

# N-Hays Investors Easement Documentation Report

City of Austin

Approximate 1,558-acre Conservation Easement

Hays County, Texas



Prepared by:  
Bosse & Turner Associates  
606 Blanco Street, Austin, Texas 78703

February 8, 2008

# TABLE OF CONTENTS

<b>PROPERTY CONDITION CERTIFICATION .....</b>	<b>iii</b>
<b>EASEMENT DOCUMENTATION REPORT</b>	
<b>1.0 INTRODUCTION.....</b>	<b>1</b>
<b>2.0 BACKGROUND AND OBJECTIVES.....</b>	<b>1</b>
<b>2.1 Location.....</b>	<b>2</b>
<b>2.2 Jurisdiction.....</b>	<b>2</b>
<b>2.3 Adjacent Land Uses .....</b>	<b>2</b>
<b>3.0 PROTECTED PROPERTY DESCRIPTION.....</b>	<b>2</b>
<b>3.1 Geology.....</b>	<b>3</b>
<b>3.2 Soils.....</b>	<b>3</b>
<b>3.3 Topography.....</b>	<b>4</b>
<b>3.4 Slopes.....</b>	<b>4</b>
<b>3.5 Hydrology.....</b>	<b>4</b>
<b>3.6 Vegetation.....</b>	<b>4</b>
<b>3.7 Wildlife.....</b>	<b>5</b>
<b>4.0 NO DEVELOPMENT ZONES .....</b>	<b>6</b>
<b>5.0 EXISTING DEVELOPMENT.....</b>	<b>8</b>
<b>5.1 Manmade Improvements and Impervious Cover.....</b>	<b>8</b>
<b>6.0 PROTECTED PROPERTY PHOTOGRAPHS.....</b>	<b>10</b>
<b>7.0 SUMMARY.....</b>	<b>10</b>
<b>8.0 REFERENCES.....</b>	<b>11</b>

## **APPENDIX A – ORIGINAL CONSERVATION EASEMENT DOCUMENT**

## **APPENDIX B – FIGURES**

- Figure 1: Context Map with Recharge Zone**
- Figure 2: USGS Topographic Map**
- Figure 3: Landiscor 2006 Aerial**
- Figure 4: Geology**
- Figure 5: Soils**
- Figure 6: Elevation**
- Figure 7: Slope**
- Figure 8: Edwards Aquifer with Stream Network**
- Figure 9: 100yr Floodplain and Stream Buffers**
- Figure 10: Recharge Features**
- Figure 11: Springs and Wetland Features**
- Figure 12: Confirmed GCW Habitat**
- Figure 13: No Development Zones Compilation**
- Figure 14: No Development Zones Summation**
- Figure 15: No Development Zone B&W**

## **APPENDIX C – PHOTO EXHIBITS**

- Photo Index 1: Landscapes and Natural Features**
- Photo Index 2: Existing Ranch Complex**
- Photo Index 3: Existing Manmade Improvements**

## **APPENDIX D – TABLES**

- Table 1: Photo Index 1 Coordinate Locations**
- Table 2: Photo Index 3 Coordinate Locations**
- Table 3: Recharge Features Coordinate Locations**
- Table 4: Spring, Seep and Wetland Coordinate Locations**

## PROPERTY CONDITION CERTIFICATION

This is to certify that **N-Hays Investors I, LP**, a Delaware limited partnership, (“*Grantor*”) and **The City of Austin**, a Texas municipal corporation, (“*Grantee*”) do hereby accept and acknowledge that the attached Easement Documentation Report contains a natural resources inventory that is an accurate representation of the Protected Property and an accurate description of the current land uses and physical features on the Protected Property, all as of \_\_\_\_ February 2008. This report contains 12 text pages, 15 exhibits, 3 photographic indexes, and 4 coordinate tables.

Grantor and Grantee further certify that to the best of their knowledge there have been no activities on the Protected Property which are inconsistent with the terms and covenants contained in the Conservation Easement Agreement executed by Grantor and Grantee and recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Real Property Records of Hays County, Texas.

### **GRANTOR:**

**N-Hays Investors I, LP**, a Delaware limited partnership,

By: **NHI I, GP, LLC**, a Delaware limited liability company, as its sole general partner

\_\_\_\_\_  
Garry Vacek, Sole Member

### **GRANTEE:**

**The City of Austin**, a Texas municipal corporation,

By: \_\_\_\_\_  
Kevin Thuesen, Ph.D., Environmental  
Conservation Program Manager/WQPL  
Austin Water Utility Department

**ACKNOWLEDGEMENTS**

THE STATE OF TEXAS §

COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by Garry Vacek, Sole Member of **NHI I, GP, LLC**, a Delaware limited liability company, as **N-Hays Investors I, LP's** sole general partner, a Delaware limited partnership, on behalf of said limited partnership.

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF \_\_\_\_\_ §

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by Kevin Thuesen, Ph.D., Environmental Conservation Program Manager/WQPL, Austin Water Utility Department, **City of Austin**, a Texas municipal corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public, State of Texas

# EASEMENT DOCUMENTATION REPORT

## 1.0 INTRODUCTION

Bosse & Turner Associates, Inc. (BTA) has prepared this Easement Documentation Report (EDR) on behalf of the Grantor to support a Conservation Easement (CE) over an approximate 1,558-acre portion of the N-Hays Investors I, LLP Tract in Hays County, Texas (Protected Property) to be held by City of Austin (COA).

The purpose of this EDR is to provide baseline information regarding the condition of the Property as of the date of the Conservation Easement, to provide a natural resources inventory of the Property, to describe the presence and location of various manmade and environmental features on the Protected Property and determine areas where future development may not occur through the delineation of No Development Zones (NDZ) in accordance with accepted professional practices and descriptions outlined in the CE. Background information compiled for this report includes desktop investigation of available data contained within several federal, state, and local databases. In addition, this report utilizes information contained within multiple environmental analysis of the Protected Property. Finally, field visits were conducted by BTA personnel on December 16 and 18, 2007, to capture existing conditions by means of a photographic inventory and document the Protected Property's existing improvements. The EDR provides a baseline survey of the various features on the Protected Property so that comparative assessments and monitoring can be conducted at future dates regarding the status of the Protected Property and evaluate compliance with the CE restrictions.

## 2.0 BACKGROUND AND OBJECTIVES

Protection of the Recharge Zone of the Barton Springs segment of the Edwards Aquifer is significant for the preservation of water quality and quantity within the aquifer, protection of the rare species that depend on clean water from the aquifer, and cultural resources that depend on clean water from the recharge zone including Barton Springs Pool. The N-Hays property is a 1,558-acre tract located almost entirely within the Barton Springs segment of the Edwards Aquifer Recharge Zone with entitlements of over 2,000 single family dwelling units. Formerly part of the Rutherford Ranch, the tract has traditionally been used for ranching and livestock grazing. The site is considered of high conservation value because of existing entitlements, its position over the recharge zone, the existence of numerous recharge and spring features, proximity to existing protected lands, and increasing development pressures related to the growth of Austin, Dripping Springs, Buda and Kyle.

The CE will extinguish specific development entitlements, allow for the development of 15 residential complexes, and conserve areas of the property that are critical to maintain recharge quantity and quality in the Barton Springs segment of the Edwards Aquifer through the delineation of No Development Zones. The property will become part of a protected open space network in the Recharge Zone extending from the Onion Creek Natural Area in Hays County to Barton Springs in the City of Austin.

## **2.1 Location**

The Protected Property is located in northern Hays County as seen in Figure 1. The property is on the north side of FM 967 in Hays County, Texas. The gate is approximately 3.7 road miles east from the intersection of 967 and 1826, and 8.6 road miles west from the intersection of I-35 and FM 967 in Buda. The site is bisected by the Mountain City and Signal Hill USGS 7.5-minute map quadrants. A composite USGS topographic map of the property is shown in Figure 2.

## **2.2 Jurisdiction**

The Protected Property is entirely within the Dripping Springs extraterritorial jurisdiction. It is additionally subject to all applicable county, state, and federal laws and regulations.

## **2.3 Adjacent Land Uses**

Below is a list of adjacent landowners and subdivisions taken from the Holt Carson survey completed December 2007. Future information regarding adjacent landowners should be obtained from the Hays County Appraisal District. Adjacent Landowners and subdivisions include: Church of International Society of Divine Love, Constance C. Austin, Goldenwood Section I, Goldenwood Section II, SGL Investments, Ltd., Bear Creek Estates, Section Two, and Krasovec-Reunion Hays County Joint Venture. The City of Austin will be the land owner on the majority of the eastern board of the Protected Property.

No major avenues of evident or routine trespass were noticed along 967, Crosscreek Drive, or residential edges. However, two lots along the western boundary in Goldenwood Section II have land practices that are potentially adverse to conservation values on the Protected Property. As seen in Photo Index (PI) PI3-9 and PI3-10, bare soil within a horse corral is immediately adjacent to the property line, as well as soil stockpiles that have the potential to erode into recharge features. In addition, as seen in PI3-11, an adjacent land owner has built a structure with an approximate 2,200 sq ft (0.05 ac) footprint with an unguttered metal roofline extending over the boundary of the Protected Property by approximately two feet. The roof drains entirely onto the Protected Property.

## **3.0 PROTECTED PROPERTY DESCRIPTION**

The tract occurs on the Edwards Plateau of Central Texas with a majority of the property gently sloping to the southeast in the Little Bear Creek watershed, and the northernmost portion of the property dropping more steeply to the northwest in the Bear Creek watershed. The property is shown from a 2006 Landiscor aerial image in Figure 3.

### 3.1 Geology

A number of studies have evaluated the geology of the Protected Property. Barnes (1974) defined the entire property as part of the Fredericksburg Group (Kfr) deposited during the late cretaceous period. This includes Edwards Limestone, Comanche Peak Limestone, Keys Valley Marl, Cedar Park Limestone, Bee Creek Marl, Walnut Formation undivided, and Fredericksburg group undivided (Barnes 1974). Barnes (1974) shows two plates of Kfr adjacent to one another running southwest to northeast on the property. Additionally Barnes (1974) records a fault along the southeast portion of the property.

More recently, SWCA (2001) evaluated the geology of the property as part of “Hydrogeologic Classification of Karst Features on the approximately 2,724-acre Cypress Creek Property, Hays County, Texas”. SWCA (2001) classified the Protected Property as three fault blocks associated with the faults described by Barnes (1974) as seen in Figure 4. SWCA found the upper elevations in fault block 1 as part of the Edwards group (Keb) and the lower elevation in the walnut marl (Kwa). This same pattern occurs in fault block 2 with the higher elevations in the Edwards Group and the lower elevations in the walnut marl (Kwa) (SWCA 2001). Approximately 1,223 acres of the property have exposed Edwards group, with the remainder, 335 acres, having exposed walnut marl.

Other sources of geologic data for the site include a U.S. Geologic Survey map (USGS 1996). An updated version of this map can be seen at the Barton Springs Edwards Aquifer Conservation District website <http://www.bseacd.org/maps2.html> (BSEACD 2007).

### 3.2 Soils

The surface of the Protected Property is composed of very shallow to shallow, well drained soils occurring on rolling upland terrain. Depth to bedrock typically ranges from 0 to 20 inches, with coarse rock fragments common and numerous rock outcrops. Overall permeability of the soils is moderately slow to moderate, with runoff potential increasing as slope increases. Well suited uses include livestock grazing and low-intensity rural residential. A total of four soil units within the Brackett-Comfort-Real and Comfort-Rumple-Eckrant soil associations are found within the property and can be seen in Figure 5 (USDA 1984).

From Soils of Comal and Hays Counties, Texas (USDA 1984)			
Map Unit Symbol	Map Unit Name	Acres in Property	Percentage of Property
BtD	Brackett-Rock Outcrop-Comfort Complex, 1 - 8% slopes	254 ac	16 %
CrD	Comfort-Rock Outcrop Complex, 1 - 8% slopes	373 ac	24 %
RUD	Rumple-Comfort Association, 1 - 8% slopes	899 ac	58 %
TaB	Tarpley Clay, 1 - 3% slopes	32 ac	2 %
Total for Property		1,558 ac	100 %

### **3.3 Topography**

The Mountain City and Signal Hill, Texas 7.5 minute USGS Topographic Quadrangle Maps (published in 1968 and 1986, respectively) display the Protected Property as having an elevation range from approximately 885 to 1,085 feet above mean sea level (msl) as seen in Figure 2. The highest elevation occurs along the north-central western boundary, with the lowest elevations occurring in the southeastern corner along a tributary of Little Bear Creek. This agrees with the National Elevation Dataset, 10-meter resolution, which shows an approximate elevation range from 883 to 1,086 feet above msl (USGS 2007). An elevation model with 10-foot contours can be seen in Figure 6.

### **3.4 Slopes**

A slope analysis of the Protected Property was performed using the available 10-meter digital elevation data (USGS 2007). Slopes were divided into four categories: under 15% slopes, 15-25% slopes, 25-35% slopes, and slopes greater than 35%, as seen in Figure 7. Steep slopes are predominately found in the northern portion of the property in the Bear Creek Drainage. Assessed by slope category, the vast majority of the property has slopes less than 15%; 28 acres have slopes from 15-25%; 3 acres have slopes from 25-35%; and 0.4 acres have slopes greater than 35%. In total, approximately 32.6 acres, 2.1%, of the Property have slopes greater than 15%.

### **3.5 Hydrology**

The Protected Property is in the Little Bear Creek and Bear Creek watersheds with the majority of the property draining gently to the southeast towards Little Bear Creek. Approximately 263 acres drain to Bear Creek, with 1,295 acres draining to Little Bear Creek.

The Protected Property occurs predominantly within the Edwards Aquifer Recharge Zone (approx. 1,452 acres), with the remainder in the Contributing Zone (approx. 106 acres) (TCEQ 2005) as seen in Figure 8. The delineation of recharge to contributing zone is primarily based on elevation and exposed Edwards limestone (SWCA 2001). Using information from the 2006 ACI Consulting karst feature assessment of the Protected Property, the City of Austin Watershed Protection and Development Review Department (WPDRD) verified the location of 47 potential recharge features on the property. In addition, WPDRD identified 12 springs and seeps, and 48 wetland areas on the Protected Property.

SWCA (2001) suggested that some portions of the property are “perched aquifers” which drain to the many springs found on the property at the intersection of the Edwards and Walnut Groups and then drain again into portions of the Edwards geologic member on and off property.

### **3.6 Vegetation**

The Protected Property is in the Edwards Plateau ecoregion. Approximately 2,300 vascular plants are native to the Edwards Plateau with 200 introduced. Ten percent of those plants are endemic (Johnston 1997). Because of the flora’s richness and rarity, the Edwards Plateau is one of four areas in the United States considered a Center of Plant Diversity (Davis 1997).

The vegetation in the area has been modified extensively by land uses associated with livestock grazing and limited farming. Regional observations of notable vegetation change began as early as the 1820s, with sharp declines in some native plants observed as early as the 1860s (Doughty 1983). As a result of historic land uses and management techniques associated with ranching, preferred browsing plants and a diverse native flora have given way to the dominance of less desirable plants including juniper and King Ranch bluestem.

The Protected Property is made up of areas that vary from open to closed savannah to woodlands. The predominant vegetation on the property is Live Oak-Ashe Juniper Woods (McMahan et al. 1984). Dominant woody species include: live oak (*Quercus fusiformis*), ashe juniper (*Juniperus ashei*), Texas oak (*Quercus texana*), and on this particular property cedar elm (*Ulmus crassifolia*) (Diamond et al. 1997). Other associated species include evergreen sumac, green briar, twist leaf yucca, elbow bush, prickly pear cactus, and grasses. In addition some of the property shows characteristics of the Live-Oak-Ash Juniper Parks that has many of the same species as the woodland with woody species found in mottes around grasslands that traditionally include little bluestem, curley mesquite, Texas grama, Halls panicum, purple three-awn, and hairy tridens (McMahan et al. 1984).

Traditionally, tall grasslands were found in flatter areas with good soil on the Edwards Plateau with midsize grasses in areas with more topographic relief or less soil (Johnston 1997). Fire historically maintained grass systems in flatter areas and confined woody species to steeper areas. Fire has been used in portions of the property, presumably to maintain grass systems or reduce the dominance of King Ranch bluestem. The property's grasslands are dominated by King Ranch bluestem which is considered an invasive exotic. Other grasses found on the property include, but are not limited to, little bluestem, silver bluestem, Indian grass, buffalo grass, and Texas winter grass.

The savannah communities of the property are contrasted with the steep slopes dominated by mixed woodlands in some of the drainages along the northern portion of the property. These areas of steep slopes with spring-fed water create some of the most unique habitats associated with the Edwards Plateau (Riskind and Diamond 1986). The stream sides and creek bottoms provide additional resources to allow a variety of mesic plants to grow including: sycamore, bushy bluestem, and muhly grasses.

### **3.7 Wildlife**

Wildlife known to occur on the Protected Property is consistent with species common to the Central Texas region. Consultants for previous owners repeatedly observed the golden-cheeked warbler (*Dendroica chrysoparia*) at two locations on the Protected Property from 1999 to 2005 during its breeding season (SWCA 2005). The black-capped vireo (*Vireo articaquila*) has not been observed on the Protected Property to date; however, the bird is known to utilize portions of the City of Austin Hays Ranch to the east (SWCA 2005). Feral hog use of springs and wetlands is evident throughout the Protected Property with many of these areas utilized as wallows. Fire ants were noted over the entirety of the property in low mound densities.

As part of ongoing wildlife management activities for 1-d-1w wildlife valuation, the current owner has installed several bird houses, rainwater cistern watering stations, feeders, and bat boxes throughout the property. Additional 1-d-1w related activities include but are not limited to an annual song bird census performed by the owner's consultants. Cattle were

removed from the property in 2006 (Plateau 2006). Goals of the wildlife management plan include creation of food plots, watering stations and habitat enhancement.

#### **4.0 NO DEVELOPMENT ZONES**

The Easement Documentation Report (EDR) includes results of a desktop investigation and field verification of environmental and manmade features located on approximately 1,558 acres of the N-Hays Tract in Hays County, Texas (Protected Property). An analysis of features significant to the objectives of the conservation easement has resulted in these features and the areas surrounding them being included as part of the No Development Zones (NDZ).

The No Development Zones are composed of the following elements:

1. Buffers surrounding sensitive recharge, springs, or wetlands features
2. Habitat of significant or rare species
3. 100-year Floodplains
4. Water Quality Stream Buffers
5. Slopes greater than 15%

Information pertaining to known significant recharge features and potential recharge features was collected by ACI (2006) and confirmed by City of Austin Staff in 2007. A total of 47 features were identified for inclusion in the NDZ area as seen in Figure 10. To ensure protection of the quality and quantity of water reaching these features, buffers were created around each of these features, ranging from 50 to 300 feet as seen in Table 3, Appendix D.

Buffers on six recharge features, F-09, F-10, F-11, F-19, F-20, and F-87, adjacent to the existing paved driveway, were adjusted to allow for the use of the existing paved driveway alignment, where feasible, in future development of the site. The process entailed creating a 350 foot buffer around each of the features and cropping that buffer on the driveway side 50 feet from the centerline of the existing paved driveway. These adjustments allow for greater protection of overland water flows to the recharge features near the driveway by increasing the overall and upslope area contained within the buffers. In addition, these adjustments will result in less overall manipulation of the site during development by allowing for the use of existing infrastructure. Changes in area to each of the six feature buffers adjusted can be seen in the table below.

### Net Buffer Area Change for Features Near Existing Paved Driveway

Feature	Landscape Position from Existing Paved Driveway	Potential for Recharge Waters from Driveway	Net Increase (sqft)
F-87	Upgradient	No	35,144
F-09	Parallell	Unlikely	15,114
F-10	Upgradient	No	53,042
F-11	Upgradient	No	62,559
F-19	Upgradient	No	32,042
F-20	Upgradient	No	46,367
Total Net Buffer Enlargement			244,268
			5.61

sqft  
acres

The recharge feature buffers total 172.4 acres within the Protected Property. It should be noted that 300-foot buffers exceed the common requirements of the Texas Commission on Environmental Quality.

Locations of springs, seeps, and wetlands were obtained from the City of Austin WPDRD. Through field reconnaissance they identified 60 features to be included in the NDZ, each with a buffer of 150 feet as seen in Figure 11. Buffers for springs, seeps, and wetlands comprise 74.9 acres.

Bird surveys conducted in 1999, 2002, 2003, 2004, and 2005 identified two areas of confirmed golden-cheeked warbler (*Dendroica chrysoparia*) habitat (SWCA 1999, SWCA 2005). These two patches of habitat consist of 118 acres and are shown in Figure 12.

In addition to protecting sensitive features, areas in proximity to waterways were included as part of the NDZ to ensure water quality conservation goals are met. These additional NDZ areas included the 100-year floodplain and stream buffers. The 100-year floodplain was defined through the Federal Emergency Management Agency (FEMA) Flood Insurance Rate maps as seen in Figure 9 (CAPCOG 2007). Total area of the floodplain on the property is approximately 95.4 acres.

To protect water quality within the property, and therefore potential recharge into the Edwards Aquifer, water quality stream buffers have been included as part of the NDZ. The stream buffer delineation called for in the CE complies with the Dripping Springs Water Quality Ordinance—the property lies within the extraterritorial jurisdiction of Dripping Springs. These water quality stream buffers allow for a riparian buffer that stabilizes stream banks, reduces erosion, controls flooding, and improves water quality of overland flow. Streams were defined as those waterways included in the National Hydrography Dataset. Buffers were delineated as follows:

- Streams draining 1280 acres or greater should have a minimum buffer of 400 feet from the centerline on each side of the stream;

- Streams draining 1280 to 640 acres should have a minimum buffer of 300 feet from the centerline on each side of the stream;
- Streams draining less than 640 acres but 320 or more acres should have a minimum buffer of 200 feet from the centerline on each side of the stream;
- Streams draining less than 320 acres but 160 or more acres should have a minimum buffer of 100 feet from the centerline on each side of the stream; and
- Streams or swales draining less than 160 acres but 50 or more acres should have a minimum buffer of 50 feet from the centerline on each side of the drainage.

Using a combination of the above criteria, an elevation model, a modified stream network based on the CAPCOG stream network (CAPCOG 2007), and the ArcHydro extension in ArcGIS 9.2, stream buffers were created as seen in Figure 9. The total area of the water quality stream buffers is 167.0 acres.

Areas above 15% slope are included as part of the NDZ to protect recharge water quality by reducing the potential of erosion, as well as protecting scenic vistas and unique habitats associated with steep slopes. The total area with slopes greater than 15% is 31.7 acres.

A total of 454.2 acres (29.1%) of the Protected Property is captured within the NDZs. These elements are compiled in Figure 13, summarized in Figure 14, and are shown in black and white in Figure 15.

## **5.0 EXISTING DEVELOPMENT**

The Protected Property covered under this easement contains the following manmade structures and improvements at the time the easement was executed.

### **5.1 Manmade Improvements and Impervious Cover**

Existing manmade improvements on the Protected Property are listed within this section and can be seen in the Holt Carson survey December 2007. This section records impervious cover, buildings, trails, fences, and other infrastructure. The locations and photos of existing infrastructure are shown in Photo Index 2 and 3. Existing buildings are limited to the corral area and the main house area. The main house area includes the main house, a dilapidated barn, a shed, and two smaller, dilapidated sheds. The corral area has a dilapidated house, a dilapidated barn, two dilapidated sheds, a livestock loading ramp, and a foundation with three walls. The estimated area of all building is 7,463 sq ft (0.17 acres). In addition to houses, there is one water cistern at the main house and one at the western property line that is bisected by the property line. Each of these cisterns is associated with a well. The cisterns have an area of 1,515 sq ft (0.035 acres) and 232 sq ft (0.005), respectively.

Driveways and trails are found on the site. They include: paved driveways, crushed rock driveways, and trails. There is one continuous paved driveway running from the Rutherford West entrance on the western border of the property to the main ranch house. This paved driveway on average is 10 feet wide and has a total length of 5,978 feet. Crushed rock driveways are found in four areas: 1) a length from the entrance on FM 967 to the paved driveway (average width 15 feet); 2) a length from the paved driveway around the southern portions of the corral area (average width 14 feet); 3) a short driveway adjacent to the one-story vacant house (average width 14 feet); and 4) a short driveway adjacent to the two-story main house (average width 25

feet). The total length of crushed rock driveways is approximately 3,727 feet. Trails currently in use and recently used were identified through site visits and evaluation of aerials and totaled 34,545 linear feet.

The total existing impervious cover is made up of the area occupied by existing driveways and structures. As seen in the table below the total existing impervious cover is 125,249 sq ft (2.875 acres), which is 0.182% of the Protected Property.

### Existing Impervious Cover

Description	Type	Length (ft)	Width (ft)	Area (sq ft)	Acres
corral area	crushed rock	102.44	14	1434.18	0.0329
corral area	crushed rock	410.53	14	5747.46	0.1319
driveway one-story house	crushed rock	89.70	14	1255.75	0.0288
driveway two-story house	crushed rock	95.05	25	2376.35	0.0546
FM 967 to paved driveway	crushed rock	3029.52	15	45442.77	1.0432
Main paved driveway	paved	5978.21	10	59782.13	1.3724
one-story house				1128.11	0.0259
two-story house				2154.96	0.0495
building remnant				432.97	0.0099
livestock ramp				139.45	0.0032
metal roof barn A				341.02	0.0078
metal roof barn B				1492.68	0.0343
metal roof shed A				64.15	0.0015
metal roof shed B				105.66	0.0024
metal roof shed C				394.66	0.0091
metal roof shed D				350.68	0.0081
metal roof shed E				688.50	0.0158
metal roof shed F				170.64	0.0039
cistern at main house				1515.14	0.0348
cistern at w prop line				232.05	0.0053
<b>Total Existing Impervious Cover</b>				<b>125249.32</b>	<b>2.8753</b>

Four well sites were identified on the Protected Property during field reconnaissance by BTA, as shown in Figure 17. Two of the wells were associated with windmills. The well at the main house was associated with an electric pump. Only one well, the well at the main house, is currently operating. It is important to note that following review of the Phase I ESA (Terracon 2007), the Holt Carson survey and a water well database search performed by Banks Environmental Data (2007), it is undetermined how many wells may exist on the Protected Property.

Other components of manmade improvements found on site include utility easements, propane tanks, a butane tank, wildlife watering and feeding structures, utility poles and lines, fences, and gates. Two Pedernales Electric Company (PEC) easements cut through the site with the northern easement being 60 feet wide and consisting of 7.2 acres. The easement on the southern portion of the property is 100 feet wide and consists of 11.0 acres; however, field observations suggest it is maintained to a lesser width. Two propane tanks were found on the property each associate with the homesites. Numerous wildlife feeding and watering stations are located throughout the property. Fence lines were documented through field reconnaissance and

from the Holt Carson survey. They totaled approximately 45,367 linear feet, with 24,856 linear feet being internal fence.

## **6.0 PROTECTED PROPERTY PHOTOGRAPHS**

A photographic inventory was completed of the Protected Property during field reconnaissance on December 16 and 18, 2007. Two types of photographs are included in the EDR.

The first type of photograph documents the typical landscapes and scenic vistas found on the site. Landscape and scenic views are primarily contained in Photo Index 1: Landscapes and Natural Features. The second type of photograph documents the significant manmade improvements on the Protected Property and the environment surrounding each developed site. The photos are contained in Photo Index 2: Existing Ranch Complex and Photo Index 3: Existing Manmade Improvements. To allow for repeat observations from these photo sites, GPS points for photographs in Photo Index 1 and 3 are contained in Tables 1 and 2 of Appendix D, respectively.

A digital camera and a photo stitching software were utilized to create the panoramic views shown in this document. It should be noted that many of the panoramic views display perspectives beyond what is captured by normal eyesight.

Full resolution digital images are held on file at the offices of Bosse & Turner Associates, the City of Austin, and The Nature Conservancy for each of the photos contained within these documents.

## **7.0 SUMMARY**

The following is a summary of the observations and goals achieved in the baseline assessment of the Protected Property through this easement documentation report:

- A. The Protected Property consists of approximately 1,558 acres of critical area for the protection of recharge into the Barton Springs Segment of the Edwards Aquifer in northern Hays County, Texas, as well as protection of important ecological, scenic and cultural resources.
- B. The Protected Property drains primarily into Little Bear Creek and partially into Bear Creek. The Protected Property contains 1,452 acres of area classified as Edwards Aquifer Recharge Zone and 106 acres classified as contributing zone by TCEQ.
- C. The site includes and protects two areas of golden cheeked warbler habitat, 47 recharge features, 12 springs, and 48 wetlands within the No Development Zones.
- D. Floodplain and water quality stream buffers have been included as No Development Zones to further enhance protection of water quality and potential recharge. Stream buffers vary from 50 to 300 feet on each side of streams.

## 8.0 REFERENCES

ACI, 2006: Pedestrian Karst Survey for the 2,724-Acre Parcel of Rock Creek Located in Hays County, Texas.

Banks Environmental Data, 2007: Water Well Report. 3,059 acres, Hays County, Texas. ES28853. December 20, 2007

Barnes, 1974: Geologic Atlas of Texas, Austin Sheet. Bureau of Economic Geology, University of Texas at Austin.

