

**BEFORE THE  
EDWARDS AQUIFER AUTHORITY  
State of Texas**

**IN THE MATTER OF THE FOLLOWING WELL )  
REGISTERED AS A LIMITED PRODUCTION WELL UNDER )  
SECTION 711.63 OF THE EAA RULES: )  
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**W105-694                      Fernando & Jesusa Castillo**

**ORDER VACATING THE ORDER ISSUED ON MAY 8, 2018  
RESCINDING LIMITED PRODUCTION WELL STATUS PURSUANT TO SECTION  
711.70(B) OF THE EAA RULES RELATIVE TO WELL NO. W105-694**

**ON THIS DAY CAME ON TO BE HEARD** the above-styled matter relative to the rescission of the limited production well status for Well No. W105-694 of Fernando & Jesusa Castillo (“Respondents”). As set forth below, the General Manager of the Edwards Aquifer Authority (“EAA”) issued notice to the Respondents of his recommendation in this matter. The Board of Directors (“Board”) of the EAA, after having reviewed and considered the materials contained in the Board Packet, the arguments and presentations of the General Manager, and other interested persons who may have appeared before the Board, is of the opinion and finds that, with reference to the above-styled matter, the facts necessary to support issuance of this Order Vacating the Order Issued on May 8, 2018 Rescinding Limited Production Well Status Pursuant to Section 711.70(b) of the EAA Rules Relative to Well No. W105-694 (“Vacation Order”) have been established. Accordingly, the Board is of the opinion and finds that this Vacation Order should be **ISSUED**. In support of this Vacation Order, the Board makes its Findings of Fact and Conclusions of Law as follows:

**I. FINDINGS OF FACT**

1. On May 8, 2018, the Board issued the Order Rescinding Limited Production Well

Status Pursuant to Section 711.70(b) of the EAA Rules (“Rescission Order”) relative to Well No. W105-694 owned by the Respondents.

2. Among other things, Paragraph 2 of the Ordering Provisions of the Rescission Order provided that “[i]f the Respondent: (1) files a water conservation plan with the EAA in calendar year 2018; and (2) on or before January 8, 2019, demonstrates that no more than 1.4 acre-feet was actually withdrawn from Well No. W105-694 during calendar year 2018, then the Board of Directors will issue an order rescinding this Rescission Order at its January 8, 2019 regular board meeting.”

3. On or about May 17, 2018, the Respondents filed a water conservation plan with the EAA. The General Manager reviewed the plan and concluded that the plan demonstrated a basis for the Respondents to meet the requirement in Section 1.33(d)(2) of the Edwards Aquifer Authority Act, Act of May 30, 1993, 73<sup>rd</sup> Leg., R.S., ch. 626, 1993 Tex. Gen. Laws 2350, as amended (“EAA Act”), and Section 711.61(a)(3)(B) of the rules of the EAA (“EAA Rules”), that Well No. W105-694 would not produce more than 1.4 acre-feet/annum of metered water withdrawn from the Edwards Aquifer in a calendar year.

4. On or about January 2, 2019, the Respondents filed a groundwater use report for Well No. W105-694 of the metered withdrawals from the Edwards Aquifer for calendar year 2018. The General Manager reviewed the report and concluded that the report demonstrated that the Respondents did not withdraw more than 1.4 acre-feet of water from the Edwards Aquifer from Well No. W105-694 during calendar year 2018.

5. In light of the General Manager’s conclusions in Findings of Fact Nos. 3 and 4, the General Manager recommends to the Board that the Rescission Order be vacated, that this Vacation

Order be issued, and that the limited production well status for Well No. W105-694 be fully reinstated and recognized.

6. On or about April 16, 2019, the Compliance staff of the EAA provided actual notice by telephone conversation to the Respondents that: (1) the General Manager's investigation for 2018 withdrawals from Well No. W105-694 was complete; (2) advised the Respondents that the General Manager intended to make a recommendation to the Board that it issue an order vacating the Rescission Order; and (3) advised the Respondents of the date and time of the Board meeting at which the Board would take up the General Manager's recommendation. This notice was given at least 30 days in advance of the Board meeting.

