

EDWARDS AQUIFER AUTHORITY
State of Texas

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

**P100-015 Del's Grass Farm, Ltd.
(AT00902)**

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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 Del’s Grass Farm, Ltd. (“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 December 27, 1996, Jerry Kye Mask filed an Application for Initial Regular Permit and Declaration of Historical Use for irrigation use. On January 31, 2001, the EAA issued Initial Regular Permit No. 2001-AT00902 to Jerry Kye Mask in the amount of 1,415.6 acre-feet for irrigation use, with 966.8 acre-feet Base Irrigation Groundwater (“BIG”) and 448.8 acre-feet Unrestricted Irrigation Groundwater (“UIG”). However, the BIG and UIG amounts should have been 707.800 acre-feet each pursuant to § 711.320(1) of the EAA’s Rules. On January 14, 2003, the EAA approved a Final Order Correcting Initial Regular Permit and issued 2003-AT00902 with 707.800 acre-feet BIG and 707.800 acre-feet UIG.

2. By Special Warranty Deed dated November 13, 1998, Jerry Kye Mask conveyed 268.132 historically irrigated acres (“HIA”) to Bexar Metropolitan Water District. On March 15, 2001, Initial Regular Permit (“IRP”) No. 2001-AT00902A (P100-015) was issued to Bexar Metropolitan Water District in the amount of 259.000 acre-feet, with 0.000 acre-feet BIG and 259.000 acre-feet Unrestricted Irrigation Groundwater UIG. On January 14, 2003, the EAA filed a Final Order Correcting Initial Regular Permit and issued 2003-AT00902A (P100-015) to Bexar Metropolitan Water District in the amount of 259.000 acre-feet, with 259.000 acre-feet BIG and 0.000 acre-feet UIG.

3. On June 9, 2015, in accordance with Deed Without Warranty dated May 21, 2015, the EAA approved the transfer of ownership of 0.593 HIA with 0.057 acre-feet BIG from

P100-015 (AT00902A) to Lisa Castro and David Castro.

4. On August 11, 2015, in accordance with Deed Without Warranty With Vendor's Lien dated June 30, 2015, the EAA approved the transfer of ownership of P100-015 (AT00902A) from the San Antonio Water System, as the successor in interest of Bexar Metropolitan Water District, to Del's Grass Farm, Ltd.

5. On October 2, 2015, the Applicant filed a Conversion Application with the EAA at the EAA's official business offices located at 900 E. Quincy, San Antonio, Texas.

6. The Applicant seeks issuance of an order granting the Conversion Application by converting 79.491 acre-feet 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 October 14, 2015, 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 January 8, 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 on February 9, 2016, at the Edwards Aquifer Authority, 900 E. Quincy, San Antonio, Texas.

14. The Notice of Meeting (“NOM”) of the regular meeting of the Board, at which the General Manager’s presentation of the Conversion Application and its proposed granting thereof was made, was posted on the EAA’s outside bulletin board under a glass case.

15. The EAA provided the NOM to the Secretary of State.

16. The EAA provided the NOM to the county clerk of Bexar County, being the county in which the administrative office of the EAA is located.

17. On January 8, 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 February 9, 2016, at the Edwards Aquifer Authority, 900 E. Quincy, San Antonio, Texas.

18. 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.

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

20. 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.

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

22. 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 Deed Without Warranty With Vendor's Lien dated 6/30/2015 as recorded with the Clerk as Document # 20150118422, Official Public Records, Bexar, Texas.

23. A map showing the location of the water conservation equipment is attached as Exhibit A.

24. The water conservation equipment is described as a Mid-Elevation Spray Application (“MESA”) center pivot irrigation system consisting of three (3) center pivots. 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 Regular Permit.

25. The method used to measure the amount of groundwater from the Aquifer

cumulatively conserved on an annual basis results in a finding that 79.491 acre-feet of water will be conserved annually, including 59.618 acre-feet conserved through direct application of the water conservation equipment and an additional 19.873 acre-feet of water conserved due to the non-use of adjacent corners of the land due to the use of the MESA system, based on an Irrigation Water Savings Documentation Form.

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

27. The water conservation equipment was installed in September 2015.

28. The Applicant is in compliance with the Act, the EAA's rules, other permits, and orders of the Board.

29. The Applicant is the owner of the land to which the base irrigation groundwater is appurtenant.

CONCLUSIONS OF LAW

1. Because the Conversion Application seeks to convert 79.491 acre-feet of the BIG in the IRP to UIG, the Board of Directors of the EAA has jurisdiction over the Application.

2. The Conversion Application complies with the Act and the EAA's Rules.

3. The Conversion Application should be granted in accordance with this Final Order.

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 to Applicant 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 9th DAY OF FEBRUARY, 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