BSEACD, 2007: Maps. Barton Springs / Edwards Aquifer Conservation District, Accessed December 2007, <http://www.bseacd.org/maps2.html>

CACPOG, 2007: Capital Area Council of Governments: Information Clearing House, Accessed December 2007, [http://www.CAPCOGg.org/Information\\_Clearinghouse/geospatial\\_main.asp](http://www.CAPCOGg.org/Information_Clearinghouse/geospatial_main.asp)

Davis, S.D., V.H. Heywood, O. Herrera-MacBryde, J. Villa-Lobos, A.C. Hamilton, eds. 1997: Centres for Plant Diversity: A Guide and Strategy for their Conservation. IUCN Publications, Cambridge, U.K.

Diamond, D.D., C. D. True, and K. He., 1997: Regional Priorities for Conservation of Rare Species in Texas. *Southwestern Naturalist* **42**:400-408.

Doughty, R.W., 1983: *Wildlife and Man in Texas: Environmental Change and Conservation*. Texas A&M University Press, College Station.

Johnston, M., 1997: Edwards Plateau Texas, U.S.A. *in* S. D. Davis, V.H. Heywood, O. Herrera-MacBryde, editor. *Centres of Plant Diversity: A Guide and Strategy for their Conservation*. The World Wide Fund for Nature.

McMahan, C.A., R.G. Frye, and K.L. Brown, 1984: "The Vegetation Types of Texas: Including Cropland", Texas Parks and Wildlife Department, Wildlife Division.

Plateau, 2006: N-Hays Investors I, LP. *Wildlife Management Plan for 2006-2010*. Prepared by Plateau Land & Wildlife Management, Inc.

Riskind, D.H., and D.D. Diamond, 1986: Plant Communities of the Edwards Plateau of Texas: An Overview Emphasizing the Balcones Escarpment Zone Between San Antonio and Austin with Special Attention to Landscape Contrasts and Natural Diversity. Pages 21-32 *in* P.L. Abbott and C.M. Woodruff, editors. *The Balcones Escarpment*. Geological Society of America, San Antonio.

SWCA, 1999: Final Environmental and Archeological Constraints analysis of the Northern Parcel of the Hays County Property, Hays County, Texas.

SWCA, 2005: Results of the 2005 Field Survey for the Golden-Cheeked Warbler on an Approximately 66-acre Portion of the 2,724 –acre Rock Creek Property, Hays County, Texas

TCEQ, 2005: Edwards Aquifer Recharge Zone Chapter 213 Rules, Texas Commission on Environmental Quality, Accessed March 2007, [http://www.tceq.state.tx.us/gis/metadata/edw\\_utm27\\_met.html](http://www.tceq.state.tx.us/gis/metadata/edw_utm27_met.html)

Terracon, 2007: Phase I Environmental Site Assessment, N-Hays Tract, Farm-to-Market Road 967, Hays County, Texas. December 6, 2007.

USGS, 1996: Geologic Framework and Hydrogeologic Characteristics of the Edwards Aquifer Outcrop (Barton Springs Segment), Northeastern Hays and Southwestern Travis Counties, Texas. U.S. Geological Survey Water-Resources Investigations Report 96-4306.

USGS, 2007: 10m National Elevation Dataset. Seamless Data Center, United States Geological Survey, Accessed March 2007, <http://seamless.usgs.gov/>

USDA, 1984: Soil Survey of Comal and Hays County, Texas. United States Department of Agriculture, Soil Conservation Services, in cooperation with Texas Agricultural Experimental Station, Accessed December 2007, [http://soils.usda.gov/survey/online\\_surveys/texas/](http://soils.usda.gov/survey/online_surveys/texas/)

**APPENDIX A**  
**ORIGINAL CONSERVATION EASEMENT DOCUMENT**



**CONSERVATION EASEMENT AGREEMENT**

THE STATE OF TEXAS                    §  
  §  
COUNTY OF HAYS                       §

This Conservation Easement Agreement (referred to herein as this “*Agreement*” or “*Conservation Easement*”) is made effective as of February \_\_, 2008 (the “*Effective Date*”) by **N-Hays Investors I, LP**, a Delaware limited partnership ( “*Grantor*”) and **City of Austin**, a Texas home-rule municipality (“*Grantee*”).

BACKGROUND

A. Grantor is the sole owner in fee simple of an approximately 1,558 acre tract of real property in Hays County, Texas, more particularly described on **Exhibit “A”** attached hereto and incorporated herein by reference (collectively, the “*Property*”).

B. The Property is a significant natural area that qualifies as a “. . . relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,” as that phrase is used in Section 170 (h)(4)(A)(ii) of the Internal Revenue Code, as amended, and in regulations promulgated thereunder (the “*Code*”). In particular, the Property:

- (1) Is located within the Little Bear Creek watershed within the recharge zone for Barton Springs and contains numerous water recharge features, providing a significant quantity of high quality water recharge to the Barton Springs Segment of the Edwards Aquifer, both on the Property and downstream. The Barton Springs segment of the Edwards Aquifer provides water for thousands of central Texans and wildlife populations including the endangered Barton Springs Salamander (*Eurycea sosorum*).
- (2) Contains numerous springs and wetlands that benefit wildlife, and provides habitat for a wide variety of native wildlife and plant communities, including habitat for the Golden Cheeked Warbler (*Dendroica chryoparia*), which is a federally listed endangered species.
- (3) Contains significant open space.

The above characteristics, features and qualities of the Property are collectively referred to herein as the “*Conservation Values*.”

C. The specific Conservation Values of the Property are more fully documented and described in that certain Easement Documentation Report (“*EDR*”) dated February \_\_, 2008, prepared by Bosse and Turner Associates, Inc., and signed, acknowledged and agreed upon by both parties, which establishes the baseline condition of the Property as of the Effective Date by documenting all significant features of the Property (including known man made structures and utilities) and includes reports, maps, photographs and other documentation. While the EDR will be used by Grantor and Grantee to assure that any future changes in the use of the Property will be consistent with the terms of this Conservation Easement, the EDR is not intended to preclude the use of other evidence to establish the condition of the Property as of the Effective Date if there is a controversy regarding its use.

D. Grantee is:

- (1) qualified under the Texas Natural Resource Code, Chapter 183 to hold conservation easements; and
- (2) a “qualified organization” as that term is defined in Section 170(h)(3) of the Code.

E. Public policy in the region has recognized the importance of a watershed-based approach to controlling non-point source water pollution and protecting and enhancing water quality and quantity, particularly in the recharge zone and contributing zone for Barton Springs. In connection therewith, Grantee has established programs of acquiring conservation easements within various hill country watersheds to conserve, protect and maintain open space and the Barton Springs segment of the Edwards Aquifer.

F. Grantee has determined that the acquisition of this Conservation Easement will promote and advance such preservation and maintenance of the Conservation Values of the Property.

G. Grantor and Grantee acknowledge that this Agreement is being executed and the Conservation Easement is being conveyed in perpetuity pursuant to the Texas Natural Resource Code Chapter 183 and the parties wish to avail themselves of the provisions of that law.

NOW, THEREFORE, for and in consideration of the facts recited above and the mutual covenants, terms, conditions and restrictions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby voluntarily sells, grants and conveys unto Grantee a conservation easement in perpetuity over the Property, together with all development rights associated with the Property not expressly reserved herein by Grantor.

1. **Purposes.** The purposes of this Conservation Easement (the “**Purposes**”) are, in the priority listed below in this sentence, to (a) provide for the conservation, maintenance and enhancement of the water quality and quantity of the Barton Springs segment of the Edwards Aquifer and Little Bear Creek watersheds, including without limitation, pollution avoidance, watershed protection and preservation and enhancement of base flow; (b) maintain the natural hydrological processes and land health that currently exist on the Property; (c) protect and manage habitat for the benefit of native plants, animals and plant communities on the Property, including, without limitation, the Golden Cheeked Warbler; (d) maintain water quality and quantity recharging the Edwards Aquifer for the benefit of the Barton Springs Salamander; (e) prohibit any uses of the Property that will have a material adverse affect on the Conservation Values of the Property described above; (f) ensure that the Property will be retained forever predominantly in its natural, scenic and open space condition; and (g) otherwise implement the mutual intentions of the parties as expressed by the facts recited above, which are incorporated herein by reference. Grantor intends that this Conservation Easement will restrict the use of the Property as provided below, as provided in the Development Plan attached hereto as **Exhibit “B”** and incorporated herein by reference (the “**Development Plan**”) and the Management Plan attached hereto as **Exhibit “C”** and incorporated herein by reference (the “**Management Plan**”), and as consistent with the Purposes of this Conservation Easement.

2. **Prohibited Uses.** Any activity on or use of the Property that conflicts with the Purposes of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

- 2.1. **No Surface Alteration.** There shall be no ditching, draining, diking, filling, excavating, dredging, mining, drilling or other alteration of the surface of the Property, no disturbance of the subsoils (including, but not limited to, the excavation or removal of soil, sand, gravel, rock, peat, or sod, or the placing of soil or other substances and materials such as land fill, silt or other dredging spoils), and no other activities on the Property that could cause erosion thereof or siltation thereon, except (a) as may be reasonably necessary in the course of any activity otherwise allowed in the Development Plan or the Management Plan and approved by Grantee pursuant to **Paragraph 20.7** herein, or (b) as Grantee may otherwise approve pursuant to **Paragraph 4.4** herein. Notwithstanding anything herein to the contrary, any extraction of rock, soil, gravel or other minerals otherwise allowed herein must be (x) conducted in a manner so as to have only a limited localized impact and to minimize any material adverse effect on the Conservation Values and (y) must be approved by Grantee pursuant to **Paragraph 20.7** herein. Notwithstanding anything herein to the contrary, any such activity that would violate Section 170(h)(5)(B) of the Code (or any other section of the Code that must be complied with for this Conservation Easement to constitute a “qualified conservation contribution” pursuant to Section 170(h) of the Code) is prohibited. No soil, sand, gravel, rock or other such excavated materials may be removed from the Property for the primary purpose of off site use; however, excavated materials and spoils generated in connection with any activity otherwise allowed in this Conservation Easement may be transported, disposed of, and/or used off site.
- 2.2. **No Soil or Water Degradation.** There shall be no activity which changes the surface or subsurface hydrology of the Property in any manner, except such activities that are as otherwise expressly allowed herein. Any use or activity that causes or is likely to cause soil degradation, erosion, depletion or pollution of, or siltation on, any surface or subsurface waters is prohibited; provided, however, this prohibition does not prohibit ranching or wildlife management operations, low impact recreational uses of any creeks located on the Property (such as fishing, swimming, picnicking), cultivation of food plots (including, without limitation, fruit and nut trees) for personal consumption, livestock and wildlife management related activities, and ranching and hunting related activities, or other activities expressly reserved by Grantor herein, all to the extent performed strictly in accordance with this Conservation Easement, the Management Plan and the Development Plan.
- 2.3. **Cutting.** There shall be no removal, harvesting, destruction or cutting of trees, shrubs, brush or other plants, except (a) incidental select cutting or removal of vegetation by hand held tools or a bobcat with hydraulic shears (or other similar type of sensitive equipment approved by Grantee) as reasonably necessary for appropriate management of the Property (including, but not limited to, removal of exotic and non-indigenous species of vegetation, cutting of firewood for on-site use, cutting and/or trimming of trees and shrubs for wildlife management, fire containment, and maintenance and enhancement of the rangeland consistent with the Purposes of this Conservation Easement), (b) as expressly allowed or required in the Development Plan or Management Plan, or (c) as otherwise approved by Grantee pursuant to **Paragraph 4.4** or **Paragraph 20.7**. Notwithstanding the above, any extensive removal or clear cutting of vegetation on the Property shall be in accordance with a written plan approved by Grantee pursuant to **Paragraph 4.4** or **Paragraph 20.7**, unless such extensive clearing is necessary for the emergency containment of wild fire and is made pursuant to the authorization of the Fire Marshal or other appropriate governmental official or authority. In any event, Grantor will use its reasonable efforts to restore and stabilize the cleared area as needed to prevent

erosion and sedimentation. As used herein, “incidental” cutting or removal of vegetation refers to clearing less than two (2) acres of land and “extensive” cutting or removal of vegetation refers to clearing two (2) acres or more of land during any one cutting or removal of vegetation event.

- 2.4. **Biocides.** The use of pesticides or biocides, including but not limited to insecticides, fungicides, rodenticides, and herbicides is prohibited, except as expressly allowed in the Management Plan or otherwise approved by Grantee pursuant to **Paragraph 20.7** herein.
- 2.5. **Dumping.** Subject to **Paragraph 2.6**, there shall be no storage or dumping of ashes, trash, garbage, Hazardous Materials (defined in **Paragraph 11** herein) or any other materials that may negatively impact or be detrimental to surface or subsurface waters. Notwithstanding the preceding sentence, Grantor may temporarily deposit and store trash, garbage, ashes and other non-Hazardous Materials as may be reasonably generated from Grantor’s allowed activities on the Property in appropriate receptacles, and Grantor may store petroleum based products, which are ancillary to or in connection with permitted uses or activities on the Property; provided (a) all such storage is in receptacles of sufficient size to contain all such materials and with adequate containment areas to prevent spills and run-off, and (b) all such storage and subsequent transfer and disposal of such items is in compliance with all Applicable Laws (defined in the Development Plan) and any related requirements in the Development Plan or Management Plan, and does not otherwise have a materially adverse affect on any of the Conservation Values.
- 2.6. **Storage Tanks.** The placement and use of storage tanks on the Property is prohibited, except as may be expressly allowed in **Paragraph 2.5** above, the Development Plan or the Management Plan.
- 2.7. **Water Use.** There shall be no pollution, alteration, manipulation, depletion or extraction of surface or subsurface water (including, but not limited to, ponds, creeks or other water courses) or any other water bodies, except in connection with the construction of dams as allowed in the Development Plan or the Management Plan, or other activities as may be otherwise permitted in this Conservation Easement. Grantor shall not conduct or allow activities on the Property that will be detrimental to water purity or that will alter the natural water level or flow in or over the Property, **except** for activities expressly allowed under the Development Plan or **Paragraphs 2.10, 3.4 or 3.7** herein. Notwithstanding the foregoing reference to **Paragraphs 2.10, 3.4 and 3.7** herein, Grantor is prohibited from pumping water from wells to fill any waterways or ponds permitted on the Property pursuant to this Conservation Easement. In addition, Grantor is prohibited from conveying, selling or otherwise transferring water or existing water rights derived on, under or from the Property to be used for any purpose off of the Property.
- 2.8. **Construction.** There shall be no placement or construction of Improvements (defined in the Development Plan) on the Property, **except** (a) in connection with the repair, maintenance, or replacement (but not expansion) of Improvements existing as of the Effective Date in their current location or (b) as otherwise expressly allowed in the Development Plan.
- 2.9. **Commercial Activities.** Commercial and industrial use of or activities on the Property are prohibited, **except** as otherwise expressly allowed in **Paragraph 3.5** herein.

- 2.10. **Agricultural Activities.** With the exception of landscaping, the cultivation of food plots (including, without limitation, fruit and nut trees) for personal consumption, livestock and wildlife management related activities, and ranching and hunting related activities, allowed in accordance with the Management Plan, agricultural activities are limited to those allowed with the consent of Grantee pursuant to **Paragraph 4.4** herein.
- 2.11. **Exotic Plants and Animals.** Grantor shall not introduce exotic and non-indigenous vegetation or animals onto the Property, except (a) in compliance with the Management Plan, native and exotic wildlife; (b) as expressly allowed in the Development Plan and in **Paragraph 3.5** hereof, horses and cattle for commercial or domestic use, and (c) other livestock for hunting or non-commercial use, but only to the extent such activities are conducted in a manner in compliance with the Natural Resources Conservation Services (“*NRCS*”) Field Office Technical Guide and the Management Plan.
- 2.12. **Development Rights.** Grantor shall not include the Property or any portion of it as part of the gross area of other property not subject to this Conservation Easement to determine density, lot coverage, or open space requirements under otherwise Applicable Laws, regulations or ordinances controlling land use and building density. Grantor covenants not to transfer any development rights associated with the Property, including any Development rights that may result from destruction or demolition of any existing “*Improvements*” (as defined in the Development Plan) on the Property, to any other lands pursuant to a transferable development rights scheme, cluster development arrangement, for cash payment, or otherwise. For purposes of this Conservation Easement, the term “*development rights*” includes, but is not limited to, any and all rights, however designated, now or hereafter associated with the Property, that may be used, pursuant to applicable zoning laws or other governmental laws or regulations, to compute permitted size, height, bulk or number of structures, development density, lot yield, or any similar development variable on or pertaining to the Property or any other property.
- 2.13. **Motorized Vehicles.** Grantor shall not operate or allow the operation of any motorized vehicles (including, but not limited to, dune buggies, motorcycles and all-terrain vehicles) on the Property, except on Driveways and Trails (such terms being defined in the Development Plan). Notwithstanding anything above to the contrary, Grantor may also operate or allow the operation of motorized vehicles such as ranch trucks, trailers, tractors and all terrain vehicles (but excluding dune buggies, motorcycles and other vehicles that cause excessive surface disturbance) outside of Driveways and Trails to the extent such operation thereof is (a) reasonably necessary in connection with Grantor’s ranching and wildlife management operations and maintenance of the Property, and (b) conducted in a manner so as to minimize adverse impacts on the Conservation Values. The use of any other types of vehicles is also prohibited to the extent such use violates **Paragraph 2.2** above.
- 2.14. **Subdivision.** Grantor shall not divide, partition, or subdivide the Property and shall not convey the Property, or any part thereof or interest therein, **except** in the current configuration in the entirety of the Property, or as otherwise allowed in the Development Plan.
- 2.15. **No Dedications.** Internal roads, lanes and driveways on the Property shall at no time be dedicated to or made available for use by the general public, and no public road or public access easements or rights of way shall be granted, either expressly or by implication, or permitted by prescription.

**3. Grantor's Reserved Rights.** Grantor reserves to itself, and to its lessees, heirs, successors, and assigns, the right to engage in, or permit or invite others to engage in, those uses of the Property that are provided below. Grantee acknowledges that such activities, if conducted as required herein, do not conflict with the Purposes of this Conservation Easement:

- 3.1. **Existing Uses.** Grantor has the right to continue those activities and uses of the Property in effect as of the Effective Date and such activities in which the Property has been historically engaged, which activities and uses include residential use, ranching and wildlife management operations, low impact recreational uses (such as hunting, fishing, picnicking and swimming), and cultivation of food plots (including, without limitation, fruit and nut trees) for personal consumption, livestock and wildlife management related activities and ranching and hunting related activities, to the extent otherwise allowed in the Development Plan or Management Plan.
- 3.2. **Transfer.** Grantor has the right to sell, gift, mortgage, lease, or otherwise convey the Property, or parts thereof or interest therein; provided such conveyance is expressly made subject to the terms of this Conservation Easement, the Development Plan and the Management Plan. Grantor agrees to provide to Grantee prior written notice of a conveyance of fee title to the Property or any portion thereof in accordance with **Paragraph 20.6** below.
- 3.3. **Improvements.** Grantor has the right to maintain, remove or relocate such Improvements that exist on the Property as of the Effective Date (including the right to replace on the same or relocated site, with like or similar structures used for the same or similar purposes, but not expand such Improvements except as allowed in the Development Plan). Grantor also retains the right to construct, maintain and replace such additional Improvements as allowed in the Development Plan and retains the development rights necessary for the construction, maintenance and replacement of Improvements permitted by this Conservation Easement. All of Grantor's rights reserved in this paragraph are subject to the requirements set forth herein, including the Impervious Cover limitation (calculated based on existing, expanded and new Improvements) and restoration obligations set out in the Development Plan.
- 3.4. **Water.** Grantor has the right to use such subsurface water from the Property as may be reasonably needed in connection with Grantor's allowed activities on the Property and, in connection therewith, Grantor has the right to construct and use (a) up to three (3) water wells on each Residential Parcel and one (1) water well on each Open Space Parcel (as such terms are defined in the Development Plan) and (b) four (4) ponds or water tanks in accordance with the Development Plan. As used in this Conservation Easement Agreement, the Development Plan and the Management Plan, reference to ponds or water tanks shall not include Water Troughs, as defined in the Development Plan. Grantor covenants to limit such use of the water wells to no more than is reasonably necessary for the allowed uses herein and not to pump water for purposes or in any manner prohibited in **Paragraph 2.7** above. Grantor may also install rain harvesting systems and utilize all water captured and retained with any such system; provided, however, that the design and construction of any such system shall be in accordance with plans submitted to and approved by Grantee, and any such system shall be deemed to be Impervious Cover and shall be subject to the limits on Impervious Cover set forth herein; provided, however, that any such system that is situated entirely upon or completely incorporated within other Improvements shall not be counted separately or as a second time for purposes of calculating Impervious Cover.

- 3.5. **Commercial Activities.** Grantor has the right to engage in a business that is conducted by, and in the home of, a person residing on the Property and to engage in hunting, ranching and wildlife management, and cultivation of food plots (including, without limitation, fruit and nut trees) for personal consumption, livestock and wildlife management related activities and ranching and hunting related activities, to the extent such activities do not conflict with the Management Plan. De minimus and undeveloped recreational, educational and ecotourism activities are permitted as long as such activities (a) do not have a material adverse effect on the Conservation Values, (b) do not involve the use of any motorized vehicles, including but not limited to all-terrain vehicles, motocross bikes, or other off-road land vehicles outside of Driveways or Trails, (c) do not involve or permit camping, hotel or other commercial overnight facilities, (d) do not conflict with the Development Plan or Management Plan and (e) are conducted according to a written plan previously approved by Grantee. Such allowed activities may include, without limitation, hunting, horseback riding, bird watching, farm tours, agricultural and ecological classes, nature interpretation, and educational programs.
- 3.6. **Mineral Rights.** Grantor has the right to, and retains its interests in, all oil, gas and other minerals now or in the future owned by Grantor in and under the Property; provided, however, in conducting operations with respect to the exploration for or production from, processing, transporting and marketing of oil, gas and other minerals from the Property, Grantor shall not use or occupy any portion of the surface estate of the Property and shall not place any fixtures, equipment, building, structures, pipelines, rights of way or personal property of any kind or nature whatsoever on the surface or within the depth of 1000 feet from the surface of the Property or any portion thereof. Grantor hereby waives any of its rights whatsoever to the use of the surface of the Property in connection with the ownership and exploitation of the oil, gas, and other minerals. Notwithstanding anything above to the contrary, Grantor is not prohibited from conducting exploratory activities that are non-invasive that do not materially disturb the soil surface of the Property and do not otherwise damage or negatively impact the watersheds or aquifer. To the extent Grantor elects to explore for or otherwise extract or exploit any oil, gas or other minerals under the Property from the surface of an adjoining property, Grantor will use its best efforts to minimize any damage or other negative impact on the watersheds or aquifer by such activity.
- 3.7. **Landscaping and Irrigation.** Grantor has the right to landscape around the allowed Improvements on Residential Parcels and the Open Space Parcel on which the Improvements for the Clubhouse (as defined in the Development Plan) are permitted. Grantor shall use reasonable efforts to use native or adapted and drought-resistant vegetation. No more than a total of forty (48) acres of land on the Property can be under irrigation at any one time, of which no more than sixteen (16) acres of land can be used for irrigation of fruit and nut trees. Areas irrigated for fruit and nut trees which are subsequently removed from irrigation, can be subtracted from the 48 acre allotment for irrigated areas, but will continue to fall under the umbrella of cultivated area with an overall cap of 75 acres, as provided in the Management Plan. Such irrigated acreage shall be allocated among such parcels at the time of any subdivision or partition of the Property, and any subsequent reallocation thereof among such parcels shall be subject to Grantee's approval. Grantor's use of fertilizers in connection with such landscaping is subject to Grantee's prior approval.

- 3.8. **Enhancement Activities.** Upon Grantee's prior approval, Grantor may engage in activities which have the intended purpose and reasonable expectation of restoring, maintaining, or enhancing the Conservation Values.

4. **Grantee's Rights.** To accomplish the Purposes of this Conservation Easement, the following rights are hereby conveyed to Grantee:

- 4.1. **Right to Protect.** Grantee has the right to preserve and protect the Conservation Values of the Property in accordance with the terms of this Conservation Easement and Applicable Law.

- 4.2. **Right of Entry.** With prior notice to and appointment with Grantor, Grantee, Grantee's staff, contractors, and associated natural resource management professionals (collectively, the "**Grantee Parties**") have the right to enter the Property at the times and for the purposes as set forth below in this **Paragraph 4.2**. This right of entry is not transferable to any party (other than the Grantee Parties) that has no interest in this Conservation Easement without Grantor's prior written consent; provided, however, that Grantor expressly acknowledges that The Nature Conservancy has such an interest in this Conservation Easement pursuant to **Paragraph 20.11** below, and in connection with exercising its rights under **Paragraph 20.11**, The Nature Conservancy shall be deemed to be an additional Grantee Party,

- a. Grantee Parties shall have a right of entry on the Property for an unlimited number of entries as reasonably necessary (A) during the period of any construction on the Property in order to adequately monitor such construction activities requiring Grantee's prior approval for compliance with the terms and conditions of this Conservation Easement and (B) during any emergency situation on the Property that may have a material adverse affect on the Conservation Values.
- b. Grantee Parties shall have a right of entry on the Property for purposes of (a) monitoring and enforcing compliance by Grantor, its successors and assigns, with the terms, covenants and Purposes of this Conservation Easement and (b) monitoring watershed characteristics and conditions and the condition of the surface and subsurface waters on or adjacent to the Property, provided that the right of entry for these purposes shall be limited to two (2) times per year plus such additional times as reasonably necessary based on Grantee's reasonable belief that a violation of the terms of this Conservation Easement has occurred and is existing. Grantee and Grantor agree to work together in good faith to select a mutually acceptable date and time for site inspection visits by any of Grantee Parties. Such site inspection visits may extend for up to three (3) days (or further extended if reasonably necessary due to inclement weather).
- c. Other than entries permitted under Paragraphs 4.2.a and 4.2.b above, Grantee Parties may also enter the Property, any Residential Parcel or Open Space Parcel thereon, subject to prior approval of Grantee's plan described below by Grantor, or by the owner(s) of any such Residential Parcel or Open Space Parcel, as the case may be, in such designated party's discretion, at such other times during normal business hours, to conduct research on watershed and range management techniques or such other purposes as agreed to by Grantee and such other party or parties designated above. The foregoing sentence does not apply to or limit Grantee's rights under Paragraphs 4.2.a or b above. In connection with such

entry, Grantee may develop, at its expense, a written plan to direct the monitoring of and research on water quality, the aquifer or any natural habitats in, on or under the Property. Grantee agrees that any such monitoring or research activities, natural resource inventory and/or assessment work will be reported to such other party or parties as designated above. Grantee will provide such other party, at no cost, a copy of all plans, reports or data collected.

- 4.3. **Enforcement.** Grantee has the right to prevent any activity on or use of the Property that is in violation of this Conservation Easement and to require the restoration of such areas or features of the Property that may be damaged by any activity or use in violation of this Conservation Easement, pursuant to **Paragraph 12** herein.
- 4.4. **Discretionary Consent.** Grantee may consent to activities otherwise prohibited under **Paragraph 2** above and activities not expressly allowed herein that do not conflict with the Purposes of this Conservation Easement, under the following conditions and circumstances. If (a) due to unforeseen or changed circumstances, any of the prohibited activities listed in **Paragraph 2** are reasonably determined by both Grantor and Grantee to be desirable, or (b) Grantor requests to conduct any activities not expressly allowed under **Paragraph 3**, Grantee, in its sole discretion, may give permission for such activities, provided such activities (a) do not conflict with the Purposes of this Conservation Easement and (b) either enhance or do not impair any Conservation Values associated with the Property. Except for a judicial determination as set forth in **Paragraph 17**, Grantee can not agree to any activities that would result in the termination or extinguishment of this Conservation Easement or to allow any additional partitions of the Property or any additional impervious cover not otherwise expressly provided for in this Conservation Easement, including the Development Plan. In the event Grantor wishes to engage in any activity or use of the Property requiring Grantee's consent, Grantor shall send written notice to Grantee describing in detail such request. Grantee will respond to the request within forty-five (45) days. In the event Grantee fails to respond to the request within such 45-day period, Grantor may send a second notice of its request to Grantee. If Grantee fails to respond to the request as required herein within fifteen (15) days after the delivery of such second notice, such request shall be deemed denied.
- 4.5. **Water Rights.** All surface and subsurface water rights associated with the Property, except as expressly reserved by Grantor in **Paragraph 3.4** herein, are conveyed to Grantee. However, Grantee is prohibited from transferring or selling such water rights.
- 4.6. **Development Rights.** All development rights, except those retained by Grantor herein and in the Development Plan or Management Plan, are conveyed to Grantee. The parties acknowledge and agree that the development rights so conveyed are hereby terminated and extinguished and cannot be used by Grantee on or transferred by Grantee to any portion of the Property or any other property.

5. **Development Plan.** Any and all construction or expansion of any Improvements allowed herein must be performed in accordance with the Development Plan.

6. **Management Plan.** Any ranching or wildlife management operations conducted on the Property must be in accordance with the Management Plan.

