from the land application practices authorized in the draft permit would constitute noncompliance for which an enforcement action can be brought against the Applicant. If the proposed facility is constructed and operated as required by all applicable regulations and according to the draft permit water wells and drinking water supplies should not be impacted by the draft permit's issuance.

The draft permit includes limits based on a daily average of 5.0 mg/L BOD₅, 5.0 mg/L TSS, 2.0 mg/L NH₃-N, and 1.0 mg/L TP. The limits in the draft permit based on a single grab are 30.0 mg/L BOD₅ and 30.0 mg/L TSS, 15.0 mg/L NH₃-N, and 6.0 mg/L TP. These limits are designed to protect surface and groundwater quality.

Additionally, the draft permit includes several provisions to protect surface and groundwater quality using buffers including vegetated buffers from creeks, karst, and other recharge features; agronomic application rates; requirements to maintain crop health, pond liners, and underdrain leak detection system as well as weekly inspections of the irrigation fields.

Special Provision No. 19 requires that the wastewater treatment plant be designed, constructed, and operated in such a way that there are no bypasses of the treatment facilities or any discharges of untreated or partially treated wastewater.

Special Provisions No. 20 requires the Applicant to adhere to the buffer requirements contained in 30 TAC § 309.13, including the requirement to maintain a 150-foot buffer between land application areas and private water wells and a 500-foot

buffer between the land application areas and public drinking water, wells, and springs.

Special Provisions Nos. 21, 22, and 23 require a 100-foot vegetative buffer for waterbodies and water courses, a 500-foot buffer for an onsite spring, and a 250-foot buffer for caves, sinkholes, or other sensitive karst features. These features and their buffers are shown on the site map included in the draft permit. Special Provision No. 33 requires that the features be buffered as shown on the map and that tailwater controls be constructed to divert effluent from the buffers.

The draft permit includes several Special Provisions to address any recharge features discovered during excavation, construction, or operation of the facility. Special Provision 25 requires that any recharge features uncovered by construction and operational activities shall be addressed in an updated and certified Geological Assessment. The Geological Assessment must include the best management practices implemented that will prevent impact to recharge features from wastewater application and prevent groundwater contamination. Special Provision Nos. 26 and 28 require that a Texas-licensed Professional Geoscientist is available during the construction of any wastewater pond trenching or excavation activities. If any sensitive feature (caves, solution cavities, sink holes, etc.) is discovered during construction all activities regulated under 30 TAC Chapters 213, 217, and 309 near the feature shall be suspended immediately.

Special Provision No. 27 requires a Texas-licensed Professional Engineer to certify in writing that the permanent best management practices or measures to protect sensitive features and the aquifer were constructed as designed within 30 days of completion and prior to use of the pond.

The ED revised the draft permit to include Special Provision No. 35, which states that the permit may be reviewed by the ED upon review and approval of the WPAP and any subsequent modifications by the TCEQ Edwards Aquifer Protection Program. If issues arise that may require an amendment to this permit the Executive Director may reopen this permit to include new, or modify existing requirements, necessary to protect the Edwards Aquifer and any hydrologically connected surface water. Examples of issues include reclassification of any karst feature within the permitted irrigation fields or within 500 feet of a wastewater treatment plant unit to a sensitive rating requiring additional protective measures identification of new karst features within the permitted irrigation fields or within 500 feet of a wastewater treatment plant unit which may be determined to be sensitive or larger buffers or other best management practices than currently contained in this permit for features within the permitted irrigation fields or within 500 feet of a wastewater treatment plant unit.

To address the potential emergence of seeps and springs on the site Special Provision No. 24 requires that the presence of a seep within an irrigation field be reported to the TCEQ OCE Regional Office in Austin Texas (Region 11) and the Water Quality Assessment Team. If the seep appears to represent a shallow water table, the Executive Director may request that irrigation be suspended in the vicinity of the water table during its presence. If the suspension of irrigation results in exceeding the storage volume of the storage pond the permittee shall contract with a licensed hauler to pump & haul all excess water from the site. The ED has also revised the draft permit to include Special Provision No. 36 which requires submittal of a Seeps and Springs Monitoring Plan within 30 days of permit issuance.

For public water sources the provisions of 30 TAC § 309.13(c) bolster the safeguards from TCEQ's Groundwater Rule (GWR) that protect drinking water quality against disease-causing microorganisms.

