

EDWARDS AQUIFER AUTHORITY
State of Texas

IN THE MATTER OF THE FOLLOWING)
APPLICATION TO CONVERT BASE IRRIGATION)
GROUNDWATER:)

P201-608 KB Home Lone Star, LP, et al.)
(BE00222))

FINAL ORDER GRANTING APPLICATION
TO CONVERT BASE IRRIGATION GROUNDWATER

ON THIS DAY CAME ON TO BE HEARD the above-styled and numbered Application to Convert Base Irrigation Groundwater (“Conversion Application” or “Application”) of KB Home Lone Star, LP, Aaron Wesley Oakmon and Yuri Oakmon, Kenneth Williams Jr and Judith C Williams, Alaa Imael Al Tameemi, Dale Peters and Maria Victoria Q Peters, Brian Alexander and Angelica Smith, Mindy A Moya and Ian P Ramos, Anthony Chukwuka Muodinma and Symone Monyae Franklin, Asad Shadeed Abdul Muhammad II and Ashley N Abdul Muhammad, Baris Yalcin and Elif B Bektas, Carlos E Carballo Pena and Teresa Avila Hernandez, Christian Carrillo and Alexandra Carrillo, David Breard and Jennifer Lynn Breard, Desire R. Gardner and Rodrick V. White, Dheeraj Kumar Reddy Vangur, Edward Patrick and Jeanette Patrick, Faduma Shegow, Gennaro Warren Mazzeo and Kellie Mazzeo, Gloria A Azar, Halysha Worril and Lance D Williams, Ibukun Agboola, Jacob Jex, Jennifer Billups, Julian Dominic Diaz and Stephanie Rose Medeles, Loren Bunnel, Malia M. Grimes and Shaelene R. Grimes, Marcelo Daniel Bustillos and Monica Santos Baustillos, Megan Gan, Nada Zunic, Nathan A. Orourke and Melissa A. Orourke, Nhu The Mai and Linh Duy Bui, Ragan J. Trevizo and Joshua J. Trevizo, Rani Sameer Matti, Ratnakar Dudala, Richard Murillo and Gabrielle Rae Abila, Ryan Quintero and Kieu Thuy Quintero, Shawanna Yvonne Miles and Shane Miles, Sylvestre A. Mekaty and Genevieve N. Ngo

Ntogue, Sylvia Del Rio Chavez, Tanya Victoria Ytuarte and Robert Allen Ytuarte, Victor R. Plata and Rebecca E. Plata (“Applicants”). As set forth below, the General Manager of the Edwards Aquifer Authority (“EAA”) issued notice of his proposed action on the Conversion Application. The Board of Directors (“Board”) of the EAA, after having reviewed and considered the summaries of the evidence for the Conversion Application as contained in the materials in the Board Packet, the arguments and presentation of the General Manager, and the arguments and presentations of the Applicants, or their representatives, and other applicants or permittees, or their representatives, who may have appeared before the Board, is of the opinion and finds that:

1. the facts necessary to support the General Manager’s proposed action to grant the Conversion Application have been established by convincing evidence; and
2. the General Manager’s proposed action is entitled to prevail with reference to the above-styled and numbered application.

Accordingly, the Board is of the opinion and finds that the Conversion Application should be **GRANTED**. In support of this Final Order, the Board makes its Findings of Fact and Conclusions of Law as follows:

FINDINGS OF FACT

1. On January 1, 2002, Charles Jerome Haner was granted Initial Regular Permit 2001-BE00222 (P100-521 (BE00222)), in the amount of 385.200 acre-feet (“AF”) (192.600 AF of Base Irrigation Groundwater rights (“BIG”) and 192.600 AF of Unrestricted Irrigation Groundwater rights (“UIG”), based on the ownership of 194.56 acres of land, of which 192.60 acres were irrigated during the historical period (June 1, 1972 – May 31, 1993).
2. On August 24, 2004, due to the sale of 179.152 historically irrigated acres associated with Initial Regular Permit P100-521 (BE00222) from Charles Jerome Haner to

