

**EDWARDS AQUIFER AUTHORITY
State of Texas**

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

**P101-212 Texas By Anderson Properties, LP
(ME00438)**

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**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 Texas By Anderson Properties, LP (“Applicant”). 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 of the EAA, and the arguments and presentations of the Applicant, or its 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 9, 2001, Bonnie Sue Anderson Yablonski was granted Initial Regular Permit No. ("IRP") 2001-ME00438 (P101-212) by the EAA in the amount of 1,857.160 acre-feet/year ("AF/yr") (928.580 AF/yr Base Irrigation Groundwater ("BIG") and 928.580 AF/yr Unrestricted Irrigation Groundwater ("UIG")) based on the irrigation of 928.580 acres of land during the historical period (June 1, 1972 – May 31, 1993).

2. On May 9, 2006, the Board approved an application to convert 393.754 AF/yr from BIG to UIG and the EAA issued IRP No. P101-212 (ME00438) in the amount of 1,857.160 AF/yr (534.826 AF/yr BIG and 1,322.834 AF/yr UIG).

3. On November 6, 2009, the EAA approved an amendment to the place of use and issued IRP P101-212 (ME00438) designating 933.289 historically irrigated acres ("HIA") pursuant to an Irrevocable Designation of Historically Irrigated Lands Pertaining to Edwards Aquifer Groundwater Rights, approved by the General Manager on October 5, 2009, and recorded as Document # 2009007019, Official Public Records, Medina County, Texas.

4. On February 9, 2010, the Board approved an application to convert 31.950 AF/yr BIG to UIG and the EAA issued IRP P101-212 (ME00438) in the amount of 1,857.160 AF/yr (502.876 AF/yr BIG and 1,354.284 AF/yr UIG).

5. On April 9, 2013, due to the sale of land and water rights from Bonnie Sue

Anderson Yablonski to Texas By Anderson Properties, LP pursuant to Special Warranty Deed dated November 20, 2012, and recorded as Document # 2012008148, Official Public Records, Medina County, Texas, the EAA approved the transfer of ownership of P101-212 (ME00348) from Bonnie Sue Anderson Yablonski to Texas By Anderson Properties, LP.

6. On February 25, 2016, the Applicant filed a Conversion Application with the EAA at the EAA's official business offices located at 900 E. Quincy, San Antonio, Texas. The Applicant seeks issuance of an order granting the Conversion Application by converting 89.369 AF/yr of BIG to UIG.

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

8. By letter dated February 29, 2016, the General Manager notified the Applicant that he had determined that the Application was administratively complete.

9. 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.

10. 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.

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

12. On June 10, 2016, the General Manager provided written notice by United States mail to the Applicant that technical review of the Conversion Application was complete, and provided the Applicant with a copy of the proposed action and Technical Summary in support thereof.

13. 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 held on July 12, 2016, at the official offices of the Edwards Aquifer Authority, 900 E. Quincy, San Antonio, Texas. Notice of public meeting for the 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.

14. On June 10, 2016, the EAA provided written notice to the Applicant by United States mail, that Applicant's Conversion Application was scheduled for consideration at the regular meeting of the Board on July 12, 2016, at the Edwards Aquifer Authority, 900 E. Quincy, San Antonio, Texas.

15. 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.

16. The Applicant paid the application fee of \$25 at the time the Conversion Application was filed with the EAA.

17. The Applicant is not delinquent in the payment of any fee due and owing to the

EAA, including but not limited to aquifer management fees.

18. The Applicant has filed with the EAA all applicable reports.

19. The place of use set out in Regular Permit P101-212 (ME00348) 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 Special Warranty Deed dated 11/20/2012 as recorded with the Clerk as Document # 2012008148, Volume 871, Pages 925-933, Official Public Records, Medina County, Texas, and the tract(s) of land more fully described in Irrevocable Designation of Historically Irrigated Lands Pertaining to Edwards Aquifer Groundwater Rights dated 10/5/2009 as recorded with the Clerk as Document # 2009007019, Volume 766, Pages 50-59, Official Public Records, Medina County, Texas.

20. The water conservation equipment is described as a Subsurface Drip Irrigation (“SDI”) system. This equipment qualifies as water conservation equipment because installation and operation of the equipment results in a lesser amount of groundwater from the Aquifer being withdrawn for irrigation purposes at the place use identified in the IRP.

21. The method used to measure the amount of groundwater from the Aquifer cumulatively conserved on an annual basis results in a finding that 89.369 AF/yr of water will be conserved annually, including 68.696 AF/yr conserved through direct application of the water conservation equipment and an additional 20.673 AF/yr of water conserved due to the non-use of adjacent corners of the land due to the use of the SDI system, based on an Irrigation Water Savings Documentation Form.

22. The estimated maximum period of time the water conservation equipment will be reasonably functional in conserving groundwater from the Aquifer is 25 years.

23. The water conservation equipment was installed in October 2015.
24. A map showing the location of the water conservation equipment is attached as Exhibit A.
25. The Applicant was not required to submit a groundwater conservation plan to the EAA.
26. The Applicant is in compliance with the Act, the EAA's rules, other permits, and orders of the Board.
27. The Applicant is the owner of the land to which the base irrigation groundwater is appurtenant.
28. The Applicant was not required to submit a new survey of the historically irrigated acres constituting the place of use set out in Regular Permit P101-212 (ME00348).

CONCLUSIONS OF LAW

1. Because the Conversion Application seeks to convert BIG in the IRP to UIG associated with a 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(5) of the EAA Rules and, therefore, conservation has occurred relative to the historically irrigated lands constituting the place of use set out in Regular Permit P101-212 (ME00348) by the installation of conservation equipment.

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 89.369 AF/yr of BIG to UIG associated with Regular Permit P101-212 (ME00348) 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 Applicant 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 reflecting the issuance and effect of this Final Order 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 of the issuance of this Final Order, for presentation to the Chairman of the Board of Directors of the EAA for signature; 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 the issuance and effect of this Final Order.

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE EDWARDS
AQUIFER AUTHORITY THIS 12th DAY OF JULY, 2016.

LUANA BUCKNER

Chairman, Board of Directors
Edwards Aquifer Authority

ATTEST:

ENRIQUE VALDIVIA

Secretary, Board of Directors
Edwards Aquifer Authority

APPROVED AS TO FORM



DARCY ALAN FROWNFELTER
General Counsel