The legislature has determined that "the goal of groundwater policy in this state is that the existing quality of groundwater is not degraded. This goal of non-degradation does not mean zero-contaminant discharge."¹ The Texas Water Code (TWC) Chapter 26 states "discharges of pollutants disposal of wastes or other activities subject to regulation by state agencies must be conducted in a manner that will maintain present uses and not impair potential uses of groundwater or pose a public health hazard" (TWC § 26.401(c)(2)).

However, the Ground Water Rule (GWR) does not address private wells because they are not under the jurisdiction of the federal Safe Drinking Water Act and thus are not subject to TCEQ regulation. TCEQ does recommend that well owners periodically test their water for microbial and chemical contaminants and properly maintain their well. It is the responsibility of the private well owner to take steps to have his or her water quality tested at least annually for possible constituents of concern or more often if the well is thought to have a surface water connection.

For further details about the information discussed in this paragraph please see the Ground Water Links section below. For more information on total coliform and *E. coli* compliance related to the Revised Total Coliform Rule and the GWR please see TCEQ's guidance *Coliform Monitoring Analyzing and Reporting Guide* (RG-421). If a well tests positive for fecal coliform bacteria please see Texas A&M AgriLife Extension's guidance *What to Do About Coliform Bacteria in Well Water* or TCEQ's guidance *Disinfecting Your Private Well*. For more information about testing private water wells please see the National Ground Water Association's *Water Testing*. For more information on groundwater contamination or reporting groundwater contamination please see the Texas Groundwater Protection Committee's (TGPC) webpages *Ground Water Contamination* and *Reporting Contamination*.

The TGPC may be contacted through email at tgpc@tceq.texas.gov through the TGPC website or at (512) 239-4600. However, for groundwater emergencies or to address potential permit violations please contact the TCEQ OCE Regional office in Austin Texas (Region 11) at 1-888-777-5800 or (512) 339-2929. In addition complaints may be filed electronically through the link to the TCEQ's compliance website below or sending an email to: complaint@TCEQ.Texas.gov. If an inspection by the TCEQ finds that the Applicant is not complying with all requirements of the proposed permit or that the proposed facility is out of compliance with TCEQ rules enforcement actions may arise.

➤ www.tceq.texas.gov/compliance/complaints

GROUND WATER LINKS

Coliform Monitoring Analyzing and Reporting Guide (TCEQ Regulatory Guidance-421)

➤ <https://www.tceq.texas.gov/downloads/drinking-water/microbial/rg-421.pdf>

National Ground Water Association's webpage for water testing

➤ <http://wellowner.org/water-quality/water-testing/>

¹ Texas Water Code § 26.401(b)

What to Do About Coliform Bacteria in Well Water

- <https://twon.tamu.edu/wp-content/uploads/sites/3/2021/06/what-to-do-about-coliform-in-well-water.pdf>

TCEQ publication: Disinfecting Your Private Well (GI-432).

- <https://www.tceq.texas.gov/downloads/drinking-water/preparedness-resources/gi-432.pdf>

Texas Groundwater Protection Committee (TGPC)

- <https://tgpc.texas.gov/>

TGPC's Groundwater Contamination and Reporting Contamination webpages

- <https://tgpc.texas.gov/groundwater-contamination/>
- <https://tgpc.texas.gov/groundwater-contamination/#3>

In Texas Public Water Supply systems are regulated by TCEQ's Water Supply Division. Please contact the Water Supply Division at (512) 239-4691 for more information. Beyond the recommendation to always properly maintain their well TCEQ recommends private well owners take steps to have their water quality tested routinely and periodically for microbial and chemical contaminants. However wells should be tested more frequently if under the influence of a nearby surface water or if contamination is suspected.

For more information on testing private water wells please see the National Ground Water Association website above. If your well tests positive for fecal coliform bacteria please see above the TCEQ publication: *Disinfecting Your Private Well*.

COMMENT 2:

GEAA, SOS, Buda, SBCA, BSEACD, and the individuals listed in Appendix B commented expressing concern about irrigated effluent from the proposed facility contaminating nearby surface water including Little Bear Creek. The comments reflected a concern that the transfer of effluent to the irrigation fields across Little Bear Creek will negatively impact the creek.