Timothy J. Crowley and Lynn Goode Crowley, pursuant to General Warranty Deed with Vendor's Lien dated June 1, 2004, and recorded as Document # 20040122565, Official Public Records, Bexar County, Texas, and the subsequent sale of 179.152 historically irrigated acres associated with Initial Regular Permit P100-522 (BE00222) from Timothy J. Crowley and Lynne Goode Crowley to Garrett A.S.M. Ltd., a Texas limited partnership, pursuant to Special Warranty Deed with Vendor's Lien dated January 11, 2005 and recorded as Document # 20050008055, Official Public Records, Bexar County, and the subsequent sale of 179.152 historically irrigated acres associated with Initial Regular Permit P100-522 (BE00222) from Garrett A.S.M. Ltd., a Texas limited partnership to James Kerby, pursuant to Special Warranty Deed dated March 9, 2006 and recorded as Document # 20060054556, Official Public Records, Bexar County, Texas, and the subsequent sale of 179.152 historically irrigated acres associated with Initial Regular Permit P100-522 (BE00222) from to James Kerby to Louis D. Kowalski and Yates Living Trust, pursuant to Special Warranty Deed Dated March 9, 2006 and recorded as Document # 20060054557, Official Public Records, Bexar County, Texas, and the subsequent sale of 179.152 historically irrigated acres associated with Initial Regular Permit P100-522 (BE00222) from to Louis D. Kowalski and Yates Living Trust to Kerby Development LLC, pursuant to Special Warranty Deed Dated July 14, 2006 and recorded as Document # 20060173484, Official Public Records, Bexar County, Texas, the EAA reissued Regular Permit P100-522 (BE00222) to Kerby Development LLC, in the amount of 179.152 AF of BIG.

3. On August 25, 2010, due to the sale of 179.152 historically irrigated acres associated with Regular Permit P100-522 (BE00222) from Kerby Development, LLC to Culebra SA 179 Acre Residential Development LP, pursuant to General Warranty Deed with Vendor's Lien dated July 21, 2006 and recorded as Document # 20060173485, Official Public Records,

Bexar County, Texas, and the subsequent sale of 179.152 historically irrigated acres associated with Regular Permit P100-522 (BE00222) from Culebra SA 179 Acre Residential Development LP, to Falcon International Bank pursuant to Substitute Trustee's Deed dated February 3, 2010 and recorded as Document # 20100017851, Official Public Records, Bexar County, Texas, and the subsequent sale of 179.152 historically irrigated acres associated with Regular Permit P100-522 (BE00222) from Falcon International Bank to Robert Pittenger Company pursuant to Special Warranty Deed dated February 2, 2012 and recorded as Document # 20120019546, Official Public Records, Bexar County, Texas, and the subsequent sale of 179.152 historically irrigated acres associated with Regular Permit P100-522 (BE00222) from Robert Pittenger Company to San Antonio – Culebra Road LLC, a North Carolina limited liability company, pursuant to Special Warranty Deed dated February 2, 2012 and recorded as Document # 20120019593, Official Public Records, Bexar County, Texas, and the subsequent sale of a 17.6991% interest as a tenant-in-common of 179.152 historically irrigated acres associated with Regular Permit P100-522 (BE00222) from San Antonio – Culebra Road LLC, a North Carolina limited liability company, to NC San Antonio Culebra Partners, LLC, a North Carolina limited liability company, pursuant to Special Warranty Deed dated February 8, 2012 and recorded as Document # 20120023053, Official Public Records, Bexar County, Texas, and the subsequent sale of 96.061 historically irrigated acres associated with Regular Permit P100-522 (BE00222) from San Antonio – Culebra Road LLC, a North Carolina limited liability company, and NC San Antonio Culebra Partners, LLC, a North Carolina limited liability company, to KB Home Lone Star Inc, pursuant to Special Warranty Deed dated April 29, 2019 and recorded as Document # 20190077822, Official Public Records, Bexar County, Texas, the EAA issued Regular Permit P109-318 (BE00222) to KB Home Lone Star Inc. in the amount of 96.061 AF of BIG.

4. On August 10, 2021, pursuant to the Board's approval of a Conversion Application, the EAA converted 32.871 AF of BIG to UIG and re-issued Regular Permit P109-318 for 96.061 AF (63.190 of BIG & 32.871 of UIG).

5. On September 14, 2021, due to the self-sale of 32.871 AF of UIG by KB Home Lone Star Inc., EAA issued Regular Permit P200-271 (BE00222) in the amount of 32.871 AF of UIG.