7. **Public Access.** Nothing contained in this Conservation Easement gives or grants to the public a right to enter upon or use the Property or any portion thereof.
8. **Costs and Liabilities; Indemnity/Damages.** Grantor retains all responsibilities and bears all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property consistent with this Conservation Easement. Grantor shall keep the Conservation Easement and any other right, title or interest of Grantee in the Property arising under the Conservation Easement free of any liens arising out of any work performed for, materials furnished to or obligations incurred by Grantor. **To the extent allowed by Applicable Law, each party agrees to release, hold harmless, defend and indemnify the other party from any and all liabilities and claims, including, but not limited to, injury, losses, damages, judgments, costs, expenses, and fees (collectively, “Claims”), that the indemnified party may suffer or incur as a result of or arising out of the negligent acts or omissions or willful misconduct of the other party or its employees, agents, contractors, licensees or invitees on the Property, except to the extent such Claims arise out of the negligent, acts or omissions or willful misconduct of the indemnified party or its employees, agents, contractors, licensees or invitees in connection with the Property or this Conservation Easement.**
9. **Taxes.** Grantor shall fully pay before the same become delinquent any real estate taxes or other assessments levied on the Property. If Grantor becomes delinquent in payment of taxes or assessments, so that a lien is created against the Property, Grantee, at its option, after written notice to Grantor, may take such actions as Grantee reasonably determines to be necessary to protect Grantee’s interest in the Property and to assure the continued enforceability of this Conservation Easement. Grantor retains the right to contest the valuation of the Property for the purposes of taxes and assessments in accordance with Applicable Laws.
10. **Title.** Grantor covenants and represents and warrants to Grantee as follows: (a) Grantor is the sole owner of the Property in fee simple and has good right to grant and convey this Conservation Easement; (b) the Property is free and clear of any and all encumbrances, except those identified on **Exhibit “D”** attached hereto; (c) any and all liens encumbering the Property will be subordinate to this Conservation Easement; and (d) Grantee will have the use and enjoyment of all the benefits derived from and arising out of this Conservation Easement. Grantor shall not exercise any rights or take any action under the Development Agreement dated April 19, 2001, executed by and between City of Dripping Springs, Texas, and Cypress-Hays, L.P., or any amendment thereof,, to the extent that any of such rights or actions are inconsistent with the terms or Purposes of this Conservation Easement or would be likely, individually or cumulatively, to have a material adverse impact on the Conservation Values of the Property.
11. **Hazardous Materials.** Grantor warrants and, to Grantor’s actual knowledge (with no duty to investigate), represents to Grantee that no Hazardous Materials exist nor have been generated, treated, stored, used, disposed of, or deposited in or on the Property in such manner as to violate or create any liabilities pursuant to any Applicable Laws, and that there are not now any underground storage tanks located on the Property. As used herein, the term “**Hazardous Materials**” means (a) any hazardous waste as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 *et seq.*), as amended from time to time, and regulations promulgated thereunder; (b) any hazardous substance as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 *et seq.*), as amended from time to time, and regulations promulgated thereunder (including petroleum-based products as described therein); (c) other petroleum and petroleum-based products; (d) asbestos in any quantity or form which would subject it to regulation under any Applicable Laws; (e) polychlorinated biphenyls; (f) any substance, the presence of which on the Property is prohibited by any Applicable Laws; and (vii) any other substance which, by any Applicable Laws, requires special handling in its collection, storage,

treatment or disposal. Notwithstanding anything to the contrary contained herein, Grantor makes no representation or warranty with respect to the existence or non-existence of dump sites or Hazardous Materials which may have been located in, on, or under the Property prior to acquisition of title to Property by Grantor. By acceptance of this Conservation Easement, Grantee acknowledges that it has performed due diligence with respect to the Property and represents to Grantor that, based upon such investigation, Grantee is not aware of the existence of any Hazardous Materials on the Property.

12. **Defaults and Grantee's Remedies.**

12.1. **Default.** If Grantee becomes aware of a violation of the terms of this Conservation Easement, Grantee may notify Grantor of such violation and, to the extent such violation is by Grantor, or Grantor's successors or assigns, or the licensees or invitees of the foregoing, Grantee may request corrective action sufficient to abate and cure such violation. Failure by Grantor to abate the violation and take such other action as may be necessary to correct the violation within thirty (30) days after receipt of such notice by Grantor shall constitute a "**Default**" under this Conservation Easement. However, notwithstanding anything above to the contrary, if such violation can not reasonably be cured or such corrective action can not reasonably be completed within such 30-day period, as reasonably determined by Grantee, Grantor shall be allowed additional time as is reasonably necessary to abate or correct the violation so long as (i) Grantor commences to abate or correct such violation within such 30-day period as reasonably determined by Grantee (which may include commencing development of a plan) and (ii) Grantor diligently pursues a course of action that will abate or correct the violation within a reasonable period of time after Grantee's notice of Default, not to exceed ninety (90) days. Notwithstanding the foregoing sentence, however, upon Grantor's demonstrating to Grantee's reasonable satisfaction that an additional extension of such cure period is necessary in order for Grantor to reasonably complete its abatement or correction of the violation, Grantee shall approve such additional extension of the cure period.

12.2. **Remedies.** Upon the occurrence of a Default, Grantee shall be entitled to exercise any one or more of the following remedies: (a) bring an action at law or equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement; (b) require the restoration of the Property to its previous condition as necessary to correct the violation to the reasonable satisfaction of Grantee; (c) enjoin the non-compliance by temporary or permanent injunction in a court of competent jurisdiction; (d) enter the Property and take such action as is reasonably necessary to correct the violation and/or recover actual damages (but not consequential damages) arising from the noncompliance.

12.3. **Costs, Attorney's Fees.** Provided Grantor was given prior notice and an opportunity to cure the subject violation as provided above, Grantor must reimburse Grantee for any reasonable costs of enforcement, including costs of restoration, court costs and reasonable legal and consultant expenses, in addition to any other payments ordered by such court. However, if a court of competent jurisdiction determines that Grantor was not in Default under this Conservation Easement, Grantee must reimburse Grantor for its reasonable costs and expenses, including reasonable attorney's fees and other professional and expert consulting fees, incurred in connection with defending such action.

12.4. **Remedies Cumulative.** The foregoing remedies for a Default are cumulative with all other remedies at law or in equity.

- 12.5. **Emergency Enforcement.** If Grantee, in its reasonable discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, Grantee may pursue its remedies under this Paragraph without prior notice to Grantor and without waiting for the period for cure to expire. However, Grantee agrees to use its best efforts to notify Grantor of such circumstances as soon as reasonably practicable.
- 12.6. **Failure to Act or Delay.** No covenant, term, condition or restriction of this Conservation Easement or the breach thereof by Grantor will be deemed waived, except by written consent of Grantee and any waiver of the breach of any such covenant, term, condition or restriction will not be deemed or construed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, condition or restriction. Grantee retains the right to take any action as may be necessary to ensure compliance with this Conservation Easement notwithstanding any prior failure to act.
- 12.7. **Violations Due to Causes Beyond Grantor's Control.** Nothing herein may be construed to entitle Grantee to institute any enforcement proceedings against Grantor for any changes to the Property due to causes beyond Grantor's control, such as changes caused by fire, flood, storm, drought, pestilence, disease, earthquake or the unauthorized wrongful acts of third persons. In the event of violations of this Conservation Easement caused by wrongful acts of third persons, Grantor may pursue an action on its own or join in any suit or action brought by Grantee. In the event Grantor elects not to bring or join in any action or suit, Grantor will, upon request by Grantee, assign its right to action to Grantee.
13. **Parties Subject to Easement.** The covenants agreed to and the terms, conditions, and restrictions imposed by this Conservation Easement bind the parties hereto and, to the extent applicable, their respective lessees, licensees, mortgagees, invitees, employees, contractors, agents, personal representatives, heirs, successors and assigns, and all other successors in interest to the parties hereto and continues as a servitude running in perpetuity with the Property.
14. **Subsequent Transfers.** The terms, conditions, restrictions and Purposes of this Conservation Easement or reference thereto shall be inserted by Grantor in any subsequent deed or other legal instrument by which Grantor conveys the Property, or any part thereof or any interest therein (including but not limited to any lease, lien, possessory interest or license or right to use any part of the Property). Grantor's failure to do so will not limit or impair the conveyance of the interest in the Property pursuant to such instrument, and such failure will not limit or impair any of the terms of this Conservation Easement as a servitude on the Property or any portion thereof. Upon the conveyance of the Property, or a portion thereof, to a third party and notification of the terms of this Conservation Easement to such transferee, Grantor shall no longer be liable for compliance with the terms of this Conservation Easement with respect to the portion of the Property conveyed to such transferee.
15. **Merger.** Grantor and Grantee agree that the terms of this Conservation Easement will survive any merger of the fee and easement interest in the Property. In furtherance of the foregoing sentence, in any conveyance instrument by which Grantee acquires any interest in the Property or any portion thereof other than this Conservation Easement, the parties to such instrument shall include express provisions for the non-merger of the interest so acquired by Grantee with the easement interest acquired by Grantee under this Conservation Easement. As an alternative, prior to acquiring the underlying fee simple interest in the Property in its entirety, Grantee may elect to transfer this Conservation Easement in accordance with the terms set forth in Section 16 below.

16. **Assignment.** The parties hereto recognize and agree that this Conservation Easement is an easement in gross and is assignable. If Grantee transfers or assigns Grantee's interest in this Conservation Easement, the organization receiving the interest must be (i) a qualified organization as that term is defined in Section 170(h)(3) of the Code (or any successor section or law) and the regulations promulgated thereunder and (ii) if the assignee is a non-governmental organization, an organization that is organized and operated primarily for one or more of the conservation purposes specified in Section 170(h)(4)(A) of the Code (or any successor section or law), and the terms of the transfer or assignment must be such that the transferee or assignee will be required to have and maintain sufficient resources and capacity to continue to carry out in perpetuity the conservation Purposes that this Conservation Easement was originally intended to advance.
17. **Extinguishment.** If circumstances arise in the future to render the Purposes of this Conservation Easement impossible to accomplish or fulfill, this Conservation Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction at the joint request of both Grantor and Grantee. The amount of the proceeds to which Grantee will then be entitled (after the satisfaction of prior claims against this Conservation Easement) from the sale, exchange, or involuntary conversion of all or any part of the Property subsequent to such termination or extinguishment, will then be the stipulated fair market value of this Conservation Easement, or proportionate part thereof, as determined in accordance with Paragraph 18 below. Grantor will pay such proceeds to Grantee at the time of such sale, exchange or conversion. Grantee will use its share of any and all proceeds received for such sale, exchange or conversion in a manner consistent with the Purposes of this Conservation Easement.
18. **Valuation.** Grantor hereby agrees that, at the time of the conveyance of the Conservation Easement to Grantee, the Conservation Easement gives rise and constitutes an interest in real property, immediately vested in Grantee. For purposes of Paragraph 17 and Paragraph 19 herein, the parties stipulate that this Conservation Easement will have a fair market value (the "FMV") determined by multiplying (a) the FMV of the Property unencumbered by this Conservation Easement at the time of termination or extinguishment (minus any increase in value after the Effective Date attributable to new improvements) by (b) the ratio of the FMV of the Conservation Easement at the time of this grant to the FMV of the Property, without deduction for the FMV of this Conservation Easement, at the time of this grant. For example, assume the current total FMV of the Property (unencumbered by the Conservation Easement) is \$3,000,000.00 and the FMV of the improvements added since the grant is \$1,000,000.00. For purposes of this Paragraph 18, the FMV of the Property is therefore \$2,000,000.00. Assume that at the time of the grant, the FMV of the Conservation Easement was \$500,000.00 and the FMV of the Property (unencumbered by the Conservation Easement) was \$1,000,000.00. Therefore, the ratio of the FMV of the Conservation Easement to that of the Property is 1/2. Accordingly, the current FMV of the Conservation Easement would be \$1,000,000.00. This is expressed by the formula below:

Current FMV of CE	=	Current FMV of PP (less the value of post-grant improvements)	X	$\frac{\text{(FMV of CE at time of grant)}}{\text{(FMV of PP at time of grant)}}$
-------------------	---	---	---	---

19. **Eminent Domain.** Whenever all or part of the Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate the restrictions imposed by this Conservation Easement, Grantor and Grantee shall join in appropriate actions at the time of the taking to recover the full value of the taking and all incidental or direct damages resulting from it.

The proceeds from such taking must be divided and paid in accordance with the proportionate value of Grantee's and Grantor's respective interests as provided in **Paragraph 18** above. All expenses incurred by Grantor in such action will be paid out of Grantor's portion of the recovered proceeds and all expenses incurred by Grantees in such action will be paid out of Grantee's respective portion of the recovered proceeds. Notwithstanding the above, in the event the taking is for an easement or some other interest that is less than fee title, Grantee shall be entitled only to such equitable portion of the proceeds attributable to impairment of Conservation Values ( if any) resulting from such taking.

20. **Miscellaneous Provisions.**

- 20.1. **Severability.** If any provision of this Conservation Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid are not affected thereby.
- 20.2. **Successors and Assigns.** The term "**Grantor**" includes Grantor and Grantor's heirs, executors, administrators, successors and assigns and also means the masculine, feminine, corporate, singular or plural form of the word as needed in the context of its use. References to the "**Grantee**" includes Grantee and Grantee's successors and assigns.
- 20.3. **Applicable Laws.** Notwithstanding anything herein to the contrary, Grantor and Grantee must comply with all Applicable Laws (including those laws regulating Hazardous Materials) in connection with any of their activities on the Property or in connection with this Conservation Easement.
- 20.4. **Recording.** Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Easement, and Grantor must promptly execute and deliver to Grantee any such instruments upon reasonable request.
- 20.5. **Captions.** The captions herein have been inserted solely for convenience or reference and are not part of this Conservation Easement and have no effect upon construction or interpretation.
- 20.6. **Notices.** Any notice, communication, request, reply or advice (severally and collectively referred to as "**Notice**") in this Conservation Easement provided or allowed to be given, made or accepted by either party to the other must be in writing. Notice may, unless otherwise provided herein, be given or served (a) by depositing the same in the United States mail, postage paid, certified mail, with return receipt requested, and addressed to the party to be notified at the last address for which the sender has at the time of mailing, with return receipt requested, (b) by delivering the same to such party, or an agent of such party, or (c) when appropriate, by sending a facsimile to the party to be notified at the fax number shown below, with electronic confirmation of receipt. Notice deposited in the mail in the manner hereinabove described is deemed effective from and after such deposit. Notice given in any other manner is deemed effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties, until changed as provided below, are as follows:

Grantor: N-Hays Investors I, LP  
1005 Congress Avenue, Suite 950  
Austin, Texas 78701  
Attn: Garry Vacek  
Telephone: (512) 472-2464  
Fax: (512) 472-5124

With copy to: Jackson Walker L.L.P.  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
Attn: Mr. Jerry Webberman  
Telephone: (512) 236-2270  
Fax: (512) 391-2155

Grantee: The Nature Conservancy  
701 Brazos Street, Suite 320  
Austin, Texas 78701  
Attn: Mr. Jeff Francell  
Phone: (512) 494-9559  
Fax: (512) 494-9585

or

The City of Austin  
Environmental Conservation Program Manager/WQPL  
3635 RR 620 South  
Austin, Texas 78738  
Attn: Dr. Kevin Thuesen  
Telephone: (512) 263-6432  
Fax: (512) 263-1276

With a copy to: **City Attorney**  
City of Austin Law Department  
301 W. Second Street  
Austin, Texas 78701  
Shipping address (hand delivery, fed ex, etc):  
2006 E. Fourth Street  
Austin, Texas 78702  
Telephone: 512-974-2268  
Fax: 512-974-6490

And

Austin Water Utility  
Attn: Director  
625 E. 10<sup>th</sup> Street  
Austin, TX 78701  
Telephone: 512-972-0108  
Fax: 512-972-0111

Pursuant to Section 1.170A-14(g)5(ii) of the Code, Grantor agrees to notify Grantee in writing before exercising any of reserved right which may have an adverse impact on the Conservation Values of the Property.

20.7. **Consent.** If any action by or on behalf of Grantor (“Action”) requires Grantee’s consent or approval (“Approval”):

(a) Except as otherwise expressly provided in this Conservation Easement, Grantee shall not unreasonably withhold, condition or delay its Approval. Notwithstanding the foregoing, Grantee may withhold or condition its Approval if Grantee reasonably determines that the requested Action will have a material adverse effect on any Conservation Values or Purposes, or violate any express terms, of this Conservation Easement.

(b) Grantor shall send written notice to Grantee describing in detail such request. Grantee will respond to the request within forty-five (45) days. If the request is rejected, Grantee shall specify in its response the reasons for such rejection. If Grantee fails to respond to Grantor’s request within the initial 45-day period (as such period may be extended by tolling as set forth below), Grantor may send a second notice of its request to Grantee. If Grantee fails to respond as required herein within fifteen (15) days after the delivery of such second notice, such request shall be deemed approved unless such requested action will have a material adverse effect on any Conservation Values or Purposes, or violate any express terms, of this Conservation Easement. If Grantee’s response reasonably requires that Grantor provide additional information, then as of the date Grantee so requests such additional information, whether in the 45-day response period or the 15-day period, (i) Grantee’s response period in effect at the time of such request shall be tolled from the date of Grantee’s request until the date on which all of such additional information is provided by Grantor; and (ii) Grantee shall have the longer of the remainder of such response period or 15 days from the date on which Grantor’s submission of additional requested information is received, in which to respond to Grantor’s request. If Grantee’s request is deemed approved as provided above, then Grantor agrees to give Grantee ten (10) days notice prior to commencing any site work on the Property in connection with the matter for which Grantee’s approval is deemed to have been granted. Grantee further agrees to devote such staff and resources as reasonably necessary to fulfill its obligations under the Conservation Easement.

20.8. **Effective Date.** This Conservation Easement becomes effective and binding only when fully executed by Grantor and Grantee.

20.9. **Amendment.** Grantor and Grantee may amend this Conservation Easement provided such amendment (a) is not contrary to and does not conflict with the Purposes of this Conservation Easement, (b) does not have a material adverse effect on any of the Conservation Values associated with the Property, (c) does not result in a termination of this Conservation Easement, (d) does not affect in any way the qualification of this Conservation Easement or the status of Grantee under any Applicable Laws, including without limitation, Section 170(h) of the Code, and (e) does not provide private benefit to Grantor for which Grantee does not receive fair market value compensation. Such amendment must be in writing, signed by a duly authorized representative of Grantor and Grantee and recorded in the Official Public Records of Hays County, Texas.

- 20.10. **Multiple Counterparts.** For convenience of the parties hereto, this Conservation Easement may be executed in multiple counterparts to the same effect as if all parties hereto had signed the same document. All such counterparts will be construed together and will constitute one instrument, but in making proof herein it is only necessary to produce one such counterpart.
- 20.11. **Waiver of Termination Right.** Grantor hereby expressly waives any and all rights, if any, to seek a termination of this Conservation Easement under Section 183.055, Texas Natural Resources Code.
- 20.12. **[Include Section 20.11 in the Conservation Easement if the City of Austin is the Grantee.] Third-Party Right of Enforcement.** Grantor and Grantee agree that The Nature Conservancy, a non-profit corporation of the District of Columbia, shall have a third-party right of enforcement of this Conservation Easement, as permitted under Texas Natural Resources Code, Chapter 183, to monitor and enforce the terms and conditions of this Conservation Easement if, in the reasonable discretion of The Nature Conservancy, Grantee fails to do so. In connection with the exercise of its rights under this **Paragraph 20.11**, The Nature Conservancy shall be deemed a Grantee Party for purposes of the right of entry granted under **Paragraph 4.2** above and in such event shall be bound and subject to the provisions of **Paragraph 12(c)** above. Grantor and Grantee do not intend, and shall not be deemed, to create and rights of enforcement in any third party other than The Nature Conservancy.

TO HAVE AND TO HOLD this Conservation Easement unto Grantee in perpetuity, together with all and singular the appurtenances and privileges belonging or any way pertaining thereto, either at law or in equity, either in possession or expectancy, for the proper use and benefit of Grantee, its successors and assigns, forever; and Grantor does hereby bind Grantor to WARRANT and DEFEND the interest in the Property granted and conveyed to Grantee under this Conservation Easement, unto Grantee and its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by and through Grantor, but not otherwise.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, Grantor has executed this Conservation Easement on the date of the acknowledgment set forth below; to be effective, however, as of the Effective Date.

**GRANTOR:**

N-HAYS INVESTORS I, LP,  
a Delaware limited partnership

By: NHI I GP, LLC,  
a Delaware limited liability company,  
as its sole general partner

By: \_\_\_\_\_  
Garry Vacek, Sole Member

THE STATE OF TEXAS     §  
  §  
COUNTY OF TRAVIS     §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by Garry Vacek, the sole member of NHI I GP, LLC, a Delaware limited liability company and general partner of N-Hays Investors I, LP, a Delaware limited partnership, on behalf of said company and partnership.

\_\_\_\_\_  
Notary Public, State of Texas

IN WITNESS WHEREOF, the Grantee has executed this Conservation Easement on the date of the acknowledgment set forth below; to be effective, however, as of the Effective Date, to acknowledge its agreement to the covenants, terms and conditions provided herein.

CITY OF AUSTIN

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

THE STATE OF TEXAS     §  
  §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by \_\_\_\_\_, \_\_\_\_\_ for the City of Austin, a Texas municipal corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public, State of Texas

**APPROVED AS TO CONTENT:**

By: \_\_\_\_\_  
William A. Conrad  
Environmental Conservation Division Manager  
Wildland Conservation Division  
Austin Water Utility

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Name: Thomas Nuckols  
Assistant City Attorney  
File # \_\_\_\_\_/JMP  
TCAD Parcel # \_\_\_\_\_

**EXHIBIT "A" TO CONSERVATION EASEMENT**

Legal Description of Property

## EXHIBIT A

HOLT CARSON INCORPORATED  
1904 FORTVIEW ROAD  
AUSTIN, TX 78704  
TELEPHONE: (512) 442-0990  
FACSIMILE: (512) 442-1084

December 2007

### TRACT 2

FIELD NOTE DESCRIPTION OF 1558.23 ACRES OF LAND BEING OUT OF THE THOMAS GRAY LEAGUE NO. 11, ABSTRACT NO. 187, THE GREGORIO ESPARZA SURVEY, ABSTRACT NO. 169, THE JOHN A. MILLER SURVEY, ABSTRACT NO. 319 AND THE SEABORN J. WHATLEY LEAGUE NO. 22, ABSTRACT NO. 18 ALL IN HAYS COUNTY, TEXAS, BEING COMPRISED OF A PORTION OF THAT CERTAIN (2723.144 ACRE) TRACT OF LAND AS CONVEYED TO N-HAYS INVESTORS I, LP BY DEED RECORDED IN VOLUME 2780, PAGE 316 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, WHICH INCLUDES A PORTION OF THAT CERTAIN (3795.4 ACRE) TRACT OF LAND AS CONVEYED TO J.E. GREENHAW BY DEED RECORDED IN VOLUME 126, PAGE 457 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, ALSO BEING A PORTION OF THAT CERTAIN TRACT OF LAND AS CONVEYED TO P.R. RUTHERFORD AND WIFE, BETTY TRAYLOR RUTHERFORD BY DEED RECORDED IN VOLUME 158, PAGE 574 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS, AND ALSO BEING A PORTION OF THAT CERTAIN "FIRST TRACT" AS CONVEYED TO MICHAEL GILES RUTHERFORD BY DEED RECORDED IN VOLUME 197, PAGE 45 OF THE DEED RECORDS OF HAYS COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING FOR REFERENCE** at a ½" iron found with a plastic cap imprinted "Cotton Surveying Company" in the Northeast right-of-way line of F.M. Highway No. 967 at the most Southerly Southwest corner of that certain (2723.144 acre) tract of land as conveyed to N-Hays Investors I, LP by deed recorded in Volume 2780, Page 316 of the Official Public Records of Hays County, Texas, same being the Northwest corner of that certain (335.345 acre) tract of land as conveyed to N-Hays Investors II, LP by deed recorded in Volume 2780, Page 427 of the Official Public Records of Hays County, Texas, also being a point in the interior of that certain (3795.4 acre) tract of land as conveyed to J.E. Greenhaw by deed recorded in Volume 126, Page 457 of the Deed Records of Hays County, Texas, also being a point in a Southwest line of that certain "First Tract" as conveyed to Michael Giles Rutherford by deed recorded in Volume 197, Page 45 of the Deed Records of Hays County, Texas;

**THENCE** through the interior of said Greenhaw (3795.4 acre) tract with the Northeast right-of-way line of F.M Highway No. 967, same being the Southwest line of said N-Hays Investors I, LP (2723.144 acre) tract, also being a Southwest line of said Rutherford "First Tract", **N 43 deg. 07'46" W 1588.16 ft.** to a ½" iron rod set with a plastic cap imprinted "Holt Carson, Inc." at the most Southerly corner and **PLACE OF BEGINNING** of the herein described tract;

**THENCE** continuing with the Northeast right-of-way line of F.M. Highway No. 967, same being the Southwest line of said N-Hays Investors I, LP (2723.144 acre) tract and a Southwest line of said Rutherford "First Tract", the following four (4) courses:

- 1.) **N 43 deg. 07'46" W 934.80 ft.** to a concrete highway monument found at a point of curvature at record Engineers Station 435+95.1;
- 2.) along a curve to the left with a radius of 1949.86 ft. for an arc length of 527.67 ft. and which chord bears, **N 50 deg. 52'27" W 526.06 ft.** to a concrete highway monument found at record Engineers Station 441+11.8;
- 3.) **N 58 deg. 34'49" W 1264.82 ft.** to a concrete highway monument found at a point of curvature at record Engineers Station 453+77.6;
- 4.) along a curve to the left with a radius of 1949.86 ft. for an arc length of 369.28 ft. and which chord bears, **N 64 deg. 23'25" W 395.60 ft.** to a ½" iron rod found with a plastic cap imprinted "Capital Surveying Co, Inc." at the most Westerly Southwest corner of said N-Hays Investors I, LP (2723.144 acre) tract, same being the Southeast corner of

that certain (231.398 acre) tract of land as conveyed to SGL Development, Ltd. by deed recorded in Volume 1696, Page 573 of the Official Public Records of Hays County, Texas and the Southwest corner of the herein described tract, from which a concrete highway monument found at record Engineers Station 464+44.3 bears, N 80 deg. 24'48" W 690.63 ft. (direct tie);

**THENCE** leaving the Northeast right-of-way line of F.M. Highway No. 967 and crossing the interior of said Rutherford "First Tract" with a West line of said N-Hays Investors I, LP (2723.144 acre) tract and the East line of said SGL Development, Ltd. (231.398 acre) tract, **N 01 deg. 02'41" W** passing the record Northeast corner of said SGL Development, Ltd. (231.398 acre) tract, same being the record Southeast corner of that certain (577.094 acre) tract of land as conveyed to SGL Investments, Ltd. By deed recorded in Volume 1696, Page 581 of the Official Public Records of Hays County, Texas at a distance of 1423.64 ft. again from said capped ½" inch rod found, passing a point in the approximate North line of said Greenhaw (3795.4 acre) tract at a distance of 2401.40 ft., from which a large old cedar fence corner post found on the North line of said Greenhaw (3795.4 acre) tract at the Southwest corner of that certain tract of land as conveyed to P.R. Rutherford and wife, Betty Traylor Rutherford by deed recorded in Volume 158, Page 474 of the Deed Records of Hays County, Texas bears, N 88 deg. 41'07" E 159.94 ft. and from said corner post a 20" Live Oak tree found bears, N 50 deg. 30' E 91.72 ft. and again from said corner post a 26" Live Oak tree found bears, S 06 deg. 29' E 5.95 ft., continuing along said bearing for a total distance of **4185.07 ft.** to a ½" iron rod set with a plastic cap imprinted "Holt Carson, Inc. at an exterior angle corner of said N-Hays Investors I, LP (2723.144 acre) tract, same being the Northeast corner of said SGL Investments, Ltd. (577.094 acre) tract, also being a point in the South line of Lot 53, Goldenwood Section II, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 2, Page 263 of the Plat Records of Hays County, Texas, and also being a point in a North line of said Rutherford "First Tract";

**THENCE** with a North line of said N-Hays Investors I, LP (2723.144 acre) tract, same being a North line of said Rutherford "First Tract" and the South line of Lot 53, Goldenwood Section II, **N 88 deg. 29'19" E 146.24 ft.** to a large old cedar fence post found at an exterior angle corner of said P.R. Rutherford tract;

**THENCE S 89 deg. 49'47" E 359.34 ft.** to a 2" metal fence corner post found at an interior angle corner of said N-Hays Investors I, LP (2723.144 acre) tract, same being an interior angle corner of said Rutherford "First Tract" also being an interior angle corner of said P.R. Rutherford tract, from which an iron rod found with an aluminum cap imprinted "Kent McMillen RPLS 4341" at the Southeast corner of Lot 52, Goldenwood Section II, bears, S 34 deg. 48' E 0.69 ft, again from said corner post a 26" Live Oak tree found bears, N 47 deg. 02'E 97.05 ft. and again from said corner post a rock mound found at the Northwest corner of the John A. Miller Survey, Abstract No. 319 bears, N 89 deg. 23'10" E 2741.30 ft. and from said mound a cotton spindle set in rock bears, N 64 deg. 31'W 39.40 ft. and again from said rock mound another cotton spindle set in rock bears, S 69 deg. 27' E 35.53 ft.;