RESPONSE 2:

The draft permit does not authorize the discharge of pollutants to waters in the state and prohibits any unauthorized discharge. The draft permit includes provisions that are designed to protect surface water quality (such as run-on/run-off controls springs and seeps monitoring etc.). The draft permit also requires a minimum buffer distance of 100 feet between effluent irrigation areas and waterbodies and water courses as well as a 500-foot buffer for an onsite spring. Special Provision 15 in the draft permit requires that the physical condition of the irrigation fields will be monitored on a weekly basis when the fields are being utilized for the purpose of wastewater irrigation and shall not occur within 24 hours of a rainfall event. Any areas with problems such as surface runoff surficial erosion and stressed or damaged vegetation will be recorded in the field log kept onsite and corrective measures will be initiated within 24 hours of discovery.

COMMENT 3:

GEAA, Austin, BSEACD, Alonna Beatty, Annalisa Peace, Bill Oliver, Courtney Smith, Katie Coyne, Kyle Sorahan, Liz Johnston, Lucinda Stolzenburg, Michael Clifford Nicholas Littlejohn, Peter Cross, Timothy Loftus, and Valerie Menard commented expressing concerns about the potential of nitrogen and phosphorus to cause algae blooms in nearby surface water. They ask that ammonia nitrogen and total phosphorus limits be established to match those proposed in the permit application.

RESPONSE 3:

The ED revised the draft permit's limits for Ammonia Nitrogen and total phosphorus to 2.0 mg/L NH₃-N and 1.0 mg/L TP, the limits proposed by the Applicant in the Application.

Draft permit Special Provision No. 9 establishes that the application rate must not exceed 2.80 acre-feet/acre/year and must be verified to be agronomically appropriate based on information provided in the Application and specific site conditions. Additionally Special Provision No. 16 prohibits any runoff from the irrigation areas or ponding in the fields. Land application permits prohibit all effluent from contaminating any groundwater or surface water.

COMMENT 4:

GEAA, SOS, Annalisa Peace, Bobby Levinski, Courtney Smith, Nicholas Littlejohn, Victoria Rose, and William Bunch commented expressing concern that the effluent may contaminate the nearby surface water with fecal matter or bacteria and request that *E. coli* limits be established in the draft permit.

RESPONSE 4:

The draft permit does not authorize the discharge of pollutants to water in the state and prohibits unauthorized discharges. However, the draft permit does include provisions that are designed to protect surface water quality such as run-on/run-off controls and springs and seepage monitoring. The proposed permit also requires a minimum buffer distance of 100 feet between effluent irrigation areas and waterbodies and water courses as well as a 500-foot buffer for an onsite spring. The Application indicated that the effluent would be irrigated on 60 acres of non-public access land which the public would not have access to and would not be expected to be exposed to bacteria from the effluent.

COMMENT 5:

Hays, Theresa Clements-Lemman, and Darlene and Michael Starr commented expressing concern that treated effluent from the proposed facility could contain chemicals such as pesticides herbicides pharmaceuticals or "forever chemicals" that are dangerous for humans and the environment.

RESPONSE 5:

Neither TCEQ nor EPA has promulgated rules or criteria limiting emerging contaminants in wastewater. EPA is currently investigating emerging contaminants and

potential adverse human health effects from emerging contaminants in the environment. Removal of some emerging contaminants has been documented during municipal wastewater treatment; however standard removal efficiencies have not been established. In addition, there are currently no federal or state effluent limits for emerging contaminants. Accordingly, neither the TCEQ nor the EPA has rules on the treatment of contaminants in domestic wastewater including the “forever chemicals.”

However, any potential emerging contaminants in the effluent would be limited to the irrigation fields for which the TCEQ reviews the annual soil sampling and effluent sampling results submitted by applicants and then requires the applicants to design the irrigation rates according to water balance calculations based on the land application area’s soil and crop requirements. The irrigation rates are based on site-specific agronomic rates to ensure crop growth nutrient uptake and effluent retention in the soil which prevents effluent runoff seepage and ponding.

COMMENT 6:

SBCA, Austin, GEAA, SOS, Aaron Green, Annalisa Peace, Brian Zabcik, David Patterson, Gerald Haschke, James Camp, Kyle Sorahan, Liz Johnston, Lucinda Stolzenburg, Michelle Camp, Nicholas Paganini, Philip Brisky, Valerie Menard, Zephyr Rainey, and Darlene and Michael Starr commented expressing concern that the proposed facility will exceed the draft permit’s limits, its data collection, and monitoring requirements for the proposed facility are insufficient, and there’s a lack of staff to ensure the draft permit’s limits are not violated.