6. On October 12, 2022, pursuant to the Board's approval of a Conversion Application, the EAA converted 22.357 AF of BIG to UIG and re-issued Regular Permit P109-318 (BE00222) in the amount of 63.190 AF (40.833 of BIG & 22.357 of UIG).

7. On January 23, 2023, due to the self-sale and subsequent consolidation of 22.357 AF of UIG by KB Home Lone Star Inc., EAA reissued Regular Permit P200-271 (BE00222) in the amount of 55.228 AF of UIG.

8. On June 11, 2024, pursuant to the Board's approval of a Conversion Application, the EAA converted 25.795 AF of BIG to UIG and following a subsequent request by Home Lone Star Inc. to separate the converted BIG from the remaining BIG, the EAA issued Regular Permit P201-419 (BE00222) in the amount of 25.795 AF of UIG.

9. On January 14, 2025, pursuant to Special Warranty Deeds # #20230185938, 20220237153, 20220253122, 20220266604, 20220266622, 20220274060, 20220284389, 20220287184, 20220295632, 20230000609, 20230004851, 20230009261, 20230021586, 20230028592, 20230028594, 20230038423, 20230042011, 20230043860, 20230053918, 20230058954, 20230061523, 20230071881, 20230083118, 20230083146, 20230088439, 20230088447, 20230118231, 20230120775, 20230133948, 20230135970, 20230164351, 20230166581, 20230166634, 20230173870, 20230193509, 20230203343, 20230208545,

20230211927, 20230220295, 20230233097, 20240074523, Official Public Records, Bexar County, Texas, the EAA issued Regular Permit P201-608 (BE00222) to Applicants in the amount of 11.517 AF BIG due to the sale of 11.517 acres HIL from KB Home Lone Star Inc., leaving 3.512 AF of BIG remaining to KB Home Lone Star Inc.

10. On December 12, 2024, Applicants filed a Conversion Application with the EAA at the official business offices located at 900 E. Quincy, San Antonio, Texas. Applicants seek to convert 11.517 AF of BIG to UIG due to a change in land use.

11. After receipt of the Conversion Application, the General Manager of the EAA conducted an initial review of the Application for administrative completeness.

12. By letter dated December 16, 2024, the General Manager notified Applicants that he had determined that the Application was administratively complete.

13. After determining that the Conversion Application was administratively complete, the General Manager conducted a technical review of the Application for the purpose of determining if the Application should be granted or denied, in whole or in part.

14. After completing the technical review of the Conversion Application, the General Manager concluded that he should recommend to the Board that the Application be granted in whole.

15. In conjunction with the proposed action, the General Manager prepared a Technical Summary.

16. On January 9, 2025, the General Manager provided written notice by United States mail to Applicants that technical review of the Conversion Application was complete and provided Applicants with a copy of the proposed action and Technical Summary in support thereof.

17. The Docket Clerk of the EAA scheduled before the Board a presentation by the

General Manager on the Conversion Application, his proposed action, and the proposed issuance of a Regular Permit associated therewith. The presentation occurred at the regular meeting of the Board on February 11, 2025, at the Edwards Aquifer Authority, 900 E. Quincy, San Antonio, Texas. Notice of public meeting for this meeting was duly and properly posted in accordance with Chapter 551, Texas Government Code. Additionally, an agenda item that is the subject of this Final Order was duly and properly listed in the notice of public meeting.

18. Between the dates of January 5, 2025, and January 9, 2025, pursuant to EAA Rule § 707.525, Applicants published a Notice of Proposed Action on the Application for Conversion of Base Irrigation Groundwater to Unrestricted Irrigation Groundwater in five newspapers within the EAA's jurisdiction, outlining the General Manager's proposed action.

19. On January 9, 2025, pursuant to § 1.34 of the EAA Act and § 711.342(c) of the EAA's Rules, the EAA provided permit holders, by United States mail, a copy of the Notice of Proposed Action on Application for Conversion of Base Irrigation Groundwater to Unrestricted Irrigation Groundwater, outlining the General Manager's proposed action.