**THENCE** with a West line of said N-Hays Investors I, LP (2723.411 acre) tract the following three (3) courses:

1.) **N 01 deg. 00'53" W 1368.15 ft.** to a ½" iron rod found at the Northeast corner of Lot 48, Goldenwood Section II, same being the Southeast corner of Lot 76, Re-Subdivision of Lots 46 & 47 Goldenwood Section II, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 2, Page 276 of the Plat Records of Hays County, Texas;

2.) **N 01 deg. 02'07" W 3401.48 ft.** to a ½" iron rod found at the Northeast corner of Lot 9, Goldenwood Section 1, a subdivision in Hays County, Texas, according to the map or plat thereof recorded in Volume 2, Page 249 of the Plat Records of Hays County, Texas, same being the Southeast corner of that certain (116.76 acre) tract of land as conveyed to Constance C. Austin by deed recorded in Volume 1069, Page 698 of the Official Public Records of Hays County, Texas;

3.) **N 01 deg. 02'13" W 2795.85 ft.** to a ½" iron rod found at an angle corner in of said N-Hays Investors I, LP (2723.144 acre) tract, same being the Northeast corner of said C. Austin (116.76 acre) tract, also being an angle corner of that certain (172.31 acre) tract of land as conveyed to the Church of International Society of Divine Love by deed

recorded in Volume 834, Page 452 of the Official Public Records of Hays County, Texas, also being an angle corner of said Rutherford "First Tract", and also being an angle corner of said P.R. Rutherford tract, from which an iron rod found with an aluminum cap imprinted "Kent McMillen RPLS 4341" bears, S 02 deg. 36' E 2.35 ft., again from said 1/2" iron rod found a 22" Live Oak tree found bears, N 05 deg. 32' W 28.85 ft. and again from said 1/2" iron rod found a 16" Live Oak tree found bears, N 76 deg. 43' E 29.54 ft.;

**THENCE** with a Northwest line of said N-Hays Investors I, LP (2723.144 acre) tract, same being a Northwest line of said Rutherford "First Tract", also being a Northwest line of said P.R. Rutherford tract, and also being a Southeast line of said Church of International Society of Divine Love (116.76 acre) tract, **N 28 deg. 58'50" E 592.83 ft.** to a 1/2" iron rod found at the most Northerly Northwest corner of said N-Hays Investors I, LP (2723.144 acre) tract, and also being the most Northerly Northwest corner of said P.R. Rutherford tract, also being an angle corner of said Church of International Society of Divine Love (116.76 acre) tract, and also being the Southwest corner of Lot 16, Bear Creek Estates, Section Two, a subdivision in Hays County, Texas according to the map or plat thereof recorded in Volume 2, Page 199 of the Plat Records of Hays County, Texas and the Most Northerly Northwest corner of the herein described tract from which a 31" Live Oak tree found bears, S 56 deg. 52' W 48.94 ft. again from said 1/2" iron rod found a dead 14" Post Oak tree found bears, S 56 deg. 35' E 34.17 ft.;

**THENCE** with the North line of said N-Hays Investors I, LP (2723.144 acre) tract, same being the North line of said Rutherford "First Tract", also being the North line of said P.R. Rutherford tract, **N 88 deg. 27'10" E 3173.19 ft.** to a 1/2" iron rod found with a plastic cap imprinted "Capital Surveying Co, Inc." at an exterior angle corner of said N-Hays Investors I, LP (2723.144 acre) tract, same being the Northwest corner of that certain (1.001 acre) tract of land as described in Volume 2463, Page 833 of the Official Public Records of Hays County, Texas, from which a 1/2" iron rod found at an exterior angle corner of said P.R. Rutherford tract, same being an exterior angle corner of said Rutherford "First Tract", also being an exterior angle corner of that certain (189.00 acre) tract of land as conveyed to Krasovec-Reunion Hayes County Joint Venture by deed recorded in Volume 871, Page 411 of the Official Public Records of Hays County, Texas bears, N 88 deg. 27'55" E 199.89 ft.;

**THENCE** crossing the interior of said P.R. Rutherford tract and said Rutherford "First Tract" with the common line of said N-Hays Investors I, LP (2723.144 acre) tract and said (1.001 acre) tract the following two(2) courses:

- 1.) **S 01 deg. 30'44" E 218.07 ft.** to a 1/2" iron rod found with a plastic cap imprinted "Capital Surveying Co, Inc." at the Southwest corner of said (1.001 acre) tract;
- 2.) **N 88 deg. 25'09" E 199.74 ft.** to a 1/2" iron rod found with a plastic cap imprinted "Capital Surveying Co, Inc." at the Southeast corner of said (1.001 acre) tract, same being an exterior angle corner of said N-Hays Investors I, LP (2723.144 acre) tract;

**THENCE** with an East line of said N-Hays Investors I, LP (2723.144 acre) tract, **S 01 deg. 29'30" E 1383.94 ft.** to a cotton spindle found with a plastic sap imprinted "Capital Surveying Co, Inc." at an interior angle corner of said N-Hays Investors I, LP (2723.144 acre) tract, same being the Southwest corner of said Krasovec-Reunion (189.00 acre) tract, also being an interior angle corner of said P.R. Rutherford tract, and also being an interior angle corner of said Rutherford "First Tract";

**THENCE** with a North line of said N-Hays Investors I, LP (2723.144 acre) tract, same being a North line of said P.R. Rutherford tract and a North line of said Rutherford "First Tract", **N 87 deg. 57'31" E 1551.05 ft.** to a 1/2" iron rod set with a plastic cap imprinted "Holt Carson, Inc." at the most Easterly Northeast corner of the herein described tract, from which a 1/2" iron rod found at an angle point in a North line of said N-Hays Investors I, LP (2723.144 acre) tract bears, N 87 deg. 57'31" E 1263.91 ft.;

**THENCE** entering the interior of said N-Hays Investors I, LP (2723.144 acre) tract and crossing the interior of said P.R. Rutherford tract and said Rutherford "First Tract" the following two (2) courses:

- 1.) **S 19 deg. 34'06" W 322.59 ft.** to a 1/2" iron rod set with a plastic cap imprinted "Holt Carson, Inc.";

2.) S 00 deg. 43'41" E 8009.23 ft. to a fence corner post found at the Northwest corner of that certain (700 acre) tract of land as conveyed to Michael G. Rutherford by deed recorded in Volume 192, Page 319 of the Deed Records of Hays County, Texas, same being an interior angle corner of said Rutherford "First Tract", also being a point in the North line of said Greenhaw (3795.4 acre) tract and a point in the South line of said P.R. Rutherford tract, from which a 60D Nail found in a large old cedar fence corner post at the Southeast corner of the John A. Miller Survey, Abstract No. 319, same being the Northeast corner of said Greenhaw (3795.4 acre) tract, also being the Northeast corner of said Rutherford (700 acre) tract, and also being the Southeast corner of said P.R. Rutherford tract and also being the most Easterly Southeast corner of said Rutherford "First Tract" bears, N 88 deg. 55'15" E 3344.91 ft. and from said 60D Nail found in large old cedar fence corner post a 17" Live Oak tree marked "X" bears, N 63 deg. 30' W 56.88 ft. again from said 60D Nail found in large old cedar fence corner post a 23" Live Oak tree bears, N 67 deg, 54" W 23.45 ft.;

**THENCE** entering the interior of said Greenhaw (3795.4 acre) tract with the West line of said Rutherford (700 acre) tract, same being a East line of said Rutherford "First Tract", S 00 deg. 43'41" E 2741.14 ft. to a ½" iron rod set with a plastic cap imprinted "Holt Carson, Inc.", from which a ½" iron pipe found in the Northeast right-of-way line of F.M. Highway No. 967 at the Southwest corner of said Rutherford (700 acres), same being an exterior angle corner of said Rutherford "First Tract" bears, S 00 deg.43'41" W 4971.19 ft.;

**THENCE** leaving the West line of said Rutherford (700 acre) tract and crossing the interior of said Rutherford "First Tract" the following two (2) courses:

- 1.) S 60 deg. 41'14" W 3152.26 ft. to a ½" iron rod set with a plastic cap imprinted "Holt Carson, Inc.";
- 2.) S 79 deg. 32'59" W 346.11 ft. to the **PLACE OF BEGINNING** and containing 1558.23 acres of land.

SURVEYED: December 2007

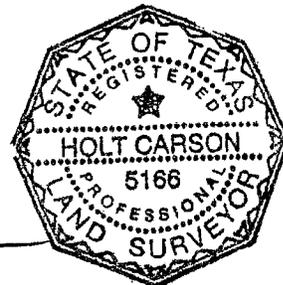
Revised: February 5, 2008

BY:



Holt Carson

Registered Professional Land Surveyor No. 5166



see survey map B 814002

FIELD NOTES REVIEWED

By John Moore Date 2-7-2008

Engineering Support Section  
Department of Public Works  
and Transportation

## EXHIBIT "B" TO CONSERVATION EASEMENT

### DEVELOPMENT PLAN

This Development Plan is attached to and made a part of the Conservation Easement.

1. **Definitions.** Capitalized terms not otherwise defined in the Conservation Easement shall have the meaning given to such terms below:

- a. **"Applicable Laws"** shall mean all statutes, regulations, codes, rules and ordinances of any governmental entities having jurisdiction over Grantor or the Property.
- b. **"Driveways"** shall mean any driveways, lanes, and roadways and related bridges, culverts and crossings that have been improved either with pavement, asphalt, gravel, rock, rock-base, clean soil consisting of clay, topsoil, rock saw or other materials placed on top of the natural surface of the land.
- c. **"Impervious Cover"** shall mean and include all Improvements or materials that are impermeable as to water which in any way cover or are placed on or above the natural surface of the land, or placed below the natural surface within excavations of the land (such as horizontal tunnels, underground garages, cellars or other Improvements or materials that block or prevent water recharge, but expressly excluding underground pipes, cables and lines for water, wastewater, gas, electrical, telecom and any other wet or dry utilities) and which extend more than fifteen (15) feet beyond the footprint of above-ground Improvements (in which case the entire extension of underground Improvements beyond the footprint of above-ground improvements shall be counted in the calculation of Impervious Cover).
- d. **"Improvements"** shall mean and include any and all structures, ponds, site clearing and other significant disturbance of the land surface (except in connection with brush management, ranching operations and wildlife management as permitted in the Management Plan), mass plantings, buildings, parking areas, fences, walls, poles, pipelines, wells, septic systems and other utility facilities, Driveways, swimming pools, tennis courts and any other structures affixed to or located on the land.
- e. **"Pond Zone"** shall mean those areas within the Property generally identified as such on the map in Exhibit "B-1" attached hereto.
- f. **"No Development Zone"** shall mean an area within the Property, as shown on the map in Exhibit "B-2" attached hereto, that includes buffers on each side of streams with drainage areas equal to or greater than fifty (50) acres, recharge features, springs, wetlands, floodplains and/or habitat for the Golden Cheeked Warbler. Stream buffers shall be as shown on the map in Exhibit "B-2" and as more specifically enumerated in Exhibit "B-3" attached hereto, as follows: (i) 50 feet wide for drainages greater than fifty (50) acres but less than or equal to 160 acres, (ii) 100 feet wide for drainages greater than 160 acres but less than or equal to 320 acres; (iii) 200 feet for drainages greater than 320

B-1

Parties' Initials:  
Grantee: \_\_\_\_  
Grantor: \_\_\_\_

acres but less than or equal to 640 acres; and (iv) 300 feet for drainages greater than 640 acres.

- g. **“Residential Complex”** shall mean and include, collectively, a single family main house, a single family guest structure, tennis courts, a swimming pool, a barn, a stable and other sheds or outbuildings to house animals, materials and equipment necessary for the utilization of, or associated with, the above-described structures, for the purpose of supporting Grantor’s agricultural, ranching or wildlife management operations or otherwise restoring, maintaining, or enhancing the natural hydrologic regime of a watershed, as otherwise set out in **Paragraph 16** below.
- h. **“Residential Parcel”** shall mean a subdivided portion of the Property pursuant to **Paragraph 4 and 5** below, containing or designated to contain a Residential Complex.
- i. **“Open Space Parcel”** shall mean a subdivided portion of the Property pursuant to **Paragraph 4 and 5** below, other than a Residential Parcel.
- j. **“Trails”** shall refer to roadways delineated on the natural surface of the land that have not been improved by any construction or the placement of any other materials thereon (except for the filling of holes or as otherwise may be minimally necessary to make passable). The term **“Trails”** shall not include paths created by livestock.
- k. **“Water Troughs”** shall mean steel, plastic, concrete or other man-made impervious water containers for use for watering livestock and game, and having a capacity of not more than 250 gallons.

2. **Improvements.** Grantor may maintain, repair and reconstruct Driveways, Trails, bridges, culverts, crossings, fences, rock walls and other Improvements located on the Property, provided such Improvements are in existence as of the Effective Date or are otherwise allowed under the Agreement. Such maintenance, repair and reconstruction activities shall be conducted so as to avoid or minimize any materially adverse impact on the Conservation Values. Driveways and Trails in existence as of the Effective Date shall not be increased in width. Any reconstructed Improvements shall be of similar size, location and materials as the original, unless otherwise approved by Grantee pursuant to **Paragraph 20.7** of the Conservation Easement.

3. **New Development Generally.** Except as otherwise expressly provided in this Agreement, the construction and placement of any new Improvements allowed hereunder shall be restricted to that portion of the Property outside of the No Development Zone and shall be conducted so as to avoid or minimize any materially adverse impact on the Conservation Values. Notwithstanding the preceding sentence, Grantor has the right, in connection with ranching and wildlife management operations, to construct and/or maintain the following Improvements within the No Development Zone:

- a. Wire fences, including game fences;
- b. Trails;
- c. Low water crossings and Driveways as needed to cross Little Bear Creek or flood plain and to provide access to and through the Property subject to a plan approved by the Grantee;

- d. Underground pipes within the No Development Zone (subject to a plan approved by Grantee) serving Water Troughs outside the No Development Zone (and no Water Troughs shall be permitted within the No Development Zone), and approved ponds or tanks in the areas shown on the attached **Exhibit B-1**; and
- e. One (1) dock structure approved by Grantee to be located in each of the allowed ponds or tanks.

In addition, Grantor's rights to (i) partition, divide or subdivide the Property, (ii) conduct or permit commercial activities on the Property and (iii) construct or place any Improvements on the Property shall be subject to and restricted by the following additional provisions.

4. **Partitions.** Grantor shall be entitled to subdivide or partition the Property into no more than fifteen (15) Residential Parcels plus no more than four (4) Open Space Parcels. The 1.7% Impervious Cover limit set forth below under **Paragraph 6** shall be calculated across the total area of 1,558.23 acres of the Property and allocated among any resulting Residential Parcels and Open Space Parcels as determined by Grantor in its discretion. In addition, the terms of this Conservation Easement shall apply to all Residential and Open Space Parcels, and any subdivision or partition of the Property shall specifically reference this Conservation Easement and the allocation of certain rights as appropriate.

5. **Permitted Uses of Partitioned Parcels.** Each Residential Parcel may be utilized only for such uses as are customary and appropriate for one Residential Complex and related non-commercial recreational uses and for such other activities as otherwise expressly permitted in the Conservation Easement and Management Plan. Except as provided below, each Open Space Parcel may be utilized only for utility lines and private access serving any of the Residential Parcels or other Open Space Parcels, and for ranching and wildlife management related activities and light recreational activities such as hunting, fishing, picnicking and swimming, but excluding any cultivation or agricultural activities. In addition, the one (1) Open Space Parcel on which the Clubhouse (defined below) is located may be utilized for such recreational, social and charitable uses as appropriate for such improvements.

6. **Impervious Cover Limits/Restoration.** Impervious Cover, other than ponds, within the Property shall not exceed a total of 1,153,900.5 square feet (being 1.7% of the total area of 1,558.23 acres [67,876,498.8 sq. ft.] of the Property). This Impervious Cover limitation shall apply both to new Improvements and to relocations or expansions of any Improvements in existence on the Property as of the Effective Date. To the extent any Improvements are removed, the related ground shall be restored to a natural condition satisfactory to Grantee, but notwithstanding the restoration of the related ground, the Impervious Cover attributable to such removed Improvements shall not be added to the total square feet set forth above for Impervious Cover on the Property.

7. **Improvements.** In connection with each Residential Parcel of the Property as allowed under **Paragraph 4** above, Grantor may, subject to the Impervious Cover limitations set forth in **Paragraphs 4 and 6** above, place or construct one (1) Residential Complex. Each Residential Parcel shall contain no more than three (3) water wells, no more than two (2) of which may be located within any Residential Complex, with the remaining water well(s) to serve such agricultural, ranching and wildlife management activities as are permitted on such Residential Parcel. Grantor also has the right to construct, and thereafter engage in and operate, non-commercial horse stables and riding facilities (but not commercial horse boarding or horseback riding schools) on Residential Parcels, provided such activities conform to the Management Plan and are conducted pursuant to a plan approved by Grantee, specifying the location of such facilities, methods of waste management, water detention and filtration and such other items as

Parties' Initials:  
 Grantee: \_\_\_\_  
 Grantor: \_\_\_\_

may be reasonably required by Grantee. In connection with each Open Space Parcel of the Property, Grantor may place or construct only fences, Driveways and one (1) water well serving ranching and wildlife management related activities on such Open Space Parcel. On one (1) of the Open Space Parcels, Grantor may place or construct one (1) recreational clubhouse facility with associated parking, plus two (2) regulation size tennis courts not to exceed 45,000 sq. ft. of Impervious Cover, and one (1) additional water well (provided that the total number of water wells on the Property does not exceed 49 wells), all of which shall be included in calculating the 1.7% limit on Impervious Cover under **Paragraph 6** above (the “**Clubhouse**”). The Clubhouse shall be used solely for non-commercial uses of Owners of Residential Parcels and their invitees when accompanied or sponsored by one or more Owners, so long as the use of the Clubhouse, either individually or cumulatively, does not have a material adverse effect on the Conservation Values. The Owner accompanying or sponsoring any event on the Open Space Parcel on which the Clubhouse is located shall be liable for any damage to the Conservation Values of the Property or any violation of this Conservation Easement arising directly or indirectly out of such event.

8. **Driveways and Trails.** Any new Driveways and Trails permitted hereunder shall be designed so as to minimize their length as much as reasonably practical and shall be constructed and maintained so as to minimize erosion and all other negative impacts on the creeks, springs and watershed, as much as reasonably practicable. No coal tar sealants or other materials determined by Grantee in its reasonable discretion to be harmful to the watershed are allowed on such Driveways.

9. **Easements.** Grantor shall have the right to bring electricity, water, phone and/or other utility lines necessary to serve the permitted Improvements, if any, from the nearest available line, or other line approved by Grantee, and to grant necessary easements to accomplish same, and shall have the right to grant other easements as are reasonably necessary for Grantor’s use and enjoyment of the Property subject to the Conservation Easement, including permitted Residential Parcels and Open Space Parcels and access thereto, provided Grantor: (a) gives Grantee at least twenty (20) days prior written notice of its intent to grant such easement and a copy of the document(s) proposed to create such easement(s) and (b) obtains Grantee’s consent to such proposed easement(s). Any such easement document shall be expressly made subject to the Conservation Easement.

10. **Site Clearing.** Except as otherwise provided in the Conservation Easement and the Management Plan, Grantor may cut and/or remove only such vegetation as is reasonably necessary in connection with the maintenance, construction and use of the Improvements contemplated herein. Notwithstanding anything herein to the contrary, any such activity that would violate Section 170(h)(5)(B) of the Code (or any other section of the Code that shall be complied with for the Conservation Easement to constitute a “qualified conservation contribution” pursuant to Section 170(h) of the Code) is prohibited.

11. **Excavation.** Subject to the limitations contained in **Paragraph 2.1** of the Conservation Easement, Grantor may excavate and remove from the Property gravel, caliche, clay, bentonite and other materials as reasonably necessary in connection with its construction and maintenance of allowed Improvements on the Property, but only to the extent such removal is performed pursuant to a plan approved by Grantee specifying the amount and location of construction materials to be taken, the location where such materials are to be used and such other information Grantee reasonably requests in order to determine whether such excavation activities comply with the requirements of the Conservation Easement. Any such materials so excavated from the Property but remaining on the Property shall be promptly revegetated with native grasses. Additionally, sites where such materials are excavated shall be graded, shaped, and revegetated in a manner approved by the grantee.

Parties’ Initials:  
Grantee: \_\_\_\_  
Grantor: \_\_\_\_

12. **Waste.** All facilities and plans for the disposal of wastes other than by public sewage methods (such as shredding, compaction, incineration, reclamation or chemical dissolution) shall be submitted to Grantee in advance for its approval. Grantee acknowledges that Grantor may install septic systems as reasonably necessary for the Improvements contemplated herein, provided that such septic systems comply with all Applicable Laws.

13. **Plans and Specifications.** Prior to the construction or reconstruction of any Improvements (other than fences) and Trails permitted hereunder outside of the No Development Zone, or the construction or placement of any Trails, low water crossings, and driveways as provided in **Paragraph 3** of this document within the No Development Zone, Grantor shall submit to Grantee plans and specifications (the "**Plans**") for such Improvements and Trails and shall obtain Grantee's approval of the Plans. Such Plans shall include: (a) a map (similar to that attached as **Exhibit "B-1"**) showing the proposed location of the proposed Improvements, (b) identification and location of the vegetation to be cleared, (c) the total Impervious Cover of the new Improvements, (d) the amount and location of construction materials to be taken from the Property, (e) a construction schedule, and (f) any other information Grantee reasonably requests in order to determine whether such construction complies with the requirements of the Conservation Easement, including this Development Plan.

14. **Inspection.** In addition to any other rights of inspection and/or entry granted to Grantee hereunder, during the construction of Improvements, upon reasonable prior notice to Grantor (which notice may be verbal or in writing), Grantee shall have the right under **Paragraph 4.3** of the Conservation Easement to monitor and inspect all work in progress as necessary to insure that such construction is in compliance with the terms of the Conservation Easement, including this Development Plan.

15. **Construction Standards.** In addition to those criteria set forth in **Paragraph 12** above, the placement and construction of any Improvements shall comply with the following standards:

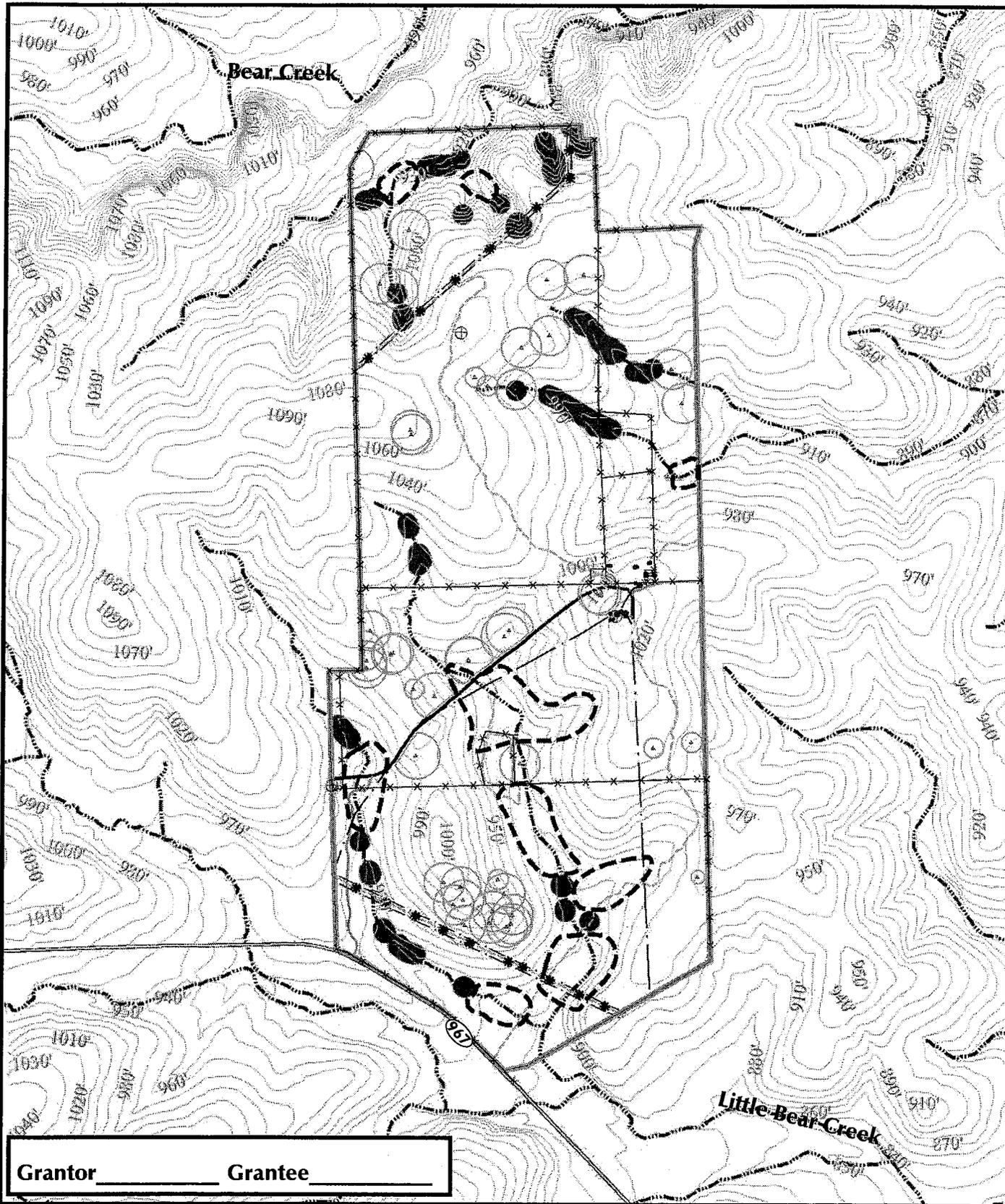
- a. The placement and construction of Improvements shall be conducted in such manner as to minimize any negative impact on surface and subsurface hydrology.
- b. The placement and construction of Improvements shall conform to any plans and specifications submitted to Grantee as required herein and shall be subject to and shall comply with all Applicable Laws.
- c. No excavation of land shall be made except in conjunction with, and as necessary for, the construction of permitted Improvements. When such Improvements are completed, all exposed openings shall be backfilled and graded and such areas shall be revegetated.
- d. Once construction of Improvements commences, such construction shall be diligently pursued to the end and may not be left in a partially finished condition any longer than reasonably necessary.

16. **Ponds and Tanks.** Grantor may construct ponds and livestock tanks on the Property subject to the terms hereof. The ponds and tanks shall not be deemed Impervious Cover and will be considered to be in compliance with the Conservation Easement if they are planned and constructed to meet the following conditions:

- a. There shall be no pumping of surface or groundwater to fill ponds or tanks.

- b. No more than a total of four (4) ponds or tanks for agricultural, ranching or wildlife management purposes may be constructed on the Residential Parcels and Open Space Parcels permitted hereunder.
  - c. Ponds and tanks (i) shall meet NRCS standards specifications regarding size and location, and (ii) will be located within in the Pond Zone or such other location on the Property approved by Grantee.
  - d. Plans for each pond and tank will be submitted to Grantee and shall be subject to approval by Grantee before construction begins.
  - e. The ponds and tanks shall be designed and constructed for impoundment of water as follows: (i) only one (1) pond may be larger than sixteen (16) acre feet but shall not exceed twenty-six (26) acre feet; (ii) the remaining three (3) ponds shall not exceed sixteen (16) acre feet; and (iii) all ponds in the aggregate shall not exceed sixty-eight (68) acre feet on the Property.
  - f. All fill for construction of dams or embankments shall be excavated from the planned impoundment area for the pond or hauled in from a location outside of the Property unless otherwise approved by Grantee.
  - g. Each pond will include adequate principal and/or emergency spillways to convey discharges of runoff or channel flows resulting from a twenty-five (25) year, twenty-four (24) hour frequency storm event.
  - h. Any areas of excavation, placed fill or disturbed soil that will not be inundated by impounded water will be re-vegetated with native vegetation or other vegetation approved by Grantee.
  - i. No exotic or non-indigenous aquatic vegetation or fish or other aquatic animals shall be stocked, introduced or permitted in such ponds, without Grantee's prior approval in accordance with **Paragraph 4.4** of the Conservation Easement.
17. **Completion Affidavits.** Upon completion of the construction of any Improvements on the Property, Grantor will so notify Grantee. Grantor will, subject to Grantee's approval, file an affidavit in the Official Public Records of Hays County, Texas specifying the type of such Improvement(s) and the amount of Impervious Cover utilized by such Improvements, and showing the location of such Improvements on an as-built survey, a copy of which is to be attached thereto.