RESPONSE 6:

Applicants are required to analyze the treated effluent prior to land application and maintain monthly reports of the results of the effluent analyses and flow measurements for a minimum of three years. The Applicants may either collect and analyze the effluent samples themselves or it may contract with a third party for either or both the sampling and analysis. However, all samples must be collected and analyzed according to 30 TAC Chapter 319 Subchapter A Monitoring and Reporting System. The Applicant is required to further notify the agency if the effluent does not meet the permit limits according to the requirements in the permit. In addition, TCEQ regional staff may sample the effluent during routine inspections or in response to a complaint.

Except as allowed by 30 TAC § 305.132, the Applicant is also required to report an unauthorized discharge to TCEQ within 24 hours.² The Applicant will be subject to potential enforcement action for failure to comply with TCEQ rules or the permit.

COMMENT 7:

Candace Blake, Gerald McKnight, Linda McKnight, and Darlene and Michael Starr commented expressing concern that odors from proposed facility and irrigation fields will negatively affect their enjoyment of their property.

Theresa Clements-Lemman commented expressing concern that the proposed facility and irrigation fields will negatively affect the air quality of the area.

² Hays Commons Development, Inc. Draft Permit, Monitoring and Reporting Requirements, Item 7, page 6.

RESPONSE 7:

To control and abate odors the TCEQ rules require that facilities such as the proposed facility meet buffer zone requirements for the abatement and control of nuisance odors according to subsection (e) of 30 TAC § 309.13. That subsection provides three options called “nuisance odor control requirements” for controlling and abating odors; 1) by ownership of the buffer zone; 2) by restrictive easement(s) from the adjacent property owners for any part of the buffer zone not owned by the Applicant; or 3) by providing other odor controls.

According to the application the Applicant intends to comply with the requirement to abate and control nuisance of odor by locating the treatment units at least 150 feet from the nearest property line. This requirement is incorporated in the draft permit in Special Provision No. 6, and nuisance odors are not expected to occur because of the permitted activities at the facility if the Applicant operates the proposed facility according to the TCEQ’s rules and in compliance with the terms and conditions of the draft permit.

Further, the Applicant proposed in the application that the proposed facility will be a membrane bioreactor (MBR) facility which has shown itself to be capable of producing high quality effluent. When properly treated by the proposed MBR treatment process the effluent is not expected to have an offensive odor.

TCEQ is the agency responsible for enforcing air pollution laws. The Texas Clean Air Act provides that certain facilities may be exempt from the requirements of an air quality permit if upon review it is confirmed that those facilities will not make a significant contribution of air contaminants to the atmosphere and that human health and the environment will be protected. According to TCEQ rules in 30 TAC § 106.532 wastewater treatment plants have undergone this review and are permitted by rule provided the wastewater treatment plant only performs the functions listed in the rule. In its application the Applicant indicated that the treatment process of the proposed wastewater treatment facility would use the activated sludge process. This treatment process will not make a significant contribution of air contaminants to the atmosphere pursuant to the Texas Health and Safety Code’s (THSC) Texas Clean Air Act § 382.057 and § 382.05196 and is therefore permitted by rule.

COMMENT 8:

GEAA, Hays, Buda, Annalisa Peace, Jessica Grosek, and Kyle Sorahan commented expressing concern that the Applicant is not adhering to the TCEQ’s regionalization policy for treatment facilities.

RESPONSE 8:

Texas Water Code (TWC) § 26.081 enumerates the state’s regionalization policy by stating that it is to: “encourage and promote the development and use of regional and area-wide waste collection treatment and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.”

In furtherance of that policy TWC § 26.0282 authorizes the TCEQ when considering the issuance of a permit to discharge waste to deny or alter the terms and conditions

of a proposed permit based on need and the availability of existing or proposed area-wide or regional waste collection treatment and disposal systems.

Domestic Technical Report 1.1 (Report 1.1) of the application requires information concerning regionalization of permitted facilities (WWTFs). Applicants requesting a new permit or certain major amendments are required to review a three-mile area surrounding the proposed facility to determine if there is a permitted WWTF or sewer collection system with lines in the area that can be utilized. Applicants are required to contact those facilities and provide copies of all correspondence with them inquiring if the WWTF or collection system has the capacity or is willing to expand to accept the flow of wastewater proposed Report 1.1. If a WWTF within three miles has the capacity and is willing to accept the proposed flow applicants must submit an analysis of expenditures required to connect to that WWTF or collection system versus the cost of constructing the proposed facility or if relevant its expansion. Thus, when applicants provide documentation of correspondence with WWTFs or collection systems within three miles of a proposed facility that rejects an applicant's service request the ED will approve the application as it relates to TCEQ's Regionalization policy.

