

**EDWARDS AQUIFER AUTHORITY
State of Texas**

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

**P200-533 KB Home Lone Star Inc.
(BE00222)**

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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 KB Home Lone Star Inc. (“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, 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 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 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 July 12, 2022, due to the sale of 74.875 acres, containing 71.128 historically irrigated acres, from San Antonio Culebra Road, LLC and NC San Antonio Culebra Partners, LLC to KB Home Lone Star Inc., pursuant to Special Warranty Deed dated April 14, 2022 and recorded as Document # 20220105757, Official Public Records, Bexar County Texas, the EAA issued Regular Permit P200-533 (BE00222) to KB Home Lone Star Inc. in the amount of 71.128 AF of BIG.

5. On August 12, 2024, due to the sale of 19.717 historically irrigated acres, from KB Home Lone Star Inc. to the Board of Trustees of the Medina Valley Independent School District, pursuant to Special Warranty Deed dated February 13, 2024 and recorded as Document # 20240026266, Official Public Records, Bexar County, Texas, the EAA issued Regular Permit P201-454 (BE00222) to the Board of Trustees of the Medina Valley Independent School District in the amount of 19.717 AF of BIG.

6. On December 12, 2024, Applicant filed a Conversion Application with the EAA at the official business offices located at 900 E. Quincy, San Antonio, Texas. Applicant sought to convert 37.709 AF of BIG to UIG due to a change in land use.

7. On February 4, 2025, Applicant filed an amendment to the Conversion Application submitted December 12, 2024, with the EAA at the official business offices located at 900 E. Quincy, San Antonio, Texas. Applicant now seeks to convert 17.400 AF of BIG to UIG due to a change in land use.

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

9. By letter dated December 19, 2024, the General Manager notified Applicant that he had determined that the Application was administratively complete.

10. 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.

11. 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.

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

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

14. 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.

15. Between the dates of January 5, 2025, and January 9, 2025, pursuant to EAA Rule § 707.525, Applicant 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.

16. 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.

17. In accordance with §§ 707.525 and 707.603, the January 9, 2025, written letter to Applicant, 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.

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

20. 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. Applicant has filed all applicable reports with the EAA.

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 Special Warranty Deed dated 10/07/2021 as recorded with the County Clerk as Document # 20210286179, Official Public Records, Bexar County, Texas; and the tract(s) of land more fully described in Special Warranty Deed dated 04/14/2022 as recorded with the County Clerk as Document # 20220105757, Official Public Records, Bexar County, Texas.

23. A change in land use has occurred relative to the historically irrigated lands constituting the place of use set out in Regular Permit P200-533 (BE00222), such that, in accordance with EAA Rules § 711.342(c)(6)(A), approximately 17.400 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.

24. Applicant was not required to submit a groundwater conservation plan to the EAA.

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

26. Applicant is the owner of the land to which the BIG is appurtenant.

27. Applicant was not required to submit a new survey of the historically irrigated acres.

28. Applicant has 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 P200-533 (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 17.400 AF/yr of BIG to UIG associated with Regular Permit 200-533 (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 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 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