Parties' Initials:  
 Grantee: \_\_\_\_  
 Grantor: \_\_\_\_



Grantor \_\_\_\_\_ Grantee \_\_\_\_\_

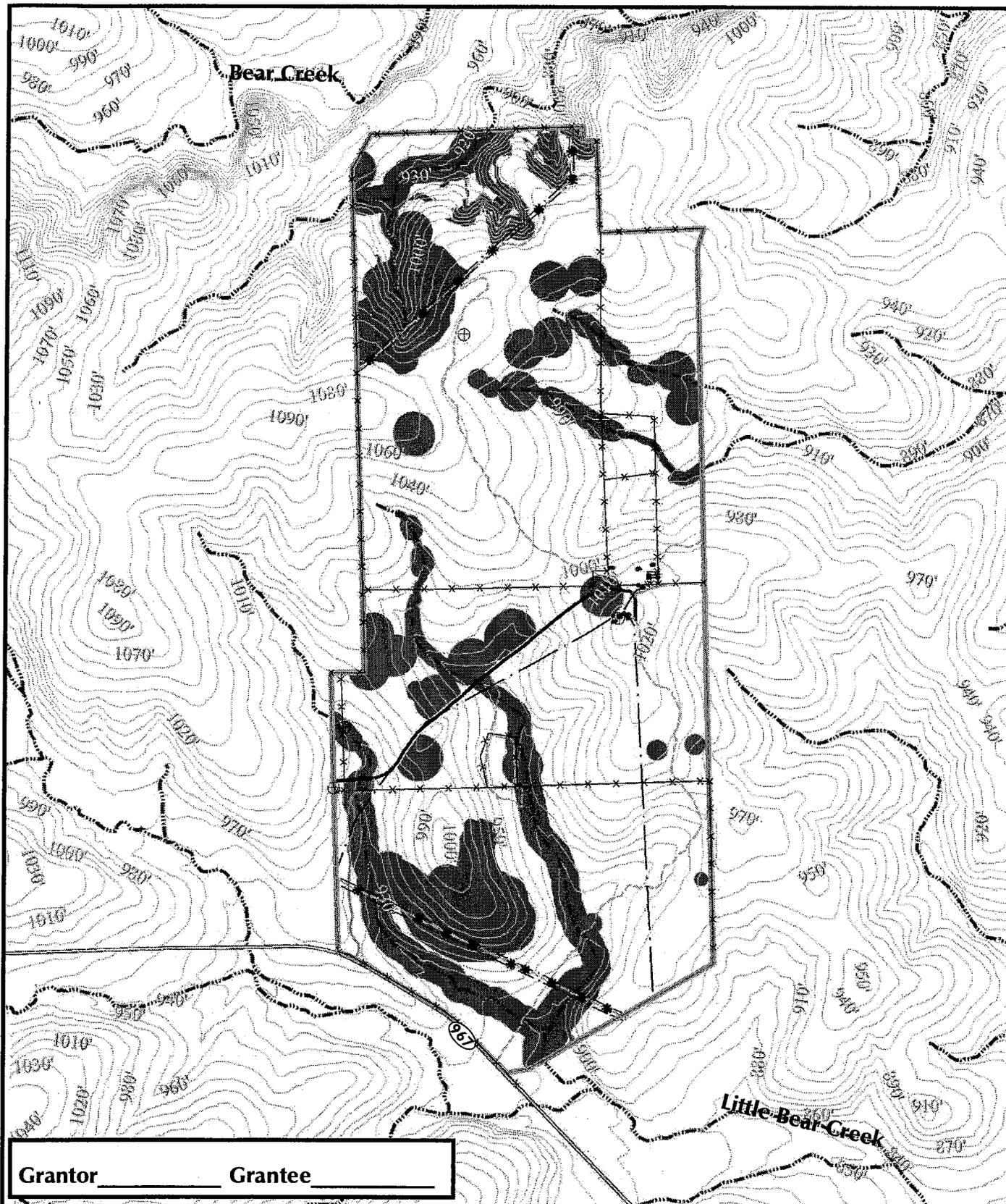
**Figure 17: Pond Zones B&W**

Feb 2008  
 BOSS & TURNER  
 ASSOCIATES, INC.



Source: LandisCor 2006, CAPCOG, USGS, ACI,  
 COA Watershed Protection Department  
 1" = 2000'  
 0 2,000' 4,000'

- |                    |                         |                            |
|--------------------|-------------------------|----------------------------|
| — Fenceline        | — OHE                   | — Stream Network           |
| ▭ Property         | ▭ Building              | — 10' contours             |
| ⊕ Well             | — Paved Driveway        | ▭ Spring & Wetland Buffers |
| * PEC Pole         | — Crushed Rock Driveway | ▭ Recharge Feature Buffers |
| — PEC Easement     | — Trail                 | ▭ Pond Zones               |
| ▲ Recharge Feature | — FM 967                |                            |



Grantor \_\_\_\_\_ Grantee \_\_\_\_\_

**Figure 15: No Development Zones B&W**

Source: LandisCor 2006, CAPCOG, USGS, SWCA, ACI, COA Watershed Protection Department

Feb 2008



1" = 2000'



- |                |                         |                  |
|----------------|-------------------------|------------------|
| — Fenceline    | — Paved Driveway        | — FM 967         |
| □ Property     | — Crushed Rock Driveway | — Stream Network |
| ⊕ Well         | — Trail                 | — 10' contours   |
| * PEC Pole     | — OHE                   | ■ No Dev Zone    |
| — PEC Easement | ■ Building              |                  |

Feature	Buffer Radius (ft)	Comments
F-01, 02, 03, 04, 05, 06, 18, 37, 38, 41, 42, 44, 45, 53, 54, 67, 70, 71, 72, 73, 74, 75, 76, 78, 79, 80, 81, 82, 83, 84, 85,	300	
F-08	150	Merge with buffer for F-09
F-09	300	Area neutral, reduce on downslope side for access road
F-10	300	Area neutral, reduce on downslope side for access road
F-11	300	Area neutral, reduce on downslope side for access road
F-19	300	Area neutral, reduce on downslope side for access road
F-20	300	Area neutral, reduce on downslope side for access road
F-21	300	Area neutral, reduce on downslope side for access road
F-22	300	Area neutral, reduce on downslope side for access road
F-28	150	
F-29	150	
F-47	100	
F-49	50	
F-87	300	Area neutral, reduce on downslope side for access road
F-90	150	
F-91	150	
Springs	150	
Wetlands	150	
Golden Cheek Warbler	Buffer known habitat	
Streams	50 - 400	As described in Dripping Springs

B-1

Parties' Initials:

Grantee: \_\_\_\_\_

Grantor: \_\_\_\_\_

		Ordinance, varies with drainage area from 50 to greater than 1280 acres
Slopes	Slopes greater than 15%	No construction without Grantee's approval

Parties' Initials:  
 Grantee: \_\_\_\_\_  
 Grantor: \_\_\_\_\_

## EXHIBIT "C" TO CONSERVATION EASEMENT

### MANAGEMENT PLAN

This Management Plan is attached to and made part of the Conservation Easement.

1. **Purpose of Management Plan.** The purpose of this Management Plan is to provide guidelines for conducting the allowed activities on the Property in order to promote the purposes of the Conservation Easement. To the extent there is any conflict in the other provisions of the Conservation Easement and this Management Plan, the provisions providing the greatest protection of the Conservation Values, as determined by Grantee in its reasonable discretion, shall govern. All activities allowed under the Conservation Easement, including residential uses, ranching, wildlife management operations and other allowed activities, shall be conducted in accordance with the following provisions.
  
2. **Brush Management.** Except as expressly provided below, any vegetation clearing or removal otherwise permitted in **Paragraph 2.3** of the Conservation Easement shall be accomplished by hand held tools, a backhoe, a bobcat or tractor utilizing hydraulic sheers or other similar type of sensitive equipment (excluding the use of bulldozers, root plowing or chaining, which methods are prohibited without Grantee's prior written consent). Burning or other chemical methods shall not be allowed without the prior written consent of Grantee, except for the use of herbicides in connection with fence lines as provided in **Paragraph 3** and expressly provided below. Prescribed burning of vegetation on the Property (including, without limitation, prescribed burning of cleared brush from allowed clearing activities and prescribed burning as a stand alone best management practice) is permitted provided that such burning is conducted in accordance with *Texas Natural Resources Code, Chapter 153 – Prescribed Burning*, as amended or replaced from time to time, and provided further that Grantor gives Grantee at least 24 hours prior notice and otherwise complies with all Applicable Laws. Grantee agrees that prescribed burning on Grantee's adjacent 1500 acre tract located adjacent to and east of the Property will be conducted in accordance with *Texas Natural Resources Code, Chapter 153 – Prescribed Burning*, as amended or replaced from time to time, and that Grantee will provide Grantor with at least 24 hours prior notice of any burning of vegetation Grantee intends to conduct on Grantee's 1500-acre tract of land located adjacent to and east of the Property. In addition, Grantor shall manage the existing brushy species, including ash juniper, so that it is maintained at or below the baseline canopy cover level determined in the EDR. Except as otherwise expressly permitted above, management of ash juniper and other brushy species shall be pursuant to a plan submitted in advance and approved by Grantee, setting forth the area and method of clearing. Areas of brushy species which are cleared shall be re-vegetated with native vegetation, native grass mixes or other grasses or other vegetation approved by Grantee.
  
3. **Pesticides.** Only chemical pesticides that are biodegradable and approved by Grantee may be used on the Property and only if used for its intended purpose(s) and in accordance with the manufacturer's product label. A list of pesticides currently approved by Grantee and their intended use(s) is shown on **Schedule "C-1"** attached hereto. Grantee reserves the right to modify such list of approved pesticides as it determines is reasonably necessary to protect or enhance the surface and subsurface hydrology. Notwithstanding anything herein to the contrary, the use of chemical pesticides within 500 feet of any waterways, water wells, springs, wetlands, caves, recharge features, and other sensitive features is prohibited, unless Grantee determines in its reasonable discretion that a greater or lesser

C-1

Parties' Initials:  
Grantee: \_\_\_\_\_  
Grantor: \_\_\_\_\_

distance is appropriate. Also, broadcast (aerial) pesticide treatments are prohibited.

4. **Grazing.** Grantor shall not overgraze or overstock the Property at any time and agrees not to graze more livestock and/or exotic and non-indigenous game animals thereon than would a reasonably prudent ranch operator, consistent with good husbandry practices and considering the then existing conditions of the Property. Without limiting the generality of the previous sentence, Grantor shall not, without Grantee's prior written consent, graze more than one (1) animal unit (as defined in the Animal Unit Equivalency Table attached hereto as **Schedule "C-2"** per thirty (30) acres on the Property at any one time. Subject to and without limiting the general restriction on overgrazing and overstocking provided above, Grantor may graze up to one (1) animal unit per twenty (20) acres, provided that the animal units in excess of one (1) animal unit per thirty (30) acres shall be confined in a corral or similar enclosed area; shall be fed in such corral or enclosed area from feed sacks and hay bales as their sole sustenance; and are released from such corral or enclosed area only for exercise and incidental grazing. Any confined feeding operation and any non-commercial horse stables permitted under the Development Plan shall be pursuant to a plan approved by Grantee and shall be (a) located at least 500 feet from any waterways, springs, caves, wetlands, recharge features and other sensitive features as shown in the map attached as **Exhibit B-1** of the Development Plan, (b) designed to contain and compost all animal waste and prevent degradation or other negative impact on surface and subsurface hydrology, and (c) subject to the restrictions on animal units restrictions set forth above.

5. **Storage tanks.** Storage tanks may be located on the Property for the containment of butane, propane, diesel, gasoline, water, animal feed, manure, and may be used solely in order to carry out any of the allowed activities pursuant to the Conservation Easement, including residential use, ranching, agriculture and wildlife management operations and educational programming. Any storage tank system (except water, propane and butane tanks for residential use) shall be located a minimum horizontal distance of 500 feet from any waterways, water wells, springs, caves, wetlands, recharge features and other sensitive features. All storage tank systems (except water, propane and butane tanks for residential use) shall be constructed pursuant to a plan approved by Grantee showing the design, specifications and location thereof and shall include a secondary containment with up to 150% of the volume of the subject tank, or such other protective containment method as reasonably acceptable to Grantee. Any such storage tank systems, including underground storage tanks, shall constitute Impervious Cover and shall be included in the calculation of the limits of Impervious Cover for the Property, and shall comply with all rules, registration requirements and regulations of the Texas Commission on Environmental Quality (TCEQ) (or any successor governmental agency) relating to such storage tanks.

6. **Agricultural Activities.** Grantor is entitled to cultivate (including plowing, planting, raising, harvesting and producing) food plots (including, without, limitation, orchards or other plantings of fruit and nut trees) for personal consumption and livestock and wildlife management related activities; provided no hydroponic methods or chemical fertilizers are utilized and provided that all such agricultural activities (other than food plots for personal consumption) are conducted in accordance with the Conservation Easement and Development Plan. Cultivated areas and food plots (including, without, limitation, orchards or other plantings of fruit and nut trees) on the Property shall not exceed a total of seventy-five (75) acres on the Property (subject to the limit in Paragraph 3.7 of the Conservation Easement that not more than 48 acres of land on the Property may be under irrigation at any one time), unless otherwise approved by Grantee. Any irrigated cultivated areas and food plots (including, without, limitation, orchards or other plantings of fruit and nut trees) on a Residential Parcel shall be counted as part of the irrigated acreage allocated to such Residential Parcel pursuant to **Paragraph 3.7** of the Conservation

Parties' Initials:  
Grantee: \_\_\_\_\_  
Grantor: \_\_\_\_\_

Easement. Areas irrigated for fruit and nut trees which are subsequently removed from irrigation, can be subtracted from the 48 acre allotment for irrigated areas, but will continue to fall under the umbrella of cultivated area with an overall cap of 75 acres. In addition, all cultivated sites shall be located outside the No Development Zone.

7. **Wildlife Control.** The population of native and exotic wildlife shall be maintained and controlled as necessary in order to carry out and promote the purposes of the Conservation Easement. Grantor also has the right to control, destroy or trap predatory and problem animals that pose a material threat to livestock and/or humans by means and methods approved by Grantee. The method employed shall be selective and specific to individual animals, rather than broadcast, non-selective techniques. These actions shall be implemented in a manner consistent with all Applicable Laws relating to regulated wildlife. Notwithstanding the foregoing, no exotic or non-indigenous aquatic vegetation and no exotic or non-indigenous fish or other aquatic animals shall be stocked, introduced or permitted in any ponds permitted on the Property or any other waterways or streams now or hereafter existing on the Property.

8. **Ranching and Wildlife Management Activities.** Ranching, equine and wildlife management operations of native and exotic wildlife are allowed on the Property provided such activities are conducted in accordance with the Conservation Easement, the Development Plan and this Management Plan (including but not limited to the provisions of **Paragraph 4** hereof) and do not violate or otherwise negatively impair the purposes of the Conservation Easement. Hunting of such wildlife is allowed on the Property provided such activities are conducted in accordance with all Applicable Laws. If Grantee determines in its reasonable discretion that any of such ranching, equine or hunting activities or wildlife management operations are causing a material adverse effect, either individually or cumulatively over time or with other activities, on the Property, Grantee may further restrict or limit the scope or manner in which such activities are conducted; provided, however, that Grantor shall have the right to demonstrate by evidence as set forth in objective studies or reports that such activities or operations do not and will not reasonably cause such material adverse effect.

9. **Periodic Review.** The parties recognize and acknowledge that the physical environmental conditions of the Property can change over time due to a variety of factors and that technological advancements and other new information with regard to management practices may be available in the future. Accordingly, to ensure that the conservation purposes set out in the Conservation Easement and this Management Plan continue to be satisfied, the parties agree that this plan should be reviewed at least every five (5) years. In connection therewith, Grantor and Grantee agree to work together in good faith to determine if the plan needs to be modified or updated. The plan can be modified at any time provided such changes do not violate the purposes of the Conservation Easement and either enhance or do not impair the Conservation Values of the Property. Any modification of the plan requires the mutual agreement of Grantor and Grantee and shall be in writing and executed by duly authorized representatives of each party. Any such modified Management Plan shall be recorded in the Official Records of Hays County, Texas.

10. **Compliance with Laws.** Grantor shall at all times comply with all Applicable Laws.

11. **Access to Grantee's Trail System.** The parties acknowledge that Grantee may elect to construct and manage a trail system through its 1500 acre tract of land located adjacent to and east of the Property (the "**Trail System**"). In connection therewith, Grantee agrees to consider Grantor and all other Owners of any portion of the Property as stakeholders in all meetings conducted with other stakeholders regarding the access, design, construction and use of the Trail System.

Parties' Initials:  
Grantee: \_\_\_\_\_  
Grantor: \_\_\_\_\_

**SCHEDULE "C-1" TO CONSERVATION EASEMENT**

**Approved Pesticides**

<b>Product</b>	<b>Common Name</b>	<b>Intended Use</b>
Fenvalerate	Pydrin; Class: III	Termites
Cholecalciferol	Quintox; Class: III	Rodents
Warfarin, Sulfaquinoxaline	Prolin; Class: III	Rodents
Pyrethrins, Diatomaceous earth	D-20; Class: III	Fire Ants
Fenoxycarb	Logic Award; Class: III	Fire Ants
Amidohydrazone	Amdro; Class: III	Fire Ants
Silica aerogel, pyrethrins and piperonyl butoxide	Drione; Class: III	Fleas
Pyrethrins, piperonyl butoxide and diatomaceous earth	Permagard; Class: III	Fleas
Insecticidal soap	Safer's Soap	Fleas
Pyrethrins, piperonyl butoxide and rotenone	Organocide; Class: III	Fleas
Fenoxycarb	Torus; Class: III	Fleas
Bacillus thuringiensis israelensis	Mosquito Dunks; Class: III	Mosquitoes
Encapsulated pyrethrum	Tossits; Class: III	Mosquitoes
Glyphosate	Roundup Weather Max, Accord	Fenceline Vegetation

Parties' Initials:  
Grantee: \_\_\_\_  
Grantor: \_\_\_\_

**SCHEDULE "C-2" TO CONSERVATION EASEMENT**

**Animal Unit Equivalency Table**

<b>Animal Unit Equivalency Table</b>	
<b>Kind and class of livestock</b>	<b>Approximate animal unit equivalent*</b>
Cow (1,000-lb.) with calf	1.0
Dry cow (1,000-lb)	0.77
Heifer (600 to 900 lb)	0.6 - 0.8
Steer (500-900 lb)	0.7-0.9
Bull (1,500 lb)	1.1
Horse (800-lb yearling)	0.75
Horse (1,000-lb 2 yr old)	1.0
Horse (1,100-lb 3 yr old and older)	1.25
Ewe (130-lb)	0.20
Weaned lamb (75-lb)	0.12
Ram (175-lb)	0.25
Nanny (70-lb)	0.17
Weaned kid (35-lb)	0.10
Billy (125-lb)	0.25
Axis, Aoudad, Fallow, Mouflon	0.20
Blackbuck Antelope	0.12
Sika	0.14
Red Deer and Elk	0.75

Parties' Initials:  
Grantee: \_\_\_\_\_  
Grantor: \_\_\_\_\_

## **EXHIBIT "D" TO CONSERVATION EASEMENT**

### **PERMITTED ENCUMBRANCES**

1. Restrictive Covenants recorded in/under 1671/276 of the Real Property Records of Hays County, Texas.
2. Easement for telephone line reserved in Deed, executed by W.I. Kuykendall and his wife, Helen Kuykendall, dated April 16, 1943, recorded in/under 126/457, of the Real Property Records of Hays County, Texas, as shown on survey dated December, 2007 prepared by Holt Carson, RPLS No. 5166.
3. Easement and Right-of-Way executed by J.E. Greenhaw, to Pedernales Electric Cooperative, Inc., dated May 19, 1953, recorded in/under 157/49, of the Real Property Records of Hays County, Texas, as shown on survey dated December, 2007 prepared by Hold Carson, RPLS No. 5166.
4. Easement and Right-of-Way executed by Michael Giles Rutherford, to Pedernales Electric Cooperative, Inc., dated June 18, 1971, recorded in/under 243/955, of the Real Property Records of Hays County, Texas, as shown on survey dated December, 2007 prepared by Holt Carson, RPLS No. 5166.
5. Easement and Right-of-Way executed by Michael G. Rutherford, to Pedernales Electric Cooperative, Inc., dated June 16, 1987, recorded in/under 767/409, of the Real Property Records of Hays County, Texas, as shown on survey dated December, 2007 prepared by Holt Carson, RPLS No. 5166.
6. Reservation of oil, gas and other minerals as set forth in Deed executed by P.R. Rutherford and wife, Betty Traylor Rutherford to Michael G. Rutherford, dated June 20, 1962, recorded in/under 192/319, of the Real Property Records of Hays County, Texas, reference to said instrument is here made for all purposes. Title to said interest not checked subsequent to date of aforesaid instrument.
7. Conveyance of mineral interests reserved in 192/319, as described in Deed of Gift executed by P.R. Rutherford and wife, Betty T. Rutherford to Patrick Richard Rutherford, Jr., Michael Giles Rutherford and Patricia Rutherford Richter, dated July 12, 1963, recorded in/under 197/45, of the Real Property Records of Hays County, Texas, reference to said instrument is here made for all purposes. Title to said interest not checked subsequent to date of aforesaid instrument.
8. Conveyance of mineral interest acquired under 197/45 as described in Mineral Deed executed by Patricia Rutherford Richter to Patrick R. Rutherford, Jr. and Michael G. Rutherford, dated November 13, 1967, recorded in/under 221/159, of the Real Property Records of Hays County, Texas, reference to said instrument is here made for all purposes. Title to said instrument is here made for all purposes. Title to said interest not checked subsequent to date of aforesaid instrument.
9. Mineral interest as described in instrument executed by P.R. Rutherford, as Independent Executor of the Estate of Betty T. Rutherford to Patrick Rutherford and Michael Rutherford, dated December 30, 1980, recorded in/under 532/225, of the Real Property Records of Hays County, Texas, reference

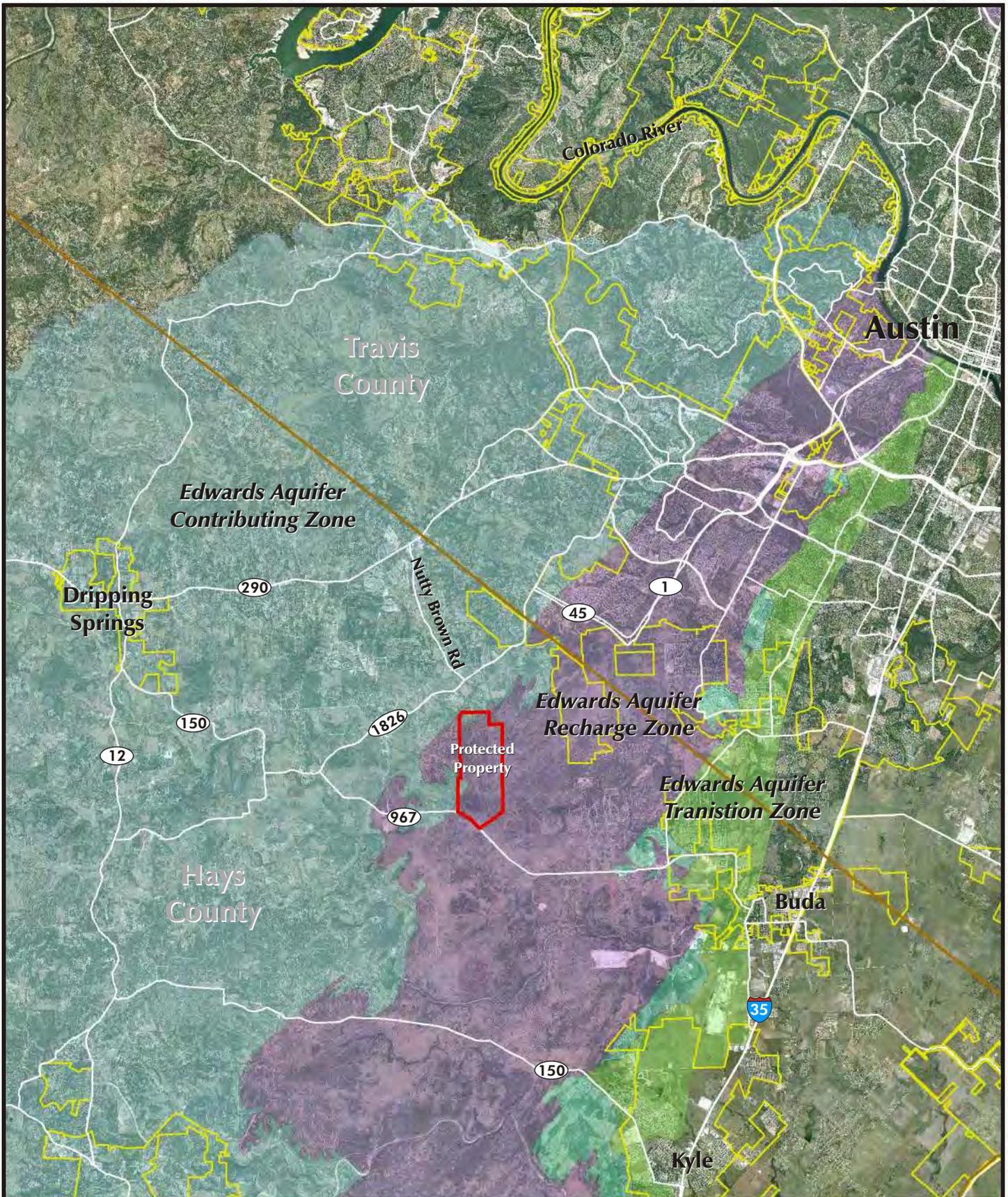
to said instrument is here made for all purposes. Title to said interest not checked subsequent to date of aforesaid instrument.

10. Conveyance of mineral interest included in instrument executed by Michael Giles Rutherford to Hays-967 Holdings, L.P., dated February 26, 2003, recorded in/under 2171/733, of the Real Property Records of Hays County, Texas, reference to said instrument is here made for all purposes. Title to said interest not checked subsequent to date of aforesaid instrument.
11. Conveyance of mineral interest acquired under 197/45 and 221/159, as described in Mineral Deed executed by Patrick R. Rutherford to Hays-967 Holdings, L.P., dated February 26, 2003, recorded in/under 2171/740, of the Real Property Records of Hays County, Texas, reference to said instrument is here made for all purposes. Title to said interest not checked subsequent to date of aforesaid instrument.