According to the Applicant's representations in the permit application:

1. The proposed development Hays Commons (HCs) lies mostly in Hays County.
2. Only a small portion of HCs lie in Travis County.
3. Areas proposed to be included in HCs do include land located within Hays' Extra Territorial Jurisdiction (ETJ).
 - a. However, Hays has no facilities capable of serving HCs.
4. Areas proposed to be included in HCs do include land located Austin's ETJ.
5. Austin is willing and has facilities with capacity to serve a portion of HCs; however, not the whole of HCs, and thus Austin declined to provide service.
6. No existing facilities agreed to accept the proposed volume of wastewater.

The documentation submitted by the Applicant and the representations made within demonstrate that connecting to an existing wastewater facility would be cost prohibitive compared to the cost of constructing the proposed facility.

COMMENT 9:

Annalisa Peace, Brian Zabcik, Carol Pennington, Chris Pesek, Darlene Starr, James Camp, Joshua Katz, Keith Whittington, Stacey Knight, and Victoria Rose commented expressing concern that there are deficiencies in the Application and that the Applicant did not follow the public notice process properly.

RESPONSE 9:

As provided by state law, a permittee is subject to administrative civil and criminal penalties as applicable for negligently or knowingly violating the Clean Water Act Texas Water Code §§ 26 27 and 28 and the Texas Health and Safety Code § 361 including but not limited to knowingly making any false statement representation or

certification on any report record or other document submitted or required to be maintained under the draft permit including monitoring reports or reports of compliance or noncompliance or falsifying tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

The permit application was declared administratively complete on September 5, 2023, and technically complete on March 12, 2024. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published on October 3, 2023, in the Austin American-Statesman. The Combined Notice of Public Meeting and Notice of Application and Preliminary Decision (NAPD) was published on June 12, 2024, in the Austin American-Statesman. According to the Applicant's Public Viewing Affidavit, a copy of the draft permit was made available on June 19, 2024, at the Kyle Public Library stated in the NAPD Notice.

COMMENT 10:

GEAA, SBCA, Austin, LRWA, Buda, SOS, BSEACD, and the individuals listed in Appendix C commented expressing concern that the irrigated effluent will oversaturate the soils of the area and lead to flooding during rain events and may lead to surface water contamination. The comments reflected uncertainty that there is a storm water runoff plan for the proposed facility.

RESPONSE 10:

TCEQ reviews the submitted annual soil sampling and effluent sampling results and requires the applicant to design the irrigation rates according to the land application site's soil and crop requirements and water balance calculations. The irrigation rates are site-specific and are based on agronomic rates to ensure crop growth nutrient uptake and effluent retention in the soil to prevent effluent runoff seepage and ponding. Also, the permit would require the analysis of the irrigation effluent a minimum of once per year for total Kjeldahl nitrogen (TKN) nitrate-nitrogen total potassium and electrical conductivity. The proposed permit would require the permittee to annually submit the laboratory results from these analyses to the TCEQ Water Quality Assessment Team (MC 150) and the TCEQ OCE Regional Office (Region 11) by the end of September of each monitoring year. Provision No. 13 in the draft permit states that the effluent must not be applied for irrigation during rainfall events or when the ground is frozen or saturated.

COMMENT 11:

SOS, BSEACD, Alonna Beatty, Bobby Levinski, Candace Blake, Darlene and Michael Starr, Nicholas Littlejohn, Nicholas Paganini, Patsy Pollock, Roslynn Spinn, Stuart Berkowitz, Timothy Loftus, Victoria Rose, and Willam Bunch commented expressing concerns about the wildlife and endangered species specifically two species of salamanders, bald eagles, and whooping cranes.

RESPONSE 11:

The proposed permit was drafted in according to the TSWQS and IPs which provide that surface waters cannot be toxic to aquatic or terrestrial organisms and states that waters in the state must be maintained to preclude adverse toxic effects on aquatic life

terrestrial wildlife livestock or domestic animals resulting from contact consumption of aquatic organisms consumption of water or a combination of all three. The TSWQS and the IPs specifically designate criteria for the protection of aquatic life that should preclude negative impacts to the health and performance of wildlife too.

