

RESOLUTION AND ORDER NO. 02-16-834

OF THE EDWARDS AQUIFER AUTHORITY BOARD OF DIRECTORS APPROVING LEASES OF PERMITTED EDWARDS GROUNDWATER RIGHTS FROM CERTAIN PERMIT HOLDERS AS LISTED HEREIN TO THE EAA FOR THE AQUIFER STORAGE AND RECOVERY PROJECT OF THE SAN ANTONIO WATER SYSTEMS IN SUPPORT OF THE EDWARDS AQUIFER HABITAT CONSERVATION PLAN, AND AUTHORIZING THE GENERAL MANAGER TO EXECUTE THE LEASES.

WHEREAS, the Edwards Aquifer Authority (“EAA”) was created in 1993 by the Edwards Aquifer Authority Act of May 30, 1993, 73<sup>rd</sup> Leg., R.S., ch. 626, 1993 Tex. Gen. Laws 2350, as amended (“Act”); and

WHEREAS, under Section 1.02 of the Act, the EAA is a conservation and reclamation district created by virtue of Article XVI, Section 59 of the Texas Constitution, and is a governmental agency and body politic and corporate vested with the full authority to exercise the powers and to perform the functions specified in the Act; and

WHEREAS, under Section 1.08(a) of the Act, the EAA has all the powers, rights and privileges necessary to manage, conserve, preserve, and protect the Edwards Aquifer (“Aquifer”) and to increase the recharge of, and prevent the waste or pollution of water in, the Aquifer; and

WHEREAS, under Section 1.11(d)(2) of the Act, the EAA may enter into contracts; and

WHEREAS, under Section 1.22(a) and (b) the EAA may acquire permitted rights use groundwater from the Aquifer; and

WHEREAS, under Section 1.14(a)(6), and (7) of the Act, the EAA is required to protect aquatic and wildlife habitat, and protect species that are designated as threatened or endangered under federal or state law; and

WHEREAS, under Section 1.14(h) of the Act, the EAA is required to implement a plan to ensure that springflows at Comal Springs and San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law; and

WHEREAS, under Section 49.218(a) Texas Water Code, the EAA may acquire an interest in land, permit rights or interests, contractual rights to use other real property considered necessary for the purpose of accomplishing any one or more of the EAA’s purposes; and

WHEREAS, Article 10.02(b) of the EAA Bylaws requires that any agreement, contract, or any other procurement instrument whose value exceed \$100,000 be approved by a written resolution of the EAA Board of Directors (“Board”); and

WHEREAS, Section 5.5.1 of the Edwards Aquifer Habitat Conservation Plan (“EAHCP”)

requires the EAA to acquire leases of Permitted Edwards Groundwater Rights for injection into the Aquifer Storage and Recovery Project of the San Antonio Water Systems (“ASR Project”) implementation of the use of the ASR Project for springflow protection; and

WHEREAS, the EAA desires to enter into Leases of Permitted Edwards Groundwater Rights in support of the EAHCP; and

WHEREAS, the EAA’s Permits/Enforcement Committee, on January 26, 2016, voted to recommend the Board approve the Leases listed below and provide authorization to the General Manager to execute the Leases; and

WHEREAS, the template lease upon which these Leases are based has been reviewed by the EAA legal counsel prior to Board approval; and

WHEREAS, a regular meeting of the Board of the EAA was held on February 9, 2016, at 3:00 p.m., notice of public meeting having been duly and properly posted in accordance with Chapter 551, Texas Government Code; and

WHEREAS, the Board considered the Agenda Item that is the subject of this Resolution and Order; and

WHEREAS, a majority of the Directors were present and constituted a quorum of the Board; and

WHEREAS, a vote of the majority of the quorum of the Board present passed on, voted in favor of, and adopted the following Resolution and Order; and

WHEREAS, it is in the public interest that the EAA enter into the Leases.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE EDWARDS AQUIFER AUTHORITY BOARD OF DIRECTORS THAT:

Section 1. The recitals set out above are found to be true and correct, and they are hereby adopted by the Board of Directors and are made a part of this Resolution and Order for all purposes.

Section 2. The Board of Directors hereby approves the Leases of Permitted Edwards Groundwater Rights for the ASR Project in support of the EAHCP as summarized below:

Permit No.	Owner Name	Transfer Amount (acre-feet)	Term (years)	Annual Lease Cost	Total Lease Cost
P100-521	CHARLESHANER LP, a Texas Limited Partnership	192.600	10	\$30,816.00	\$308,160.00
P101-212	Texas By Anderson Family	250.000	10	\$40,000.00	\$400,000.00

	Properties, LP				
P104-763	Linda Susan Mechler and Carol Jean Mechler, Individually	77.500	5	\$10,850.00	\$54,250.00
P101-921	Kelling Farms Ltd. & Kelling Trust	250.000	5	\$35,000.00	\$175,000.00
P101-869	Lena Jo Davenport, as Trustee of the Lena Jo Davenport Revocable Trust	10.000	1	\$1,200.00	\$1,200.00
P103-810	Roy M. Kothmann and Carol C. Kothmann	18.820	1	\$2,258.40	\$2,258.40
P101-095	William L. Bippert	32.380	1	\$3,885.60	\$3,885.60
P104-100	Virginia A. Swart	1.250	1	\$150.00	\$150.00
P100-376	Alamo Concrete Products Company	1200.000	1	\$144,000.00	\$144,000.00
P102-675	W. Michael Humphreys and Candace P. Humphreys	65.000	1	\$7,800.00	\$7,800.00
P101-245	Cynthia A. Keller	16.500	1	\$1,980.00	\$1,980.00
P100-362	Harlach Farms	150.000	1	\$18,000.00	\$18,000.00
P101-318	East Medina County Special Utility District	150.000	1	\$18,000.00	\$18,000.00
P101-225	Malvern J. Benke and Deborah Keller Benke, husband and wife	57.000	1	\$6,840.00	\$6,840.00
P101-031	Deborah Ann Benke	143.000	1	\$17,160.00	\$17,160.00
P100-508	Malcolm R. Vogt Testamentary Trust, Gail Kluth, Trustee	122.000	1	\$14,640.00	\$14,640.00
	<b>TOTALS :</b>	<b>2,736.050</b>		<b>\$352,580.00</b>	<b>\$1,173,324.00</b>

Section 3. The General Manager is hereby given authority to execute the above-listed Leases on behalf of the EAA, deliver the Leases referred to herein, and release payments as required by the Leases.

Section 4. This Resolution and Order shall become effective from and after its adoption.

PASSED AND APPROVED BY THE EDWARDS AQUIFER AUTHORITY BOARD OF DIRECTORS THIS 9TH DAY OF FEBRUARY, 2016.

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Luana Buckner  
Chairman, Board of Directors

ATTEST:

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Enrique P. Valdivia  
Secretary, Board of Directors

APPROVED AS TO FORM:

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Darcy Alan Frownfelter  
General Counsel