## **APPENDIX B - Figures**





**Figure 1: Context Map with Recharge Zone**

Feb 2008

Source: LandisCor 2006, TCEQ, TNRIS, COA



- |               |   |
|---------------|---|
| Property      | EA Contributing Zone                    |
| Primary Roads | EA Contributing Zone in Transition Zone |
| City Limits   | EA Recharge Zone                        |
| County Line   | EA Transition Zone                      |

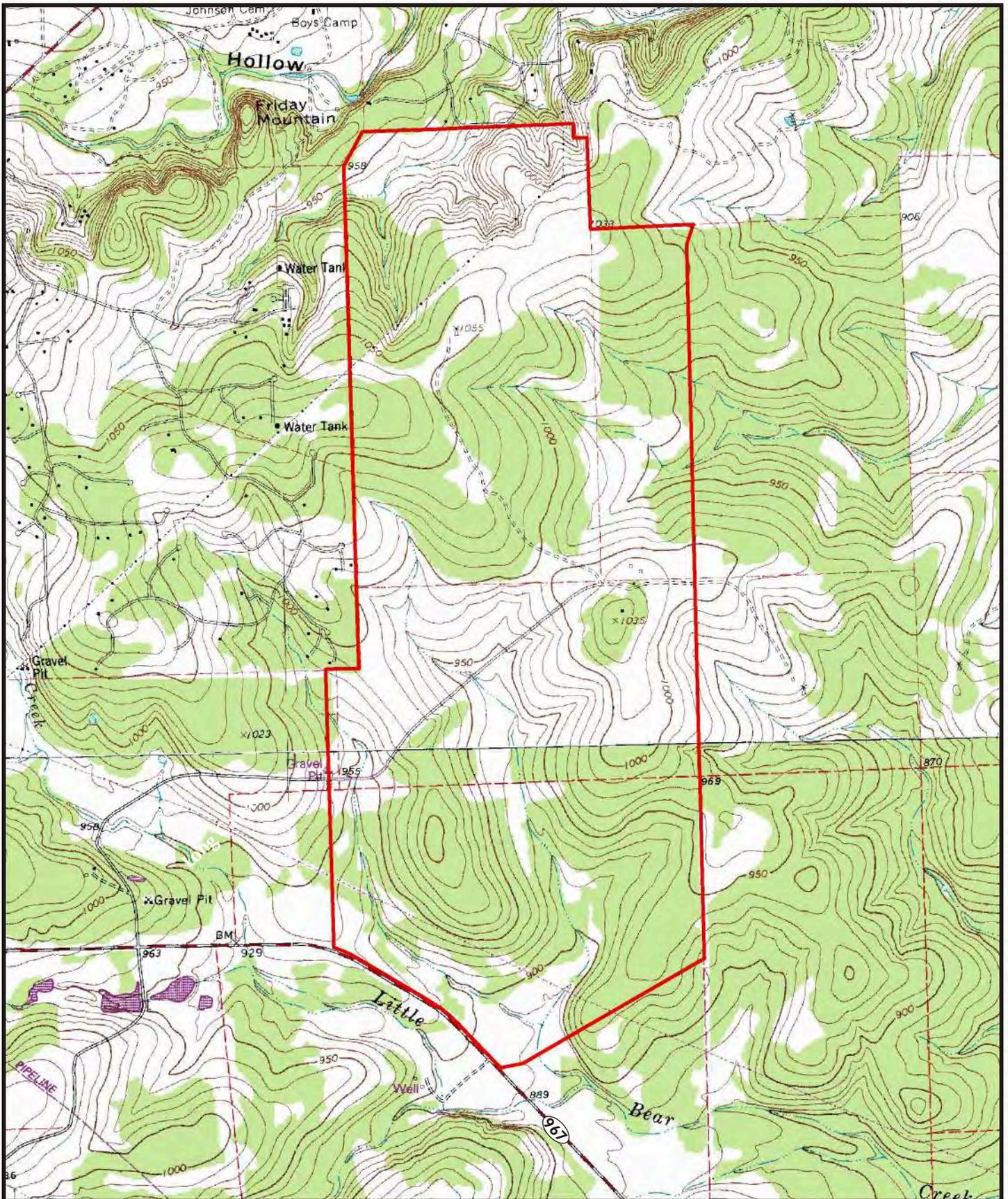


Figure 2: USGS Topographic Map

 Property

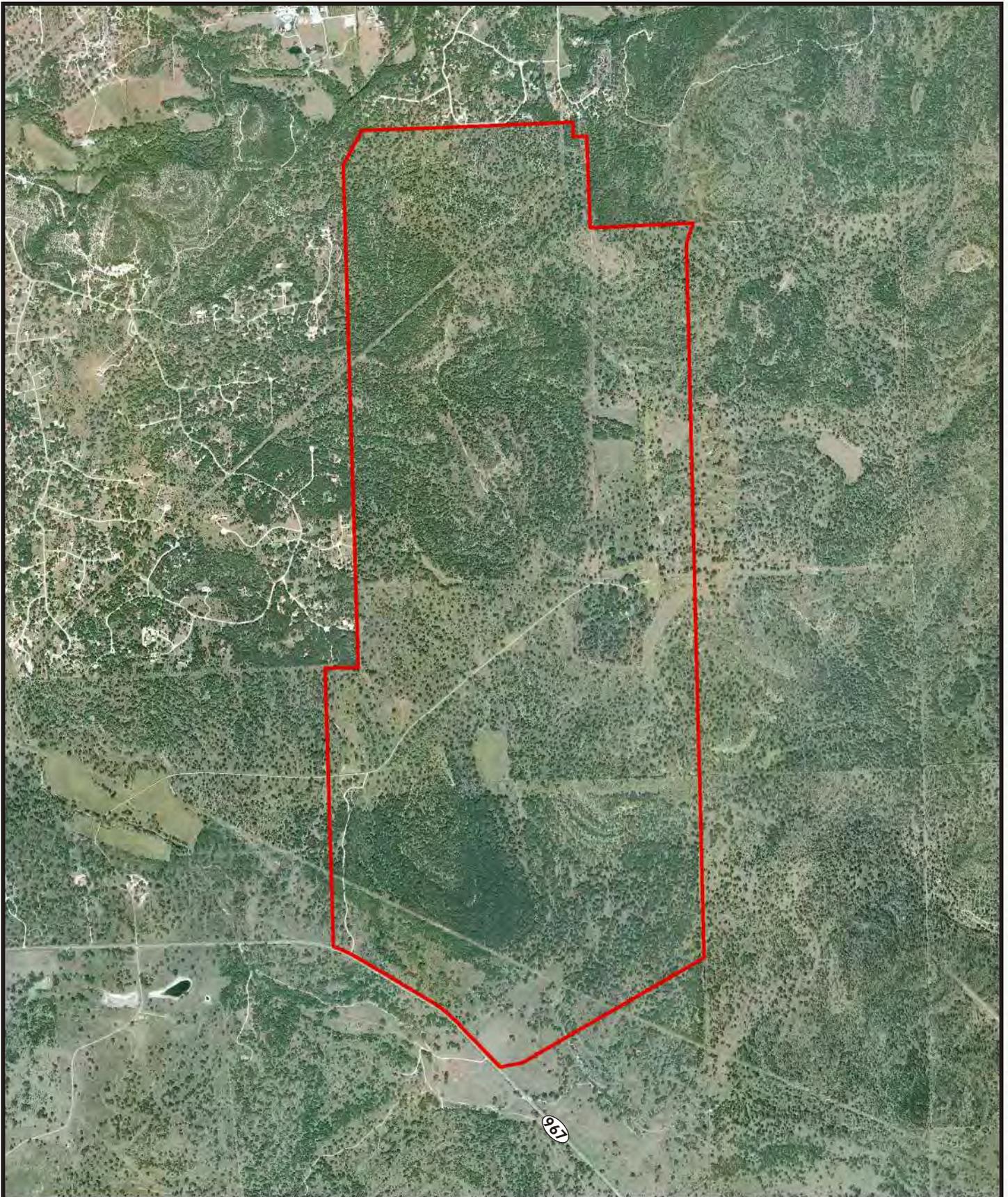
Feb 2008



Source: USGS

1" = 2000'





**Figure 3: Landiscor 2006 Aerial**

 Property

Feb 2008

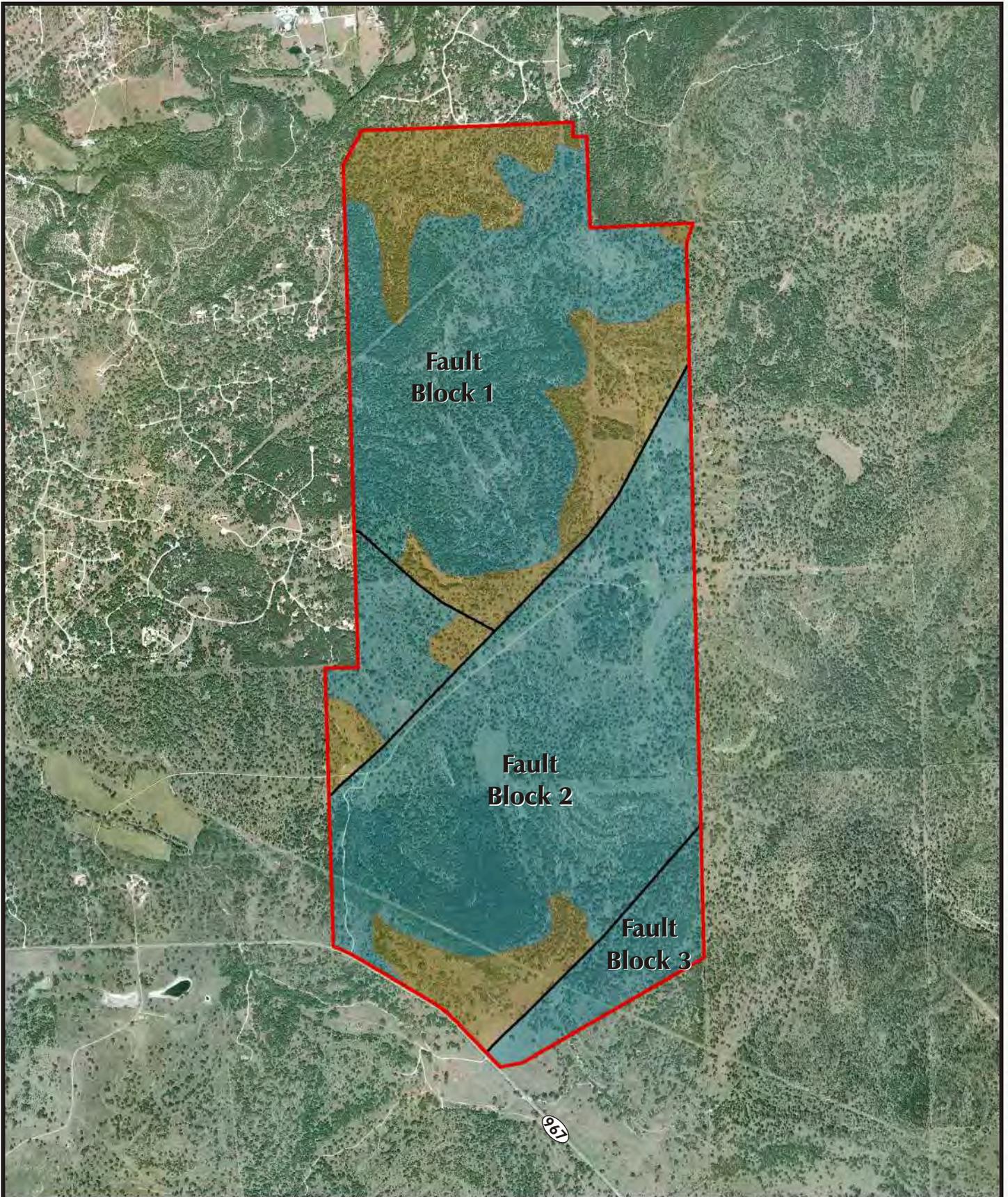


Source: Landiscor 2006



1" = 2000'





**Figure 4: Geology**

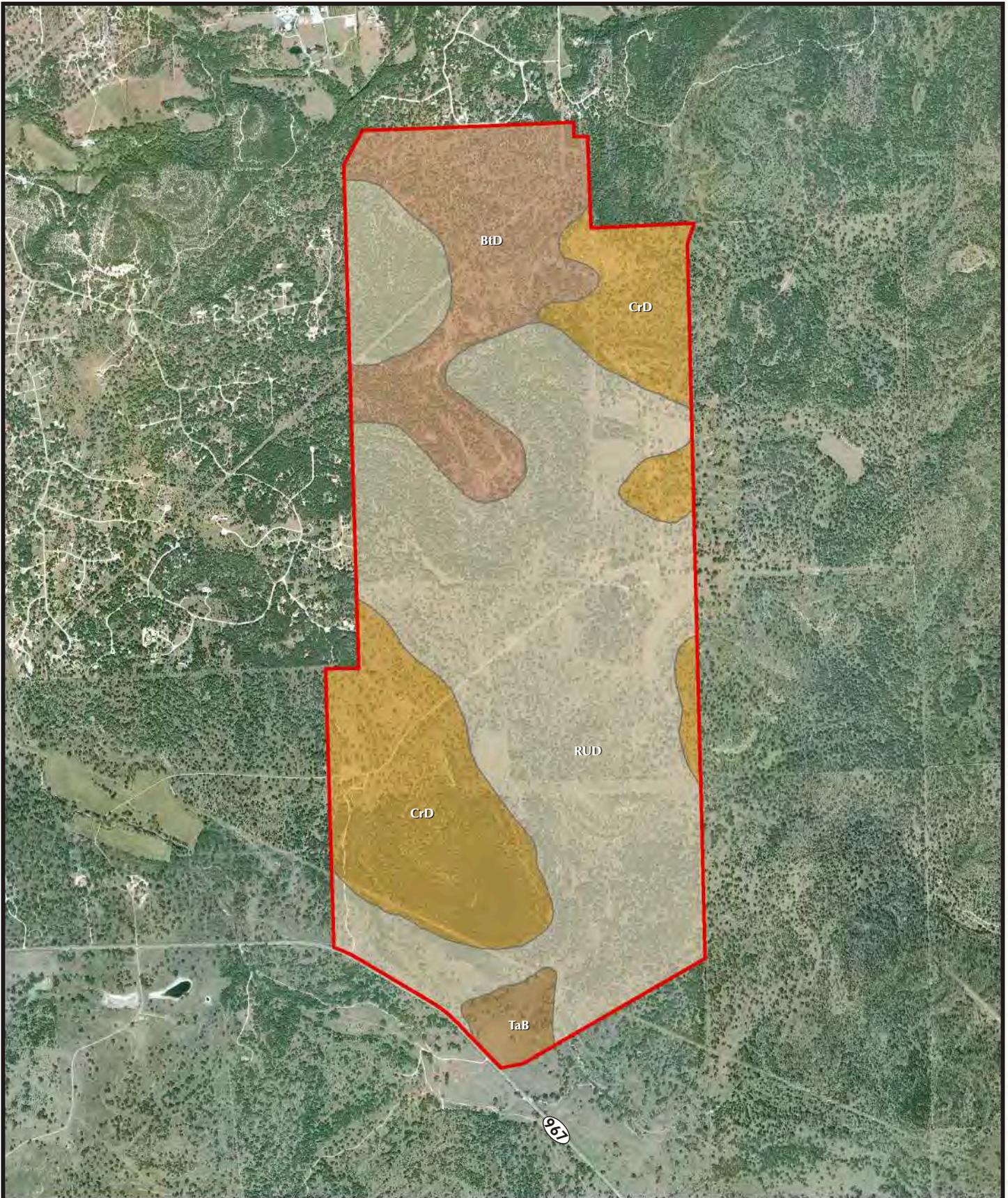
Feb 2008



Source: Landiscor 2006, SWCA



- Property
- Faults
- Ked (Edwards Group)
- Kwa (Walnut Marl)



**Figure 5: Soils**

Feb 2008



Source: LandisCor 2006, USDA



1" = 2000'



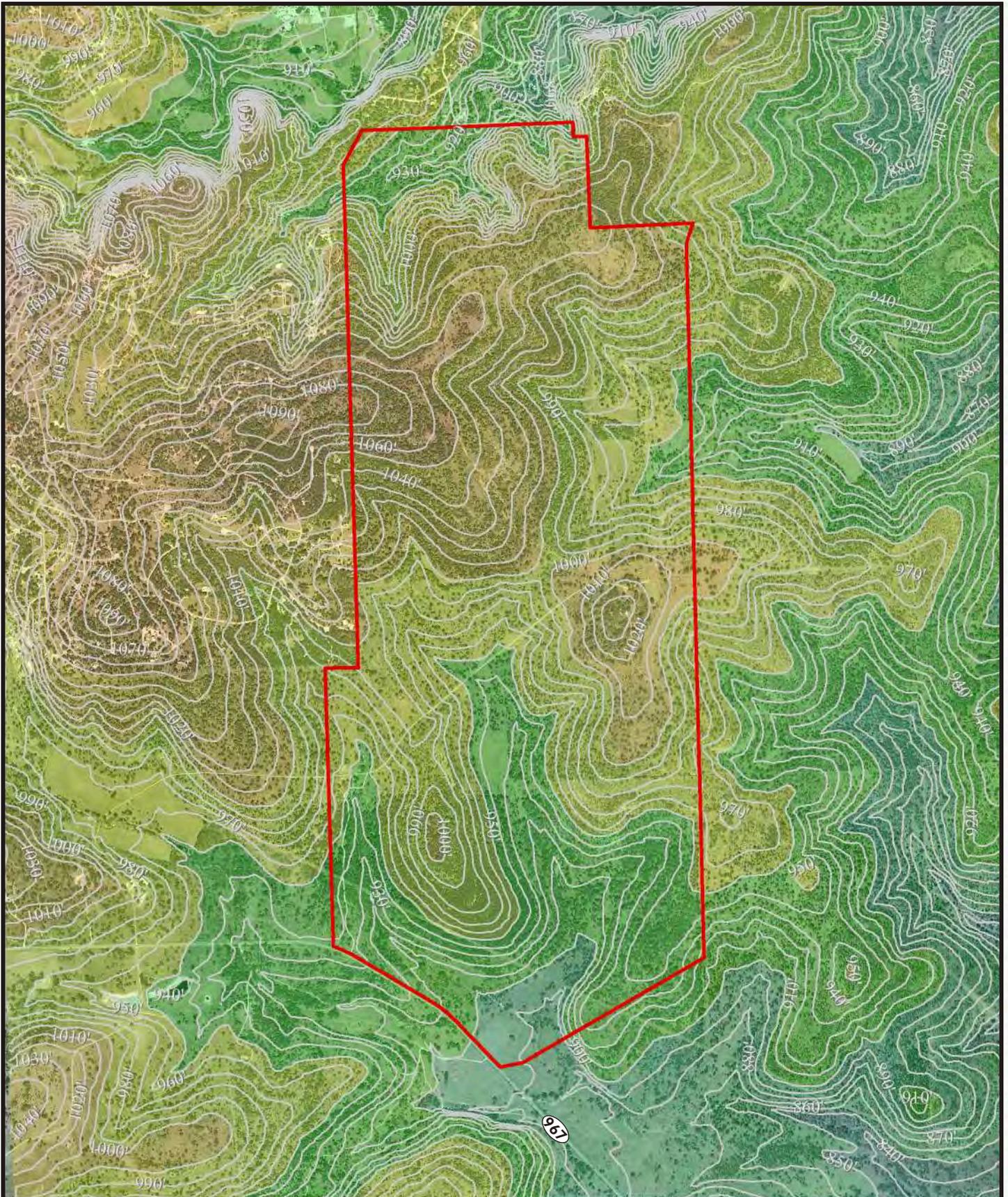
 Property

 TaB (Tarpley Clay)

 RUD (Rumple- Comfort Association)

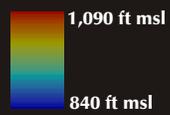
 BtD (Brackett-Rock Outcrop-Comfprot Complex)

 CrD (Comfort-Rock Outcrop Complex)

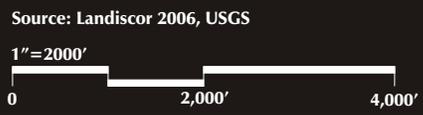


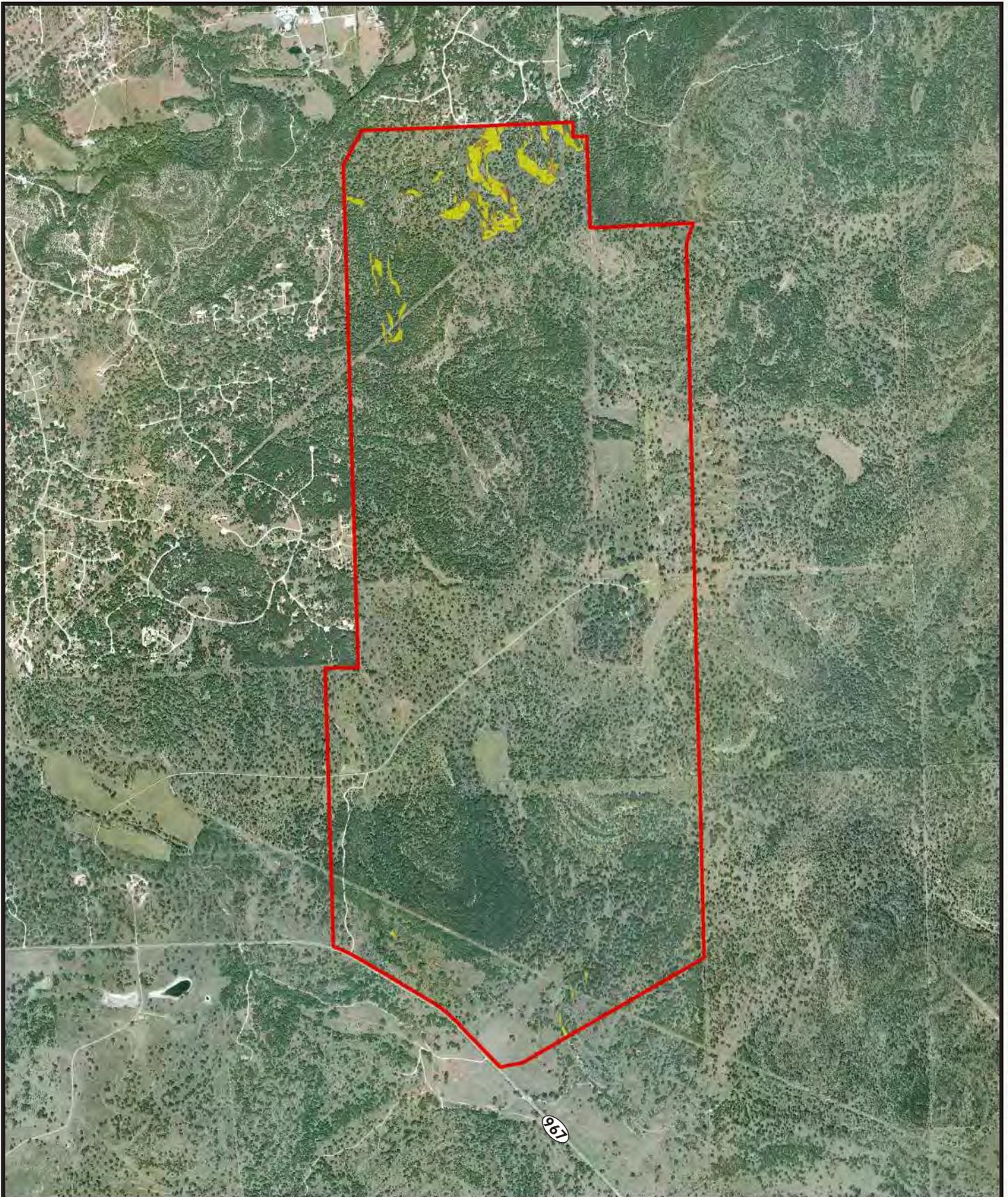
**Figure 6: Elevation**

Property  
 10' Contours



Feb 2008  
  
 BOSSÉ & TURNER  
 ASSOCIATES, INC.





**Figure 7: Slope**

Feb 2008



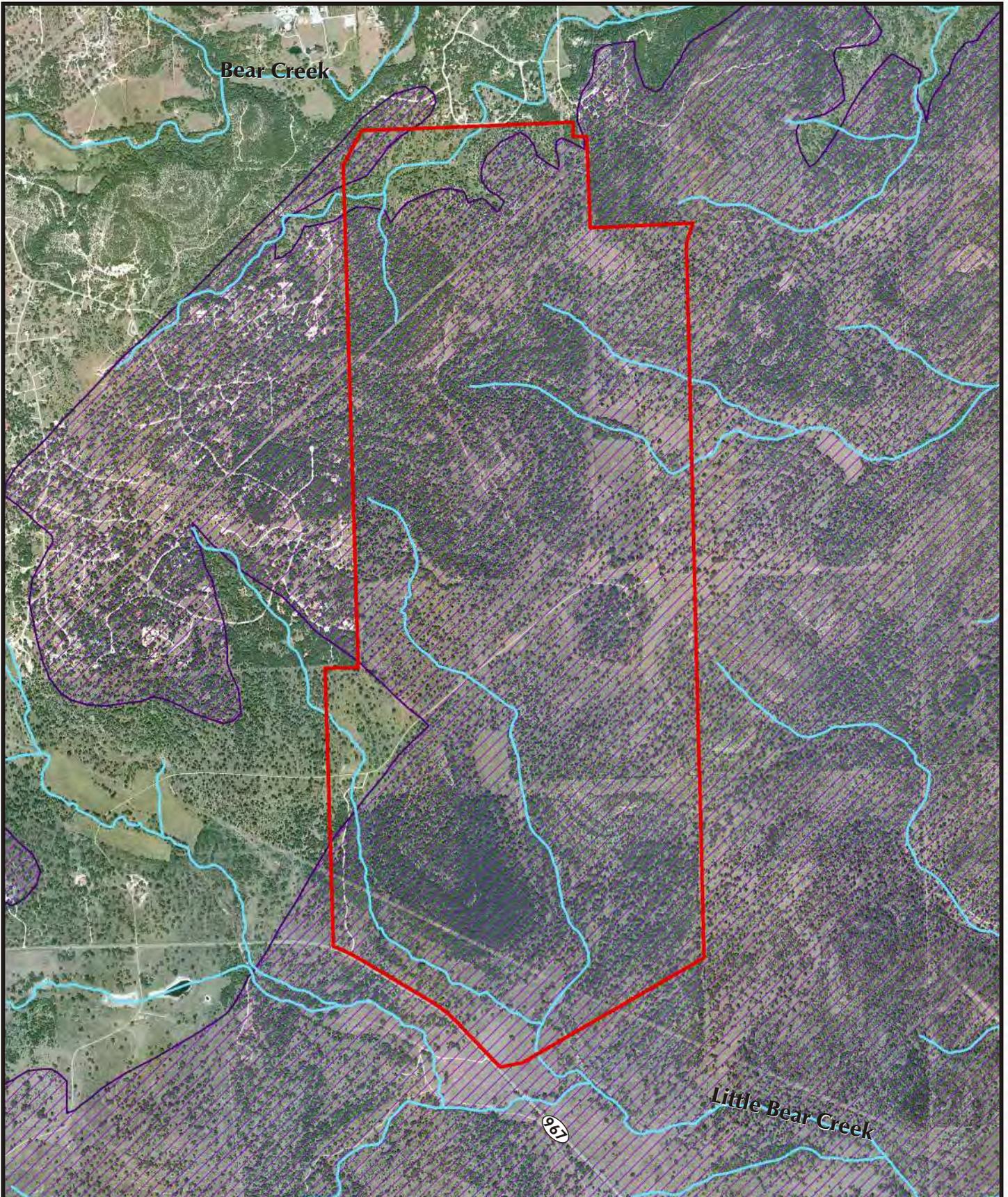
Source: Landiscor 2006, USGS



1" = 2000'

0 2,000' 4,000'

-  Property
-  Slope 15 - 25 %
-  Slope 25 - 35 %
-  Slope > 35 %



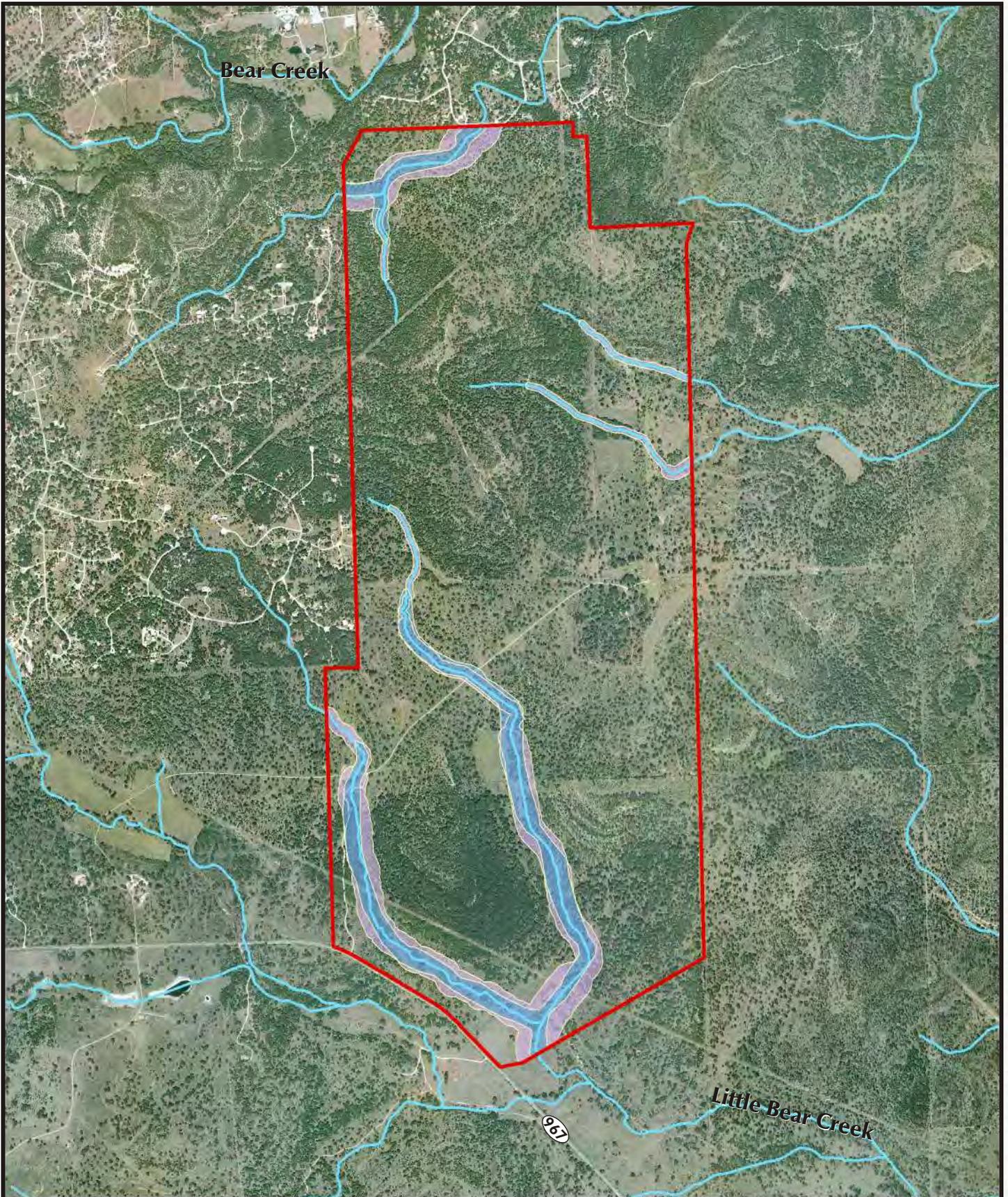
**Figure 8: Edwards Aquifer with Stream Network**

- Property
- Stream Network
- Edwards Aquifer Recharge

Feb 2008  
  
**B. OSSE & TURNER**  
 ASSOCIATES, INC.



Source: Landiscor 2006, TCEQ, CAPCOG  
 1" = 2000'  
 0      2,000'      4,000'