Potential impacts to endangered terrestrial species do not specifically fall under the purview of the ED's technical review of the Application's wastewater disposal method however the requirements included in the draft permit that protect aquatic and aquatic-dependent endangered species should benefit terrestrial species too. The treated effluent will be limited to the irrigation fields with site-specific irrigation rates to ensure effluent retention in the soil which prevents effluent runoff seepage and ponding. Wildlife and the environment of nearby surface water bodies are expected to be protected. The ED has made a preliminary determination that the draft permit, if issued, meets all statutory and regulatory requirements.

The United States Fish and Wildlife Service (USFWS) and Texas Parks and Wildlife Department (TPWD) were both provided the opportunity to review the permit application and the draft permit. USFWS is the federal agency that oversees endangered species and its Southwest Regional Office in Albuquerque New Mexico can be contacted by calling Ecological Services at (505) 248-6911 or (505)-248-6454. TPWD is the state agency that oversees and protects wildlife and their habitat. It can be contacted by calling 1-800-792-1112 or by mail at 4200 Smith School Road, Austin Texas 78744.

COMMENT 12:

GEAA, LRWA, and the individuals listed in Appendix D commented that with the rapid growth of the region the Applicant must prioritize the existing community and use the land for a different purpose other than development. Candace Blake, Harvey Lee Davis, Theresa Clements-Lemman, and Ken Kurzawski commented that the proposed facility will negatively affect their property value.

RESPONSE 12:

The ED acknowledges the comments in opposition to the draft permit the proposed facility its location and the location of the land application or disposal site and the concerns expressed by all commenters. However the TCEQ is statutorily mandated by the Texas Water Code (TWC) § 26.028 (Action on Application) to begin processing applications for Texas Land Application Permits (TLAPs) when the application is received and to issue notices to the public of the progress of ED's processing of that application. Likewise, TWC § 26.027 makes clear that the TCEQ may issue permits for disposal and dispersal of wastewater adjacent to Waters in the State through the ED's evaluation of TLAP applications using the information provided in the application and recommending issuance or denial based on the application's compliance with the TWC TCEQ including TSWQS (30 TAC Chapter 307).

Applicants are the entity that proposes the location of a proposed facility and the land application areas or disposal site rather than the ED. Instead, the ED may only evaluate a location for a facility according to what is proposed in the application, the Location Standards of the TCEQ rules, and the impact of the effluent on soil density absorption and the nutrient needs of a disposal site. Likewise the TCEQ's authority does not include the ability to mandate a different location for a facility if the location

in the application complies with 30 TAC Chapter 309 Subchapter B (Location Standards) specifically 30 TAC § 309.13 pertaining to “Unsuitable Site Characteristics.”

If an applicant were to revise its application with a different location for the proposed facility and disposal area, the ED would reevaluate the new location of the proposed facility and disposal area to ensure that the permit contains proper limits and conditions for the revised locations which may require notice to additional landowners because of the new locations

The ED advocates for and encourages public participation in the environmental permitting process and appreciates participation from all the citizens that do. Although the ED gives due consideration to public input and participation in the permitting process, the scope of the TCEQ’s jurisdiction for reviewing TLAP applications is limited to what information the Texas Water Code allows the TCEQ to require and evaluate. Thus, there are certain concerns of citizens that the ED cannot address as part of the technical review for a TLAP application; and while the ED understands the significance of these concerns, she does not have the authority to address these concerns in the context of a TLAP. While the ED understands the significance of these concerns, the ED is limited to providing pollution control by limiting the disposal and dispersal of pollutants through a TLAP permit which accounts for site-specific information and provides protection to “waters in the state” which the TWC defines as to mean groundwater percolating or otherwise.¹⁹ More specifically, TLAP permits establish terms and conditions that apply pollution control based on TCEQ’s water quality pollution control; as such the water quality permitting process is limited to controlling the disposal and dispersal of pollutants adjacent to waters in the state.

Additionally, while the Texas Legislature has given the TCEQ the responsibility to protect water quality, and the TWC authorizes the TCEQ to issue TLAPs to provide water quality pollution control by limiting the disposal and dispersal of pollutants adjacent to waters in the state if water quality is maintained, the Commission and the ED in their respective determinations of whether to issue a TLAP permit do not have jurisdiction to address or consider property values, the marketability of surrounding areas, availability of public utility services, types of developments, and their anticipated sizes unless related to a permit violation.