7. The Docket Clerk of the EAA scheduled before the Board a presentation by the General Manager on his recommendation that the Rescission Order be vacated and that this Vacation Order be issued. The presentation occurred at the regular meeting of the Board held on May 14, 2019, at the official offices of the EAA, located at 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 relative to the General Manager's recommendation which is the subject of this Vacation Order was duly and properly listed in the notice of public meeting. Notice of this meeting had been duly and properly given to the Respondents.

## **II. CONCLUSIONS OF LAW**

1. Under Section 1.33(d) of the EAA Act, a well is exempt from the requirement to obtain a groundwater withdrawal permit from the EAA if: (1) the well was drilled on or before June 1, 2013; (2) the purpose of use for the water withdrawn from the well is for any purpose authorized under the EAA Act; and (3) the well is not capable of producing more than 1,250 gallons of water a

day; or (4) the well is metered and does not produce more than 1.4 acre-feet of water in a calendar year. Section 1.33(d) has been implemented by the EAA at Section 711.61(a), and the accompanying rules located in Subchapter D (Limited Production Wells) of Chapter 711 (Groundwater Withdrawals) of the EAA Rules (“LPW Rules”). Under these rules, wells qualifying for this type of exempt well status are referred to as “limited production wells”.

2. Under Section 711.70(b) of the EAA Rules, the owner of a well registered with the EAA as a limited production well is subject to enforcement if the well is found not be in compliance with the LPW Rules.

3. In light of violations of the LPW Rules by the Respondents relative to Well No. W105-694, on May 8, 2018, the Board issued the Rescission Order and conditionally rescinded the limited production well status of Well No. W105-694, but allowed for the reinstatement of such status if the Respondents filed a water conservation plan with the EAA in 2018, and demonstrated in January 2019, that they withdrew no more than 1.4 acre-feet from the Edwards Aquifer from Well No. W105-694 in 2018.

4. In light of Findings of Fact Nos. 3-5, the Board finds that the Respondents are no longer operating Well No W105-694 in violation of Section 1.33(d) of the EAA Act and the LPW Rules.

5. Therefore, the Board has determined that it is appropriate to vacate the Rescission Order issued for Well No. W105-694 on May 8, 2018, and issue this Vacation Order.

### **III. ORDERING PROVISION**

1. The Board is of the opinion and finds that the facts necessary to support vacation of the Rescission Order have been established. Accordingly, the Board is of the opinion and finds that

the Rescission Order should be and is hereby **VACATED. IT IS THEREFORE ORDERED AND DECREED** that the limited production well status for Well No. W105-694 is hereby **REINSTATED.**

2. The General Manager is directed to advise the Respondents in writing of the issuance and effect of this Vacation Order, and specifically, that limited production well status for Well No. W105-694 has been reinstated and is fully recognized by the EAA.

3. The General Manager is directed to make appropriate adjustments, changes, or modifications to the EAA's exempt well, permits, water accounting, and other databases, as appropriate, consistent with the issuance and effect of this Vacation Order.

4. Nothing in this Vacation Order shall be construed as an estoppel, waiver, or bar to the future enforcement of the EAA Act or the LPW Rules by the EAA as they relate to the limited production well status of Well No. W105-694 in the event future violations the Act and such rules are found to have occurred.

**PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE EDWARDS AQUIFER AUTHORITY, TO BE EFFECTIVE THIS 14<sup>TH</sup> DAY OF MAY, 2019.**

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**LUANA BUCKNER**  
Chairman, Board of Directors

**ATTEST:**

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**ENRIQUE VALDIVIA**  
Secretary, Board of Directors

*[additional signatures on next page]*

APPROVED AS TO FORM:



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DARCY ALAN FROWNFELETER  
General Counsel