**Figure 9: 100yr Floodplain and Stream Buffers**

- Property
- Stream Network
- Stream Buffers
- 100 yr Floodplain

Feb 2008

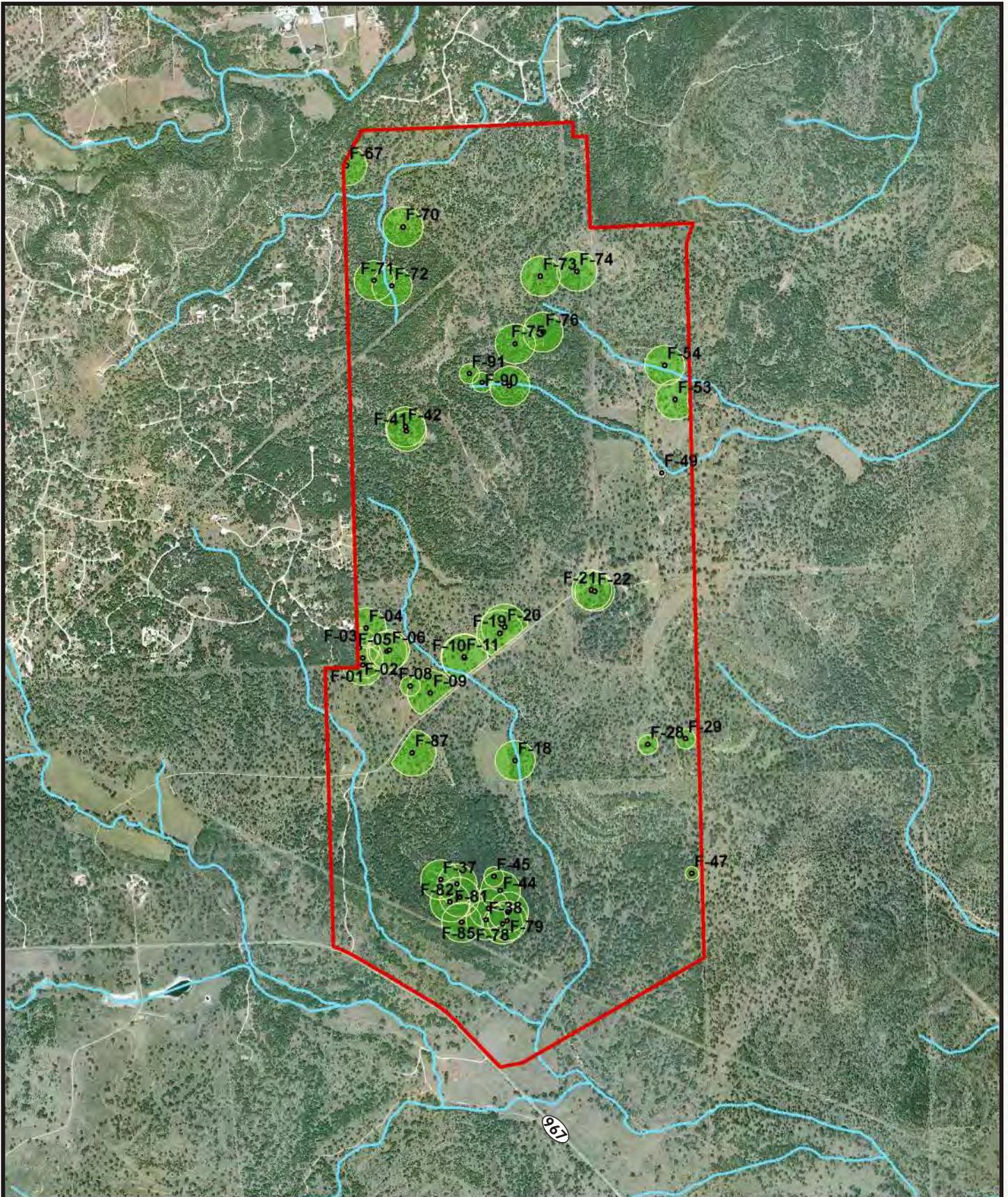


Source: Landiscor 2006, CAPCOG, USGS



1" = 2000'





**Figure 10: Recharge Features**

- Property
- Recharge Features
- Recharge Feature Buffers

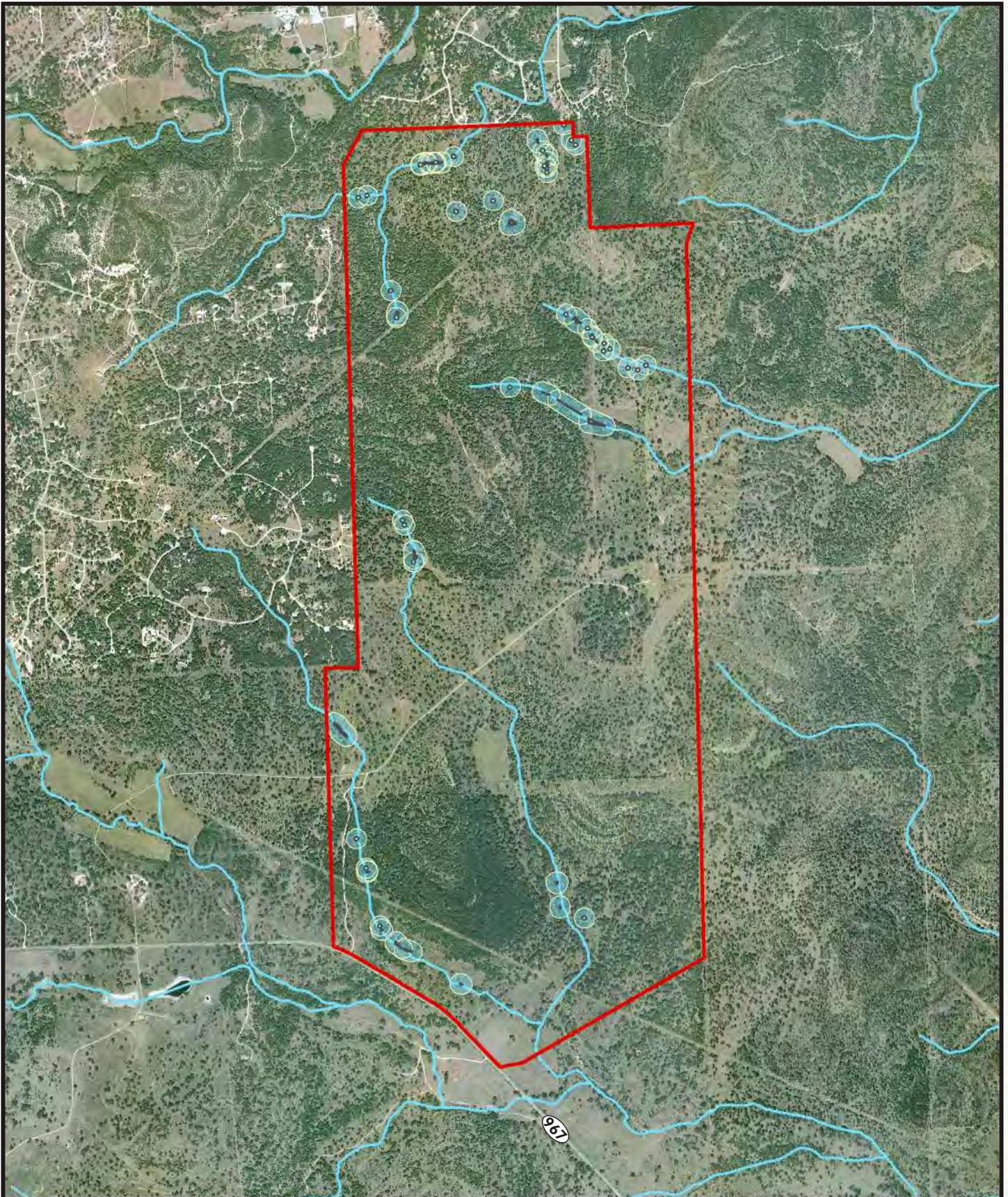
Feb 2008



Source: Landiscor 2006, ACI, COA Watershed Protection Department

1" = 2000'





**Figure 11: Spring and Wetland Features**

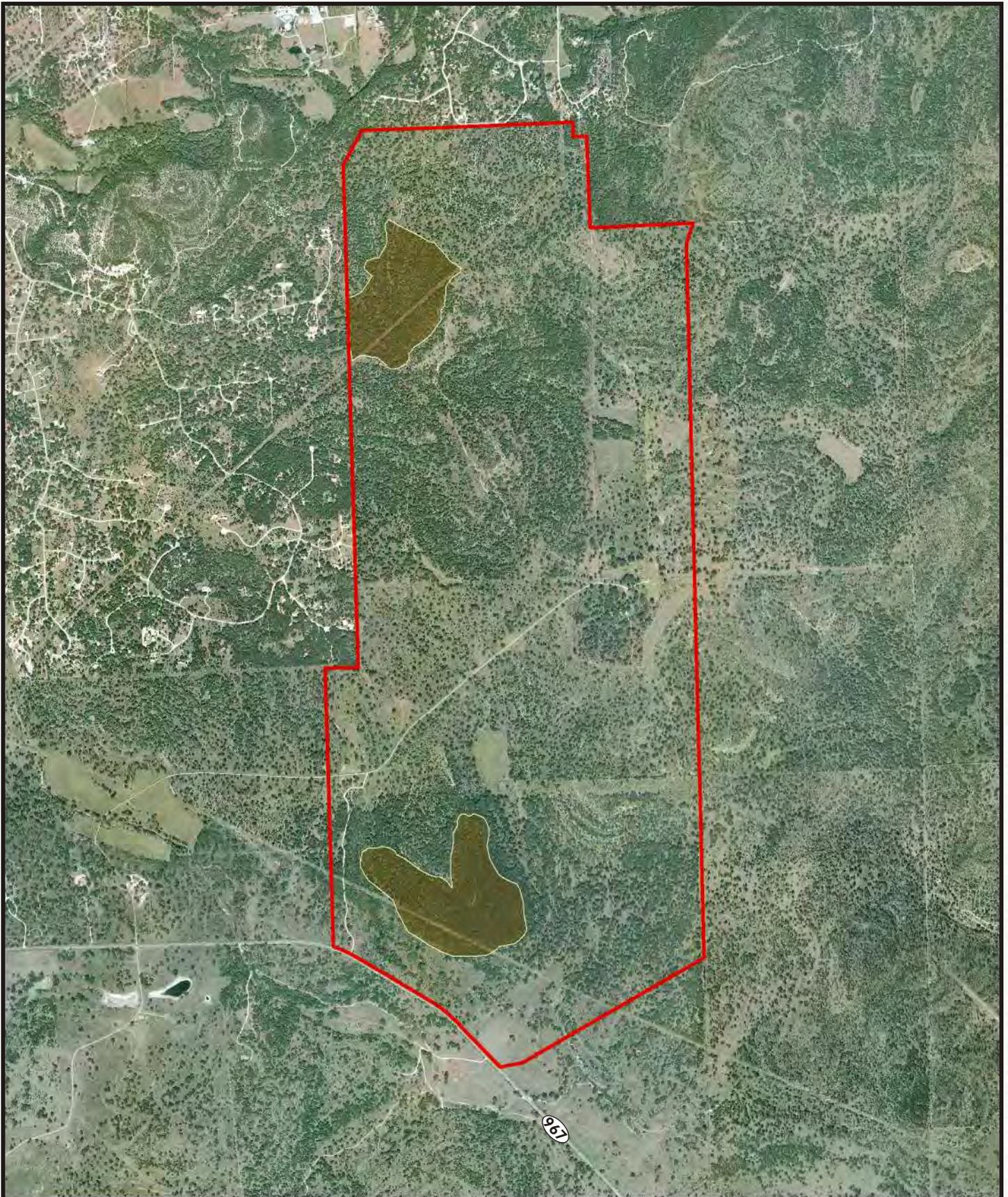
Feb 2008



Source: Landiscor 2006, COA Watershed Protection Department



- Property
- Spring, Seep or Wetland
- Spring, Seep, or Wetland Buffer
- Stream Network



**Figure 12: Confirmed GCW Habitat**

-  Property
-  Confirmed Golden Cheeked Warbler Habitat

Feb 2008

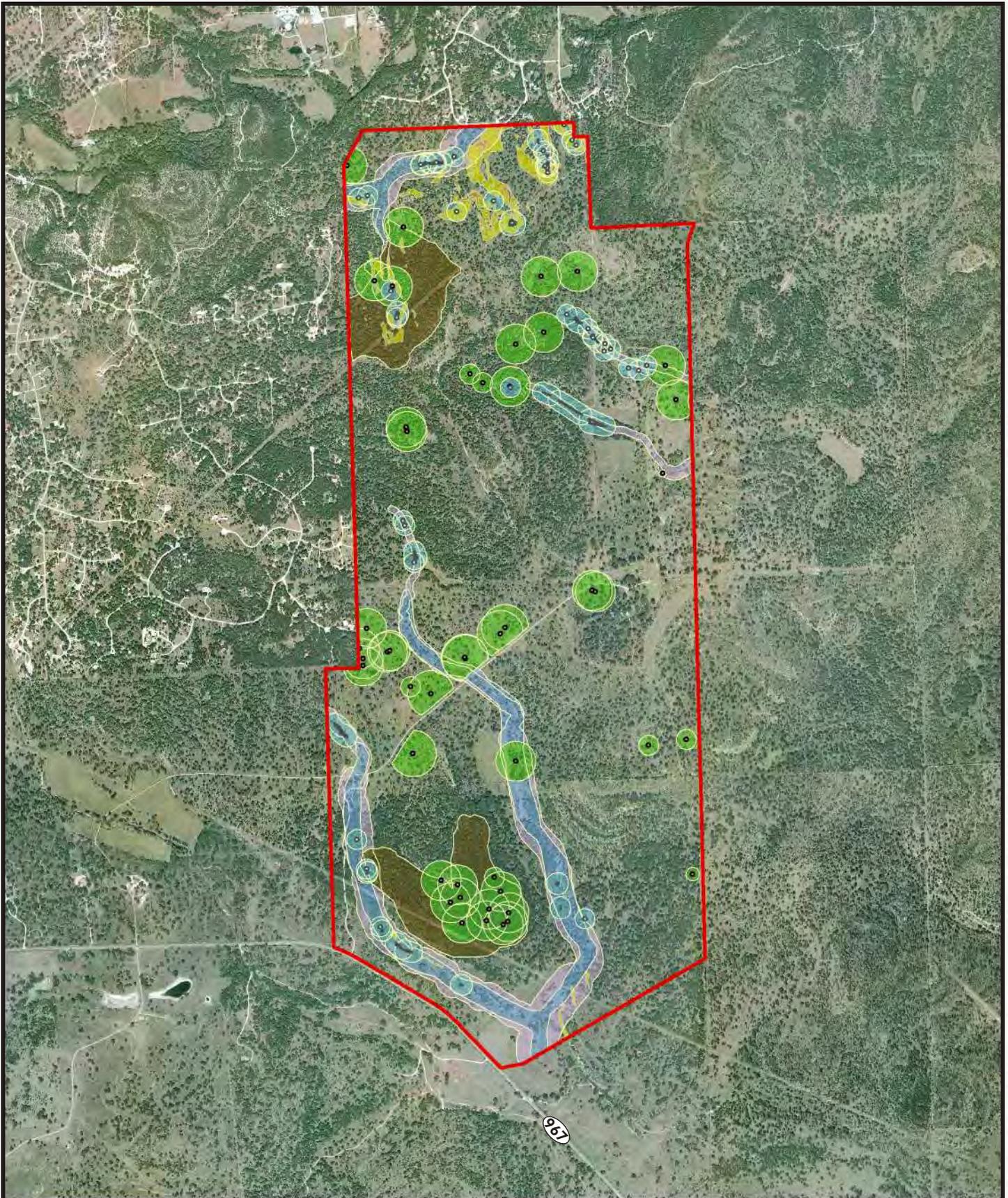


Source: Landiscor 2006, SWCA



1" = 2000'





**Figure 13: No Development Zones Compilation**

Feb 2008



Source: Landiscor 2006, CAPCOG, USGS, SWCA,  
ACI, COA Watershed Protection Department



 Property

 Stream Buffers

 100 yr Floodplain

 Confirmed GCW Habitat

 Recharge Feature Buffers

 Spring, Seep, or Wetland Buffer

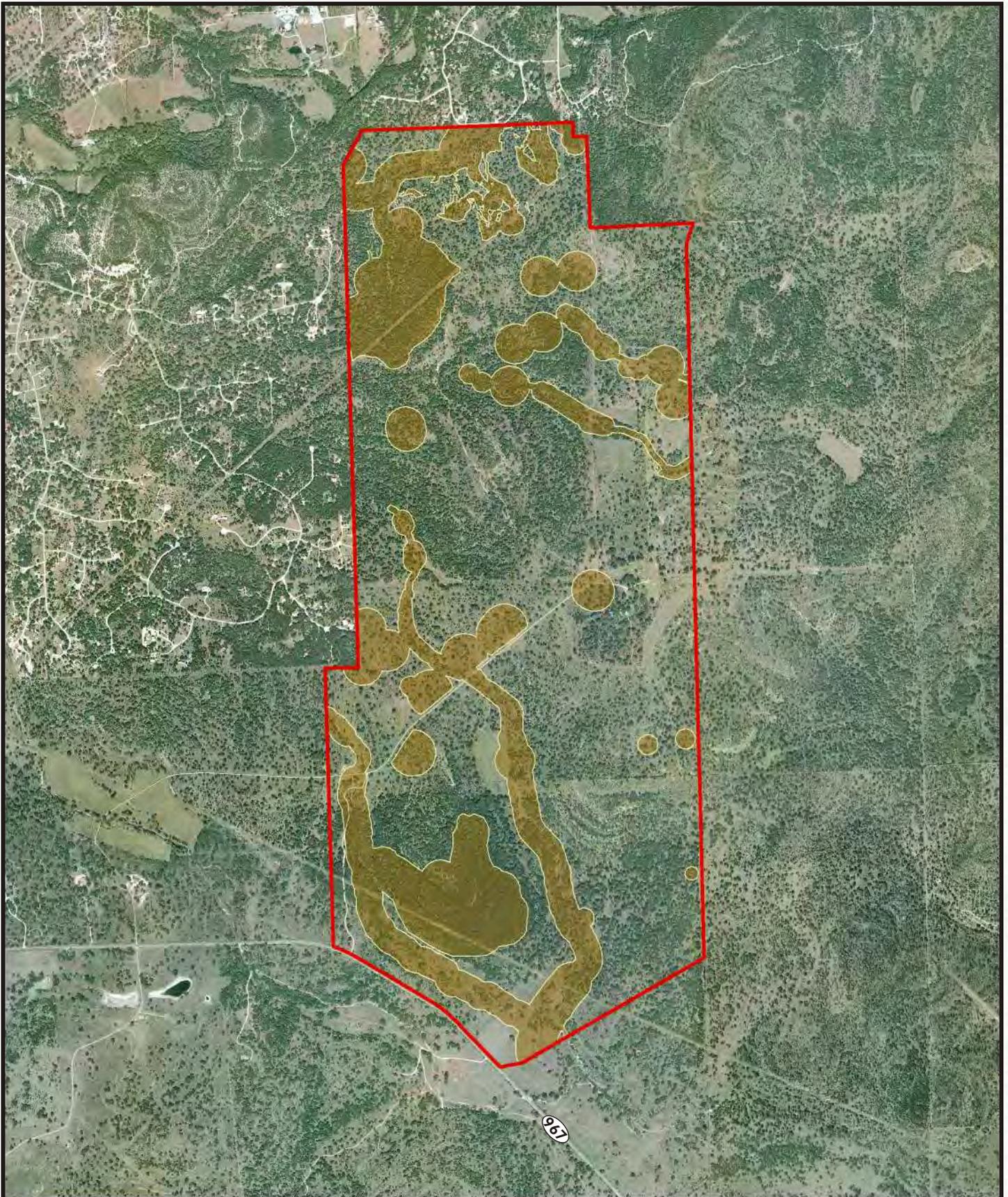
 Slope 15 - 25 %

 Slope 25 - 35 %

 Slope > 35 %

 Recharge Features

 Spring, Seep or Wetland



**Figure 14: No Development Zones Summary**

-  Property
-  NDZ Summation

Feb 2008



1" = 2000'

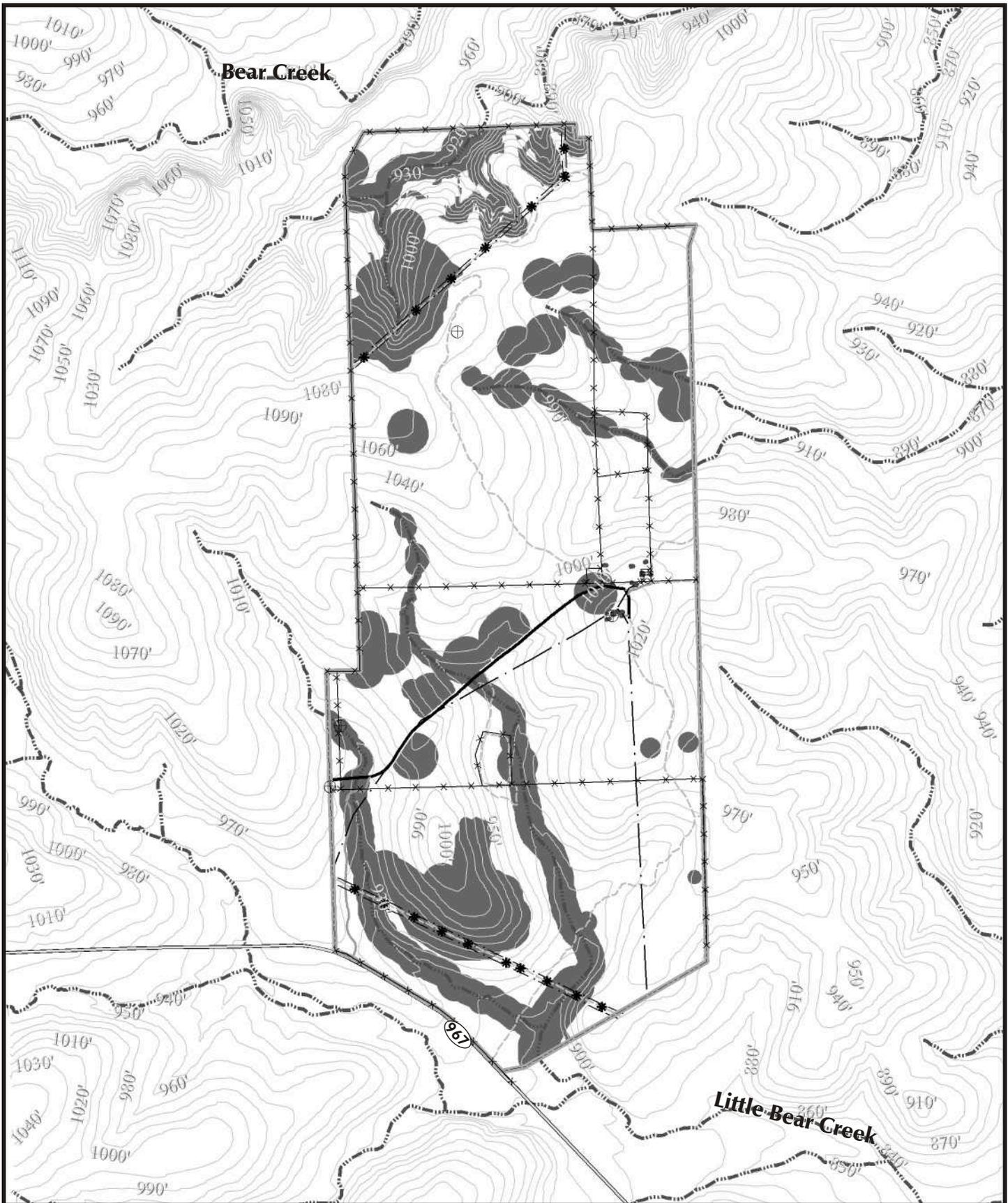


0

2,000'

4,000'

Source: Landiscor 2006, CAPCOG, USGS, SWCA,  
ACI, COA Watershed Protection Department



**Figure 15: No Development Zones B&W**

Feb 2008



Source: LandisCor 2006, CAPCOG, USGS, SWCA, ACI, COA Watershed Protection Department



Fenceline	Paved Driveway	FM 967
Property	Crushed Rock Driveway	Stream Network
Well	Trail	10' contours
PEC Pole	OHE	No Dev Zone
PEC Easement	Building	



**APPENDIX C - Photo Exhibits**







**PI1-1: Near southern tip of property at FM 967 looking northwest**



**PI1-2: From western boundary of property along FM 967 looking east**



**PI1-3: Open savannah near entrance at FM 967 looking east**



**PI1-4: Crushed rock driveway cut through mixed woodland area including cedar elm and juniper at crossing of southern PEC easement**



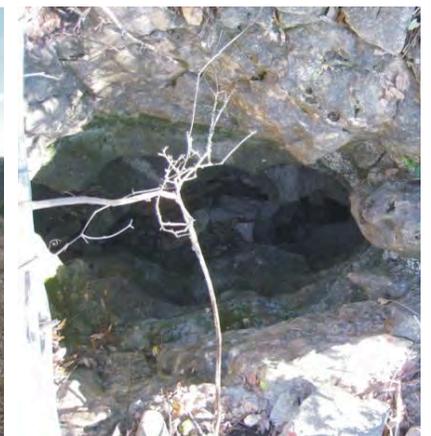
**PI1-5: Panoramic from former entry driveway (paved) at cattle guard looking east**



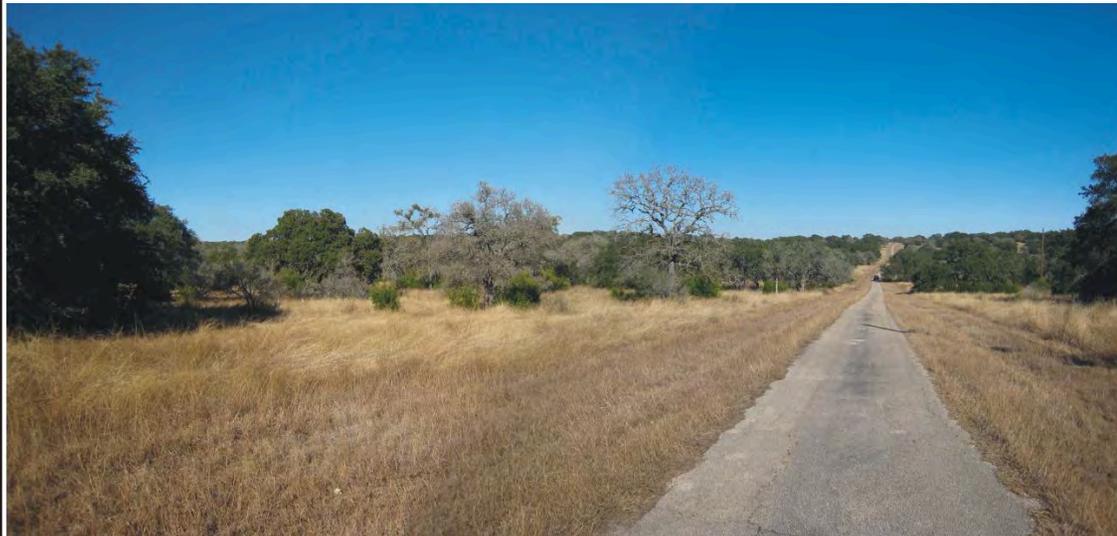
**PI1-6: Western-most drainage at crushed rock driveway crossing looking downstream**



**PI1-7: Field in southwestern quadrant of property looking south**



**PI1-8: Example of substantial karst feature on property**



**PI1-9: View looking east across central valley of property from paved entry driveway**



**PI1-10: Representative image of wetland area/spring near western boarder of property adjacent to windmill and well**



**PI1-11: Panoramic view from western border of property at internal corner looking eastward**



**PI1-12: Panoramic view from western border of property looking eastward**



**PI1-13: Panoramic view from western border of property looking eastward**



**PI1-14: Looking northeast along 600' segment of high fence at northwestern border of property**



**PI1-15: Northwestern border of property looking east**



**PI1-16: Northwestern border of property looking southeast into the property**



**PI1-17 Panoramic from northern property boundary looking east to south into landscape dominated by King Ranch bluestem and juniper**



**P11-18: Gate at drainage exiting on northern property boundary along Crosscreek Road in Bear Creek Estates**



**P11-19: Drainage on northern property boundary looking upstream into property**



**P11-20: Northern property boundary looking east with steep terrain and small drainage**



**P11-21: Spring-fed drainage on northern portion of property with sycamore stand**



**PI1-22: Vista looking across property and surrounding landscape to the west**



**PI1-23: Typical wetland area in northern portion of the property**



**PI1-24: Potential pond site in drainage in northern portion of the property**



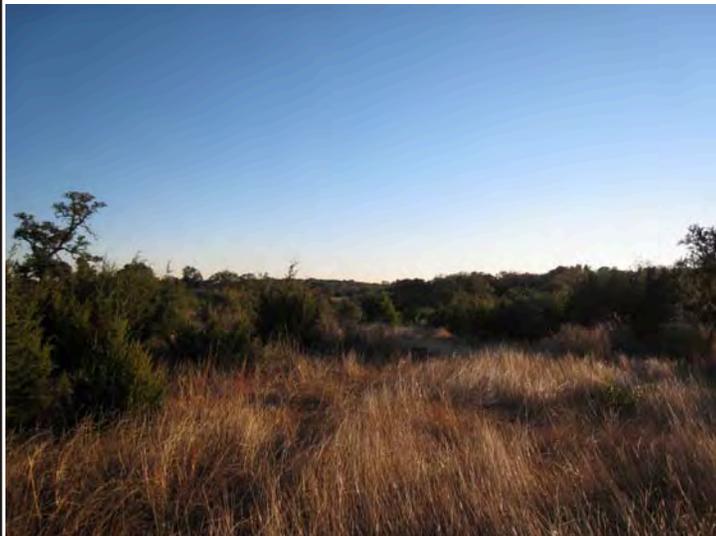
**PI1-25: Looking north at developed fringe straddling the 1826 corridor**