Alternatively, the issues raised by the commenters are more appropriately addressed by departments within local governmental entities, such as the Counties of Hays and Travis and other local governmental entities. For more information please visit the websites or the phone numbers listed below related to the issue raised.

Development Concerns

- <https://www.traviscountytx.gov/tnr/development-services>
- <https://www.hayscountytx.gov/development-services>
 - <https://www.hayscountytx.gov/development-services-documents-and-forms>

Utility Information

- <https://www.aquawater.com/all-about-water-wastewater/wastewater>
 - <https://www.aquawater.com/contact-us>

In addition, TCEQ's Resource Protection Team may be contacted to identify and contact the appropriate local or county officials or offices by calling (512) 239-4600 or by email listed below.

➤ wcp@tceq.texas.gov

Neither the scope of TCEQ's regulatory authority nor the draft permit prevents landowners from seeking relief from a court in response to activities that interfere with the landowner's use and enjoyment of their property or their quality of life. Likewise, nothing in the draft permit limits the ability of nearby landowners to use common law remedies for trespass, nuisance, or other causes of action in response to activities that may or do result in injury or adverse effects on human health or welfare animal life vegetation or property. If the Applicant's activities create any nuisance conditions the TCEQ may be contacted to investigate whether a permit violation has occurred. Potential permit violations may be reported to the TCEQ's Regional OCE office at (512) 339-2929 or toll-free at 1-888-777-3186. Citizen complaints may be filed online by sending an email to: complaint@TCEQ.Texas.gov or by visiting the website address below.

➤ <https://www.tceq.texas.gov/compliance/complaints>

CHANGES MADE IN RESPONSE TO COMMENTS

The ED made the following changes to the draft permit.

- The addition of Special Provisions Nos. 35-38.
- The Revision of Special Provision No. 10.
- The Revision of the Effluent limits for Ammonia Nitrogen and Total Phosphorus.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



Michael T. Parr II Staff Attorney
Environmental Law Division
State Bar No. 24062936
P.O. Box 13087 MC 173
Austin Texas 78711 3087
Telephone No. 512-239 0611
Facsimile No. 512-239-0626
REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on May 27, 2025, the Executive Director's Response to Public Comment for Permit No. WQ0016373001 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Michael T. Parr II *Staff Attorney*
Environmental Law Division
State Bar No. 24062936

Attachment A
Individual Commentors for Comment 1

Aaron Green	Gerald Haschke	Matt Ruff
Aggie L McAlester	Gerald McKnight and Linda McKnight	Micah Grau
Aimee Lakey	Glenda Matthews	Michael Clifford
Alexis Tancredo	Greg Jenkins	Michael Starr
Amanda Rainey	Harvey Lee Davis	Michelle Camp
Amy Pancake	James Talbot	Monica Mugan
Andrew Brunone	Jason Hall	Nicholas Littlejohn
Ann Clearkin	Jeff Grubert	Nicholas Paganini
Annalisa Peace	Jeff Ross	Nicholas Thomas
Annelouise Tookoian	Jennifer M Muir Johnson	Norma Grubert
Barbara Dare White	Jessica Grosek	Pat N Crawford
Barbara Reeves	Jessica N Hirn	Patsy Pollock
Beth A Bernhard	Jim Camp and Elizabeth Camp	Paula Perlman and Jonathan Ayres
Bill Oliver	Joann B Depenning	Philip Brisky
Bob Caldwell	Jodi Brock-Bates	Phillip Neil Mercer
Bobby Levinski	Joel Pollock	Richard P Taylor
Brenda K Lozano	Joel Thomas Depenning	Rob Novak
Brian Zabcik	Justin McCorkle	Robin T Perry
Candace Blake	Karen Aboussie	Rosie Khan
Carol Pennington	Katie Coyne	Roslynn McDougal Spinn
Carolyn Wood	Keith Whittington	Rudye McGlothlin
Carrie Napiorkowski	Kelly Lowder	Sally Cassell Duval
Charles L Tuttle	Ken Kurzawski	Stacey A Knight
Chris Pesek	Kendra Potts	Stuart Berkowitz
Cindy S Symington	Krista Hall	Teresa Becker
Colleen Theriot	Kyle Sorahan	Theresa Clements-Lemman
Courtney Craig Smith	Layton Depenning	Tiffany Novak
Darlene Starr and Michael Starr	Leonard Rice	Timothy T Loftus
Darren Bien	Leslie Knight	Tina Valdez
David Michael Hixon	Linda Fawcett	Tobie Tucker
David Patterson	Linda Scullary	Tom E Lemman
David Perelstein	Lisa Schlegel	Valerie Menard
David Stewart	Liz Johnston	Valerie Trombley
Deborah Arellano	Lois Wright	Victoria Ann Rose
Diana Cunningham	Lucia Carracedo	Willam G Bunch
Donna Campbell, Texas State Senator	Lucinda L Stolzenburg	William A Rodriguez
Edward J Reynolds	Lydia Bryan-Valdez and Antonio Sanchez Valdez	Zephyr Rainey
Elisa Garber	Mark Alan Holloway	
Elizabeth Camp and Jim Camp	Mark Chun	
Eloy Valdez	Mark Cuda	
Eva Lorini	Marta E Knight	