20. In accordance with §§ 707.525 and 707.603, the January 9, 2025, written letter to Applicants, the newspaper publications ranging from January 5, 2025, through January 9, 2025, and the January 9, 2025 letter to permit holders provided notice of the right for any permit holder to request a contested case hearing on the Application and the General Manager's proposed action. The deadline to request a contested case hearing was February 12, 2025. No requests were received.

21. The Conversion Application was, contemporaneous with its receipt, affixed with a "date stamp" by the EAA to the front page of the Application indicating its date of receipt by the EAA.

22. Applicants paid the application fee of \$25 at the time the Conversion Application was filed with the EAA.

23. Applicants are not delinquent in the payment of any fee due and owing to the EAA, including but not limited to aquifer management fees.

24. Applicants have filed with the EAA all applicable reports.

25. The place of use set out in the Regular Permit was irrigated land during the historical period. A description of the irrigated lands is as follows:

The tract(s) of land more fully described in Warranty Deeds as recorded with the County Clerk as Documents #20230185938, 20220237153, 20220253122, 20220266604, 20220266622, 20220274060, 20220284389, 20220287184, 20220295632, 20230000609, 20230004851, 20230009261, 20230021586, 20230028592, 20230028594, 20230038423, 20230042011, 20230043860, 20230053918, 20230058954, 20230061523, 20230071881, 20230083118, 20230083146, 20230088439, 20230088447, 20230118231, 20230120775, 20230133948, 20230135970, 20230164351, 20230166581, 20230166634, 20230173870, 20230193509, 20230203343, 20230208545, 20230211927, 20230220295, 20230233097, 20240074523, Official Public Records, Bexar County, Texas.

26. A change in land use has occurred relative to the historically irrigated lands constituting the place of use set out in Regular Permit P201-608 (BE00222), such that, in accordance with EAA Rules § 711.342(c)(6)(A), approximately 11.517 historically irrigated acres are being developed into a subdivision as evidenced by the clearing and grading of land, and the construction of homes, roads, and drainage features.

27. Applicants were not required to submit a groundwater conservation plan to the EAA.

28. Applicants are in compliance with the Act, the EAA's rules, other permits, and orders of the Board.

29. Applicants are the owners of the land to which the BIG is appurtenant.
30. Applicants were not required to submit a new survey of the historically irrigated acres.
31. Applicants have requested that any permit issued as a result of the Application be issued without a place of use or point of withdrawal pursuant to § 711.324(g) of the EAA Rules.

CONCLUSIONS OF LAW

1. Because the Conversion Application seeks to convert BIG in the IRP to UIG associated with the groundwater withdrawal permit issued by the EAA, the Board of Directors of the EAA has jurisdiction over the Application.
2. The Conversion Application meets the requirements of Section 711.342(6)(A) of the EAA Rules and, therefore, a change in land use has occurred relative to the historically irrigated lands constituting the place of use set out in Regular Permit P201-608 (BE00222) such that these lands are no longer practicable to farm.
3. The Conversion Application otherwise complies with the Act and the EAA's Rules.
4. Accordingly, the Conversion Application should be granted in accordance with this Final Order, hereby converting 11.517 AF/yr of BIG to UIG associated with Regular Permit P201-608 (BE00222) and the historically irrigated lands constituting the place of use for this Permit.

ORDERING PROVISION

IT IS THEREFORE ADJUDGED, ORDERED, AND DECREED that the above-styled and numbered Conversion Application is hereby **GRANTED** as follows:

1. the General Manager is directed to advise Applicants in writing of the issuance and effect of this Final Order;
2. when appropriate as determined by the General Manager, the General Manager is

directed to prepare an amended Regular Permit to Applicants in the form of the approved Regular Permit form and subject to the Conditions for Regular Permits as may be in effect at the time, for presentation to the Chairman of the Board of Directors of the EAA for execution; and

3. the General Manager is directed to make appropriate adjustments, changes, or modifications to the EAA's permits and water accounting database consistent with this Final Order.

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE EDWARDS
AQUIFER AUTHORITY THIS 11TH DAY OF FEBRUARY 2025.

ENRIQUE VALDIVIA
Chairman, Board of Directors
Edwards Aquifer Authority

ATTEST:

Rachel Sanborn
Secretary, Board of Directors
Edwards Aquifer Authority

APPROVED AS TO FORM:

DARCY ALAN FROWNFELTER
General Counsel