**PI1-26: Panoramic view from internal corner on northern property line looking southward**



**PI1-27: Approximate northeast corner of property looking south into property**



**PI1-28: Vista looking south/southwest**



**PI1-29: Near eastern border of property looking upslope and west into property**



**PI1-30: View from center of property eastward**



**PI1-31: At approximate eastern border of property looking north**



**PI1-32: View from center of property looking southwest**



**PI1-33: Panoramic view of field east of main house looking southeast**



**PI1-34: Panoramic view from approximate eastern boundary of property looking southwest into field east of main house**



**PI1-35: Vista of property in southeastern quadrant looking southwest**



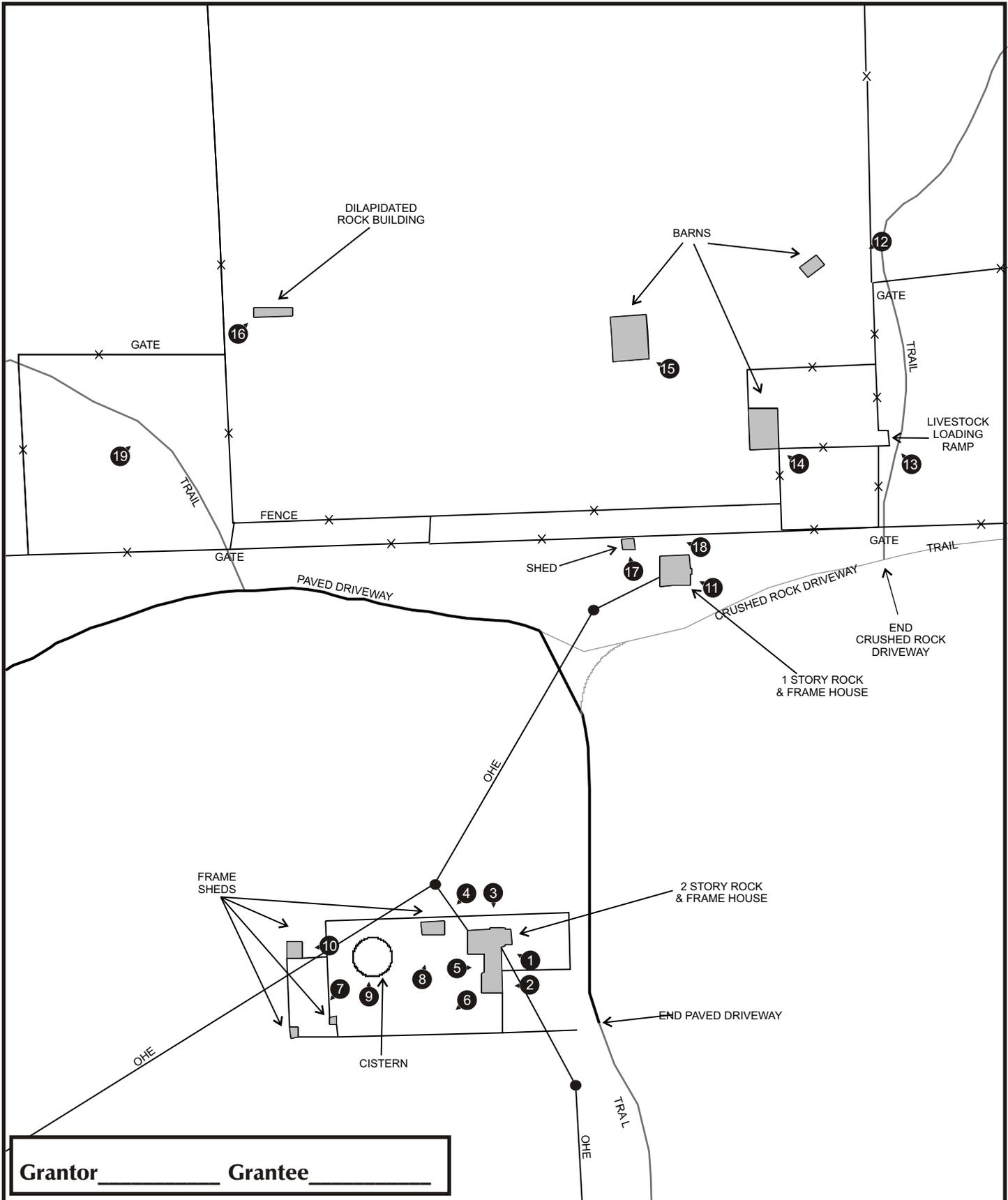
**PI1-36: Upland in southeastern quadrant of the property looking east/southeast**



**PI1-37: Panoramic view from southeastern portion overlooking Little Bear Creek valley to the west**



**PI1-38: Panoramic view from secondary gate at FM 967 along southern boundary of the property looking north**



## Photo Index 2: Existing Ranch Complex

Feb 2008



0 150' 300'



Photo Number, Location and Direction of View



**PI2-1: Western side/front of main ranch house**



**PI2-2: Carport/garage at main ranch house**



**PI2-3: Northern side of main ranch house**



**PI2-4: Propane tank at main ranch house**



**PI2-5: Eastern side of main ranch house**



**PI2-6: Brick oven at main ranch house**



**PI2-7: Metal-roof sheds A & B**



**PI2-8: Metal-roof shed C**



**PI2-9: Water cistern with running well water;  
gravity-fed lines to various water troughs**



**PI2-10: Metal-roof barn A**



**PI2-11: Southern side of 1 story rock and frame house**



**PI2-12: Metal-roof shed D with concrete foundation**



**PI2-13: Concrete livestock ramp**



**PI2-14: Southern side of metal-roof barn B**



**PI2-15 Southern side of metal-roof shed E at 1 story rock and frame house**



**PI2-16: Building remnants near 1 story rock and frame house**



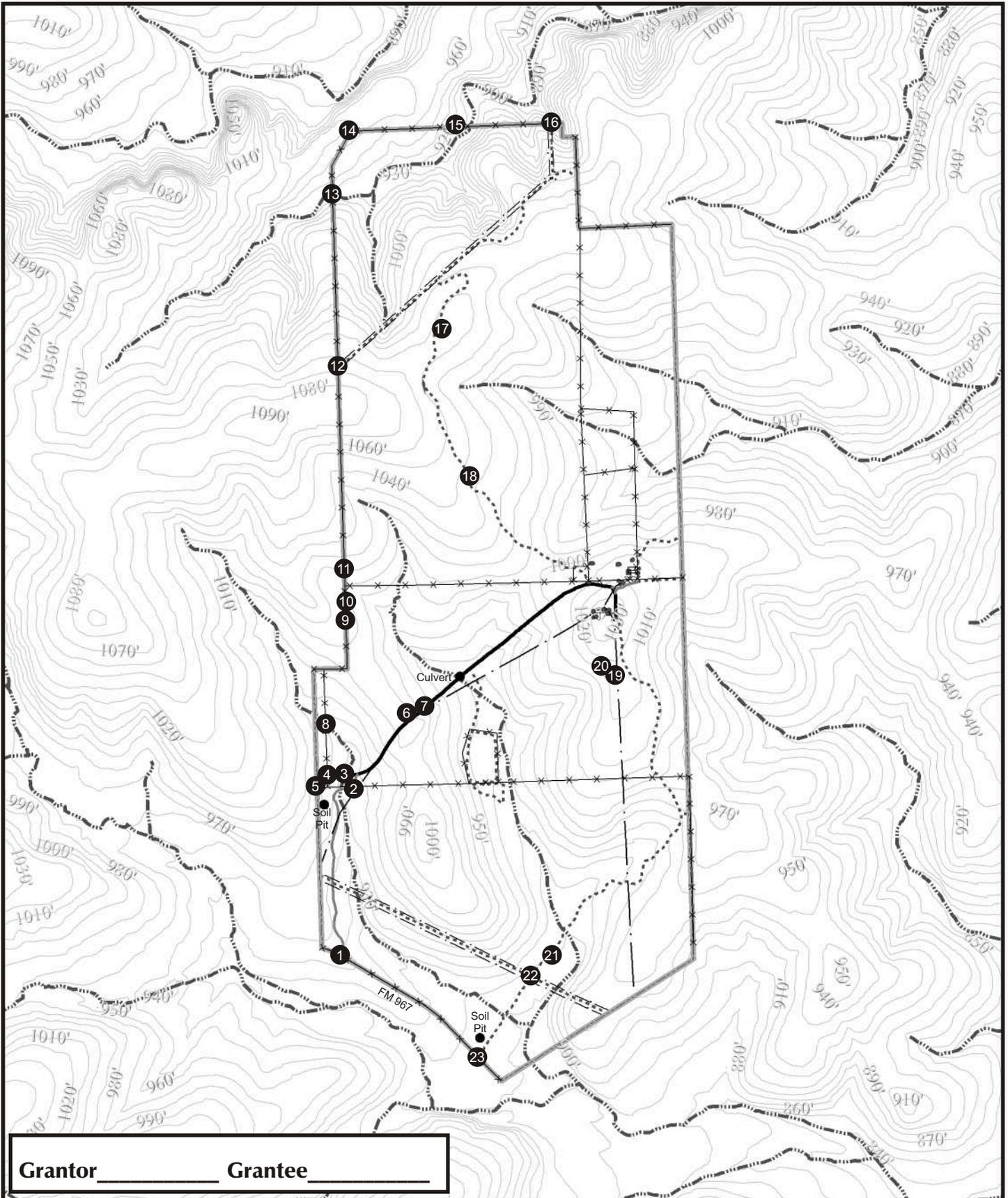
**PI2-17: Metal-roof shed F with concrete foundation**



**PI2-18: Propane tank and debris pile**



**PI2-19: Representative water trough fed via gravity lines; at least 4 at main house and corral area**



**Photo Index 3: Existing Manmade Improvements**

Feb 2008



Photo Number, Location and Direction of View



**PI3-1: Main gate off FM 967**



**PI3-2: Western view at cross fence and main crushed rock driveway serving as primary access to property**



**PI3-3: Concrete culvert crossing along former entry driveway (paved)**



**PI3-4: Cattle guard along former entry driveway**



**PI3-5: Wellhead on property line**



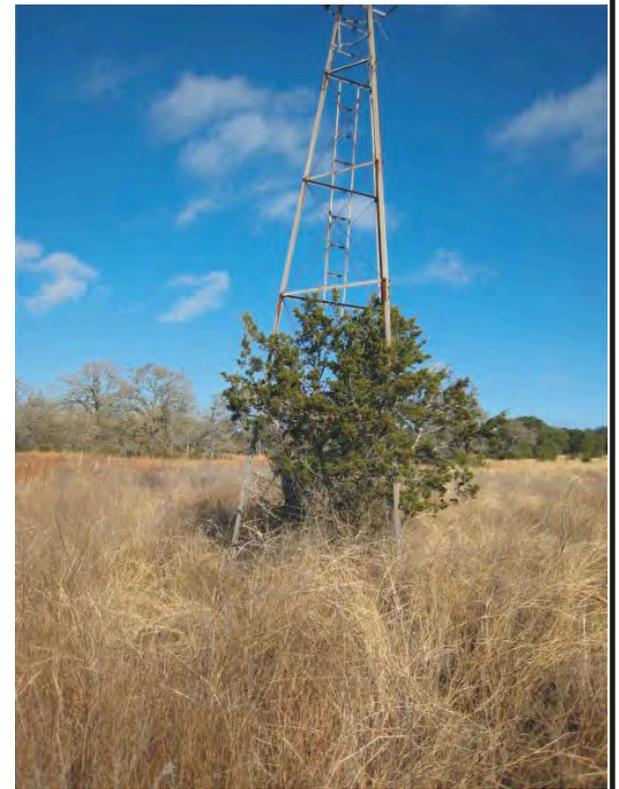
**PI3-5: Metal and concrete cistern on property line (24' dia)**



**PI3-6: Rainwater wildlife watering station associated with 1-d-1w wildlife management plan (typical throughout property)**



**PI3-7: Paved entry driveway (10' typical)**



**PI3-8: Wellhead and windmill**



**PI3-9: Southwest view of livestock corral on neighboring property**



**PI3-10: Disturbed soil stockpile on neighboring property; near karst features**



**PI3-11: Neighboring property building overhang; direct drainage onto property**



**PI3-12: Looking easterly along PEC easement from gate**



**PI3-13: Tributary of Bear Creek flowing onto property**



**PI3-14: NW corner of property, looking SW, 600-foot length of high fence**



**PI3-15: Gate off Creekcross Road on northern boundary with Bear Creek Estates subdivision**



**PI3-16: Gate in PEC easement to Bear Creek Estates**



**PI3-17: Windmill and well**



**PI3-18: Typical trail**



**PI3-19: Windmill located at hilltop; no wellhead identified**



**PI3-20: Recent soil disturbance (several observed throughout property)**



**PI3-21: Recent soil excavation now utilized as a hog wallow**



**PI3-22: Looking westerly along PEC easement**



**PI3-23: Secondary gate off FM 967**



## **APPENDIX D - Tables**



**Table 1: Photo Index 1 Coordinate Locations  
N-Hays 1,558-acre Conservation Easement**

Point	WGS84 Decimal Degrees		NAD83 State Plane Texas Central Feet	
	Latitude	Longitude	Northing	Easting
PI1-1	30.11147034	-97.94834752	10012360.79455310	3050664.00172491
PI1-2	30.11705748	-97.95662968	10014336.29875070	3048002.35900470
PI1-3	30.11860409	-97.95589993	10014903.59506280	3048221.01873563
PI1-4	30.11979273	-97.95608383	10015334.55404560	3048153.64955748
PI1-5	30.12414319	-97.95614720	10016916.00510810	3048099.80946855
PI1-6	30.12363293	-97.95550655	10016734.79496860	3048306.27767350
PI1-7	30.12589503	-97.94926068	10017599.58412340	3050262.89893529
PI1-8	30.12739781	-97.95181845	10018128.69018020	3049442.73476751
PI1-9	30.12690771	-97.95149795	10017952.65366370	3049547.85363500
PI1-10	30.12624615	-97.95626091	10017679.89722720	3048047.52471054
PI1-11	30.12857858	-97.95505760	10018536.12566260	3048409.73334541
PI1-12	30.13966239	-97.95516296	10022565.60837000	3048290.25911242
PI1-13	30.14752076	-97.95531593	10025421.96132350	3048180.82283741
PI1-14	30.14938473	-97.95530847	10026099.77062120	3048168.68947379
PI1-15	30.15080563	-97.95443298	10026622.34067470	3048434.29849101
PI1-16	30.15079068	-97.95443561	10026616.88610860	3048433.58214798
PI1-17	30.15082038	-97.95180727	10026645.46018030	3049263.90918739
PI1-18	30.15088283	-97.94879825	10026688.54007040	3050214.27336678
PI1-19	30.15087611	-97.94880114	10026686.07391260	3050213.41108468
PI1-20	30.15089607	-97.94630480	10026710.25554620	3051002.09988779
PI1-21	30.14897243	-97.94537416	10026017.11412200	3051311.19901059
PI1-22	30.14874720	-97.94860907	10025913.28557860	3050290.70373390
PI1-23	30.14675969	-97.94748656	10025198.21455350	3050660.92664635
PI1-24	30.14787096	-97.94857227	10025594.92533920	3050309.16411455
PI1-25	30.15003651	-97.94482975	10026407.71788320	3051474.92703297
PI1-26	30.14652431	-97.94366907	10025138.52534030	3051869.14399396
PI1-27	30.14663424	-97.93928085	10025208.31973940	3053255.02032828
PI1-28	30.14364634	-97.94355823	10024092.82122930	3051926.65319662
PI1-29	30.13636001	-97.94051995	10021464.08448570	3052943.81836622
PI1-30	30.13648934	-97.94913411	10021452.64565080	3050220.32951964
PI1-31	30.13376498	-97.93908263	10020530.27930240	3053418.38983502
PI1-32	30.13267851	-97.94676723	10020083.03147940	3050998.10712481
PI1-33	30.13179432	-97.94166231	10019796.18617000	3052618.47592332
PI1-34	30.13197858	-97.93903585	10019881.04491830	3053447.15876082
PI1-35	30.12833804	-97.94281262	10018531.63361280	3052281.92004608
PI1-36	30.12369105	-97.94026711	10016859.23907520	3053122.84075599
PI1-37	30.11387386	-97.94460123	10013260.15503640	3051829.53955759
PI1-38	30.11247608	-97.94925753	10012720.32308980	3050368.48062534

**Table 2. Photo Index 3 Coordinate Locations  
N-Hays 1,558-acre Conservation Easement**

Point	WGS84 Decimal Degrees		NAD83 State Plane Texas Central Feet	
	Latitude	Longitude	Northing	Easting
PI3-1	30.11675078	-97.95575617	10014230.67894060	3048280.86954163
soil pit	30.11321929	-97.94922083	10012990.81383540	3050374.28973180
PI3-2	30.12369243	-97.95502520	10016759.68293670	3048457.96468351
PI3-3	30.12417334	-97.95532208	10016932.54321540	3048360.38435671
PI3-4	30.12414319	-97.95614720	10016916.00510810	3048099.80946855
PI3-5	30.12383250	-97.95666986	10016799.50418170	3047937.01683287
PI3-6	30.12669269	-97.95223652	10017869.47284000	3049316.08233731
PI3-7	30.12690771	-97.95149795	10017952.65366370	3049547.85363500
Culvert	30.12815914	-97.94980060	10018419.18140370	3050074.59793282
PI3-8	30.12632620	-97.95612839	10017709.89954600	3048088.78964407
PI3-9	30.13062167	-97.95511611	10019278.62049990	3048375.35526814
PI3-10	30.13134914	-97.95510630	10019543.20294900	3048372.79991864
PI3-11	30.13259268	-97.95514218	10019995.12534170	3048351.79135970
PI3-12	30.14108355	-97.95525282	10023081.75016510	3048250.81142914
PI3-13	30.14814957	-97.95532079	10025650.57036400	3048174.39857549
PI3-14	30.15080563	-97.95443298	10026622.34067470	3048434.29849101
PI3-15	30.15087218	-97.94939739	10026680.60912240	3050025.02815719
PI3-16	30.15095022	-97.94485163	10026739.80313180	3051460.87833897
PI3-17	30.14249241	-97.95018277	10023628.32017290	3049842.13539491
PI3-18	30.13648934	-97.94913411	10021452.64565080	3050220.32951964
PI3-19	30.12818818	-97.94249927	10018479.26937420	3052382.13296396
PI3-20	30.12844481	-97.94288388	10018569.97094490	3052258.56019940
PI3-21	30.11657921	-97.94571128	10014236.31556640	3051457.51302556
PI3-22	30.11567183	-97.94673830	10013899.41317270	3051139.94042529
soil pit	30.12298475	-97.95637993	10016493.21093660	3048035.24806069
PI3-23	30.11247608	-97.94925753	10012720.32308980	3050368.48062534

**Table 3. Recharge Feature Coordinate Locations  
N-Hays 1,558-acre Conservation Easement**

Point	WGS84 Decimal Degrees		NAD83 State Plane Texas Central Feet		Buffer Size (ft)	CoA Comment
	Latitude	Longitude	Northing	Easting		
F-01	30.12868	-97.95494	10018573.97594640	3048446.46770816	300	
F-02	30.12897	-97.95494	10018679.41133390	3048444.84868992	300	
F-03	30.12940	-97.95509	10018833.30641030	3048392.23458112	300	
F-04	30.13022	-97.95474	10019135.82761860	3048498.56839724	300	
F-05	30.12923	-97.95378	10018781.59589830	3048808.61684522	300	
F-06	30.12929	-97.95366	10018803.73686250	3048844.56170250	300	
F-08	30.12778	-97.95271	10018260.55843850	3049156.48830828	150	Merge with buffer for F-09
F-09	30.12746	-97.95175	10018153.02008650	3049462.93830288	300	Area neutral, reduce on downslope side for access road
F-10	30.12889	-97.95008	10018684.07612290	3049978.99170309	300	Area neutral, reduce on downslope side for access road
F-11	30.12893	-97.95012	10018699.13376630	3049968.67659992	300	Area neutral, reduce on downslope side for access road
F-18	30.12460	-97.94779	10017138.18548940	3050736.92750155	300	
F-19	30.12988	-97.94840	10019052.91013200	3050504.23142776	300	Area neutral, reduce on downslope side for access road
F-20	30.13013	-97.94817	10019145.80162410	3050576.02792680	300	Area neutral, reduce on downslope side for access road
F-21	30.13160	-97.94398	10019708.13281240	3051887.48744670	300	Area neutral, reduce on downslope side for access road
F-22	30.13154	-97.94384	10019687.48758730	3051931.47607168	300	Area neutral, reduce on downslope side for access road
F-28	30.12514	-97.94147	10017379.28853620	3052732.00899596	150	
F-29	30.12535	-97.93967	10017466.29268890	3053298.10775250	150	
F-37	30.11974	-97.95146	10015346.21086530	3049615.12702787	300	
F-38	30.11803	-97.94934	10014738.39779940	3050298.47860931	300	
F-41	30.13832	-97.95263	10022096.21538750	3049101.50346495	300	
F-42	30.13850	-97.95267	10022160.34043740	3049088.68181564	300	
F-44	30.11923	-97.94863	10015180.37568200	3050513.39314036	300	
F-45	30.11982	-97.94893	10015392.15585510	3050415.96759263	150	
F-47	30.11978	-97.93951	10015442.54879210	3053393.67111257	100	
F-49	30.13637	-97.94053	10021466.96683130	3052940.98990668	50	
F-53	30.13939	-97.93980	10022572.41621330	3053146.92772283	300	
F-54	30.14082	-97.94028	10023087.64582120	3052984.62120402	300	
F-67	30.14936	-97.95520	10026091.90197750	3048203.34537958	300	
F-70	30.14678	-97.95258	10025170.87642200	3049049.94711503	300	
F-71	30.14458	-97.95402	10024360.02859160	3048614.40868450	300	
F-72	30.14434	-97.95317	10024279.01229970	3048883.74498736	300	
F-73	30.14461	-97.94609	10024426.83884640	3051118.96051773	300	
F-74	30.14479	-97.94437	10024502.78575830	3051662.52912471	300	
F-75	30.14184	-97.94737	10023410.63204010	3050735.90972221	300	
F-76	30.14230	-97.94603	10023586.31875410	3051154.83630150	300	
F-78	30.11785	-97.94855	10014680.93165300	3050550.63514780	300	
F-79	30.11798	-97.94833	10014729.01613570	3050617.49099182	300	
F-80	30.11835	-97.94827	10014864.34926870	3050633.62103546	300	
F-81	30.11851	-97.94920	10014915.45121250	3050340.51472189	300	
F-82	30.11881	-97.95103	10015011.81047680	3049758.77857531	300	
F-83	30.11901	-97.95057	10015085.51414910	3049901.53296384	300	
F-84	30.11954	-97.95068	10015280.82198310	3049863.44711914	300	
F-85	30.11796	-97.95050	10014705.95544780	3049931.42880559	300	
F-87	30.12501	-97.95266	10017255.53810140	3049193.84903445	300	Area neutral, reduce on downslope side for access road
F-89	30.14010	-97.94767	10022774.21879870	3050653.70552215	300	
F-90	30.14028	-97.94898	10022830.25369850	3050241.06173132	150	
F-91	30.14064	-97.94958	10022959.47937490	3050047.63568239	150	

**Table 4. Wetland and Spring Coordinate Locations  
N-Hays 1,558-acre Conservation Easement**

	CoA Comment	WGS84 Decimal Degrees		NAD83 State Plane Texas Central Feet	
		Latitude	Longitude	Northing	Easting
1	from pt 4 to 3	30.13916057	-97.94485193	10022454.81410	3051550.40718
2	from pt 5 to 6	30.13975768	-97.94594722	10022664.49550	3051199.59235
3	from pt 7 to 8	30.14195291	-97.94356528	10023478.87050	3051935.22040
4	poss wetland;dry	30.14074611	-97.94203059	10023050.48910	3052429.66008
5	poss wetland;dry	30.14064582	-97.94154200	10023017.34140	3052584.85405
6	poss wetland;dry	30.14083820	-97.94116348	10023089.86800	3052702.97453
7	possible wetland	30.14146125	-97.94317577	10023302.74020	3052062.15737
8	pts 0 and 1 and 2	30.13849277	-97.94360561	10022220.45470	3051949.50701
9	seep horizon	30.14941213	-97.95094111	10026141.11180	3049546.14764
10	seep spike muhly	30.14414581	-97.95321810	10024210.81770	3048867.58523
11	seep/wetland	30.14916014	-97.94577442	10026084.49740	3051180.81448
12	spring 11?	30.11802441	-97.94465785	10014770.79770	3051776.79408
13	spring 2	30.14735925	-97.95003064	10025400.82900	3049849.85434
14	spring 5 / wetland-hogged	30.14301795	-97.94489772	10023857.08260	3051505.81408
15	spring 6	30.14004572	-97.94764882	10022757.69080	3050659.57759
16	spring 9 confirmed	30.11787641	-97.95438701	10014651.06860	3048702.48575
17	spring w/conduit	30.14910273	-97.94568877	10026064.20230	3051208.32728
18	spring/wetland	30.14302825	-97.95298093	10023806.06670	3048951.23314
19	spring/wetland-hogged	30.14301795	-97.94489772	10023857.08260	3051505.81408
20	Spring7 / wetland	30.13318342	-97.95236562	10020230.54340	3049222.31644
21	spring-ked/kwa	30.14999054	-97.94427787	10026396.59080	3051647.24533
22	wetlandf	30.14777202	-97.94825703	10025562.93090	3050407.11678
23	wetland	30.11771265	-97.95429950	10014592.11690	3048731.42077
24	wetland	30.11950577	-97.94592764	10015300.82150	3051363.84342
25	wetland	30.14275018	-97.94439204	10023763.15110	3051667.71421
26	wetland	30.14933337	-97.95168399	10026107.44770	3049312.00654
27	wetland	30.14176139	-97.94311594	10023412.28110	3052078.72025
28	wetland	30.14153486	-97.94284599	10023331.74560	3052165.80234
29	wetland	30.13443776	-97.95281065	10020683.62180	3049071.89987
30	wetland	30.14203022	-97.94368270	10023506.18320	3051897.50921
31	wetland hog	30.14939427	-97.95114288	10026133.25080	3049482.52503
32	wetland muhly bushy blue	30.14684221	-97.94740282	10025230.63220	3050684.30994
33	wetland spike lug muhly hog	30.14939467	-97.95080532	10026135.68270	3049589.19387
34	wetland spke bushy muhly	30.14319915	-97.95294781	10023868.43010	3048960.36929
35	wetland spr5 trib fence	30.14209332	-97.94370934	10023528.94410	3051888.59451
36	wetland stock pond	30.14240197	-97.94390819	10023639.82410	3051823.34360
37	wetland switch spike button hog	30.14936454	-97.95154748	10026119.70310	3049354.90067
38	wetland/	30.12016600	-97.95492085	10015479.98090	3048515.93049
39	wetland/hogged	30.14935325	-97.95153159	10026115.70460	3049360.01029
40	wetland/muley/spike/bushy	30.15020948	-97.94609498	10026463.87080	3051071.32570
41	wetland/pool	30.11705893	-97.95351856	10014359.69600	3048983.36797
42	wetland/seep/mulley	30.14960268	-97.94567936	10026246.05280	3051207.39868
43	wetland/seep5x15up	30.14888660	-97.94566144	10025985.80080	3051218.65198
44	wetland/seep-hogged	30.14927319	-97.94565639	10026126.40290	3051217.23004
45	wetland/spr10	30.11849591	-97.94580757	10014934.43870	3051409.67748
46	wetland2	30.11683749	-97.95307485	10014282.18020	3049125.35349
47	wetlandf	30.12027140	-97.95498237	10015517.89000	3048495.66384
48	wetlandf	30.13289638	-97.95241176	10020125.86050	3049209.96868
49	wetlandf 40' hog	30.14962823	-97.95010655	10026225.33730	3049808.18724
50	wetlandf spike cress muhly	30.14800615	-97.95467316	10025604.64270	3048377.73316
51	wetlandf watercress spike muhly	30.14810125	-97.95424562	10025642.11030	3048512.10215
52	wetlandf/seep	30.15018094	-97.94450634	10026464.27360	3051573.55995
53	wetlandf-muley	30.14978496	-97.94584449	10026311.21130	3051153.79518
54	wetlandf-sp	30.12149859	-97.95541162	10015961.21060	3048350.44008
55	wetlandf-sr/sitch/carex	30.15072254	-97.94484639	10026658.89800	3051461.87508
56	wetland-hogged	30.14937860	-97.95110308	10026127.82500	3049495.22620
57	wetlantf	30.13463979	-97.95290028	10020756.47620	3049041.99859
58		30.12012581	-97.95494149	10015465.22770	3048509.71833
59		30.11540228	-97.95059640	10013777.09580	3049919.99882
60	wetland-BTA	30.12602134	-97.95604795	10017601.43480	3048114.14655