Attachment B
Individual Commentors for Comment 2

Aaron Green	Mark Alan Holloway
Alonna Michelle Beatty	Micah Grau, representing City of Buda
Annalisa Peace	Michael Clifford
Barbara Reeves	Michelle Camp
Bill Oliver	Nicholas Littlejohn
Bobby Levinski	Nicholas Paganini
Candace Blake	Norma Grubert
Carol Pennington	Peter Cross
Carrie Napiorkowski	Theresa Clements-Lemman
Courtney Craig Smith	Timothy T Loftus
Darlene Starr and Michael Starr	Tom E Lemman
Elizabeth Camp and Jim Camp	Victoria Ann Rose
Glenda Matthews	Willam G Bunch
Jacob Hendrickson	
Jennifer M Muir Johnson	
Jessica Grosek	
Jim Camp and Elizabeth Camp	
Joel Pollock	
Karen Aboussie	
Laura Borst	
Linda Scullary	

Attachment C

Individual Commentors for Comment 13

Annalisa Peace
Bill Knight
Bobby Levinski
Brian Zabcik
Darlene Starr and Michael Starr
Greg Jenkins
Jessica Grosek
Jim Camp and Elizabeth Camp
Katie Coyne
Keith Whittington
Kyle Sorahan
Linda Fawcett
Lucinda L Stolzenburg
Micah Grau
Michael Clifford
Nicholas Littlejohn
Peter Cross
Stacey A Knight
Theresa Clements-Lemman
Timothy T Loftus
Tom E Lemman
Valerie Menard
Victoria Ann Rose
Willam G Bunch

Attachment D

Individual Commentors for Comment 14

Amy Pancake
Annalisa Peace
Barbara Reeves
Beth A Bernhard
Brenda K Lozano
Colleen Theriot
Darlene Starr and Michael Starr
David Patterson
David Perelstein
David Venhuizen
Elizabeth Camp and Jim Camp
Greg Jenkins
Harvey Lee Davis
Joel Pollock
Leslie Knight
Linda Fawcett
Lisa Schlegel
Lois Wright
Michael Starr
Paula Perlman and Jonathan Ayres
Rosie Khan
Sally Cassell Duval
Teresa Becker

Attachment E
Individual Commentors for Comment 15

Aimee Lakey	Jessica N Hirn
Alexis Tancredo	Jim Camp and Elizabeth Camp
Andrew Brunone	Joel Thomas Depenning
Annalisa Peace	Joshua D Katz
Annelouise Tookoian	Karen Aboussie
Barbara Reeves	Katie Coyne
Brenda K Lozano	Kelly Lowder
Candace Blake	Kendra Potts
Carol Pennington	Krista Hall
Carolyn Wood	Lois Wright
Charles L Tuttle	Lucia Carracedo
Darren Bien	Lydia Bryan-Valdez and Antonio Sanchez Valdez
David Patterson	Mark Alan Holloway
Diana Cunningham	Monica Mugan
Elizabeth Camp and Jim Camp	Paula Perlman and Jonathan Ayres
Eloy Valdez	Philip Brisky
Gerald Haschke	Stuart Berkowitz
Gerald McKnight and Linda McKnight	Tiffany Novak
Glenda Matthews	Tina Valdez
Jason Hall	Valerie Trombley
Jeff Ross	