

**EDWARDS AQUIFER AUTHORITY
State of Texas**

IN THE MATTER OF THE FOLLOWING)	
APPLICATION TO CONVERT BASE IRRIGATION)	
GROUNDWATER:)	
)	
)	
P200-903)	Continental Homes of Texas, L.P.
(ME00354))	

**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 Continental Homes of Texas, L.P. (“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 August 20, 2002, Red Bird Ranch, Ltd. was granted Initial Regular Permit No. 2002-ME00354 (P101-012) by the EAA in the amount of 700.000 acre-feet/year (“AF/yr”) (350.000 AF/yr of base irrigation groundwater rights (“BIG”) and 350.000 AF/yr of unrestricted irrigation groundwater rights (“UIG”)) based on the irrigation of 350 acres of land during the historical period (June 1, 1972 – May 31, 1993).

2. On August 31, 2006, due to an Affidavit Designating Historically Irrigated Base Acres dated 8/26/2005, Medina County, Texas (Tract 1 (223.5 acres) and Tract 2 (126.5 acres) as declared in the affidavit of J. Charles Holliman), the EAA approved an Application to Amend P101-012 (ME00354).

3. On July 24, 2007, due to the partial sale of land, including 337.3 historically irrigated acres (“HIA”) from IRP P101-012 (ME00354), Red Bird Ranch, Ltd. to McCombs Legacy, Ltd., pursuant to Warranty Deeds dated February 1, 2007, and recorded as Document # 2007001136 and Document # 20070027530, Official Public, Medina County, Texas, the EAA issued Regular Permit P103-423 (ME00354) in the amount of 337.300 AF/yr of BIG to McCombs Legacy, Ltd.

4. On May 17, 2007, all land and HIA associated with Regular Permit P103-423 (ME00354) was conveyed from McCombs Legacy, Ltd. to Red Bird Legacy Ranch, LP, pursuant to Special Warranty Deed with Vendor’s Lien, dated May 17, 2007, and recorded as Document # 20070115813, Official Public Records, Bexar County, Texas.

5. On November 13, 2020, due to the sale of 242.330 acres, including 32.965 designated HIA from P103-423 (ME00354), owned by Red Bird Legacy Ranch, L.P., to Applicant,

pursuant to Special Warranty Deed dated June 12, 2020, and recorded as Document # 20200127859, Official Public Records, Bexar County Texas, the EAA issued Regular Permit P109-403 (ME00354) in the amount of 32.965 AF/yr of BIG to Applicant.

6. On November 13, 2020, due to the sale of land, including 304.335 HIA, from Red Bird Legacy Ranch, L.P. to 700 Red Bird Ranch Investments, Ltd., pursuant to Special Warranty Deed dated June 12, 2020, and recorded as Document # 20200127860, Official Public Records, Bexar County, Texas, the EAA reissued Regular Permit P103-423 (ME00354) in the amount of 304.335 AF/yr of BIG to 700 Red Bird Legacy Ranch, L.P.

7. On February 14, 2023, due to the partial sale of land, including 81.035 designated HIA from P103-423 (ME00354), owned by 700 Red Bird Legacy Ranch, L.P., to Applicant, pursuant to Special Warranty Deed dated March 25, 2022, and recorded as Document # 2022003433, Official Public Records, Medina County Texas, the EAA issued Regular Permit P200-903 (ME00354) in the amount of 81.035 AF/yr of BIG to Applicant.

8. On February 8, 2023, Applicant filed a Conversion Application with the EAA at the official business offices located at 900 E. Quincy, San Antonio, Texas. Applicant seeks issuance of an order granting the Conversion Application to convert 81.035 AF/yr of BIG to UIG.

9. On February 21, 2023, Applicant amended the Conversion Application to seek issuance of an order granting the Conversion Application to convert 42.140 AF/yr of BIG to UIG.

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

11. By letter dated February 24, 2023, the General Manager notified Applicant that he had determined that the Application was administratively complete.

12. 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.

13. After completing the technical review of the Conversion Application, the General Manager concluded that he would recommend to the Board that the Application be granted in full, and a regular permit be issued to Applicant after converting 42.140 acre-feet BIG to UIG based on the physical development of 42.140 of HIA.

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

15. On March 3, 2023, the General Manager provided written notice to Applicant by United States mail that the technical review of the Application was complete, provided the proposed action and Technical Summary in support thereof, and informed Applicant that Applicant's Conversion Application was scheduled for consideration at the regular meeting of the Board on April 11, 2023, at the official offices of the Edwards Aquifer Authority, 900 E. Quincy, San Antonio, Texas.

16. 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 in accordance therewith. The presentation occurred at the regular meeting of the Board held on April 11, 2023, at the official offices of 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.

17. On March 8, 2023, and March 9, 2023, pursuant to EAA Rule § 707.525, Applicant published a Notice of Proposed Action on Application for Conversion of Base Irrigation

Groundwater to Unrestricted Irrigation Groundwater in five (5) newspapers within the EAA's jurisdiction, outlining the General Manager's proposed action.

18. On March 7, 2023, 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.

19. In accordance with §§ 707.525 and 707.603, the March 3, 2023 written letter to Applicant, the March 8, 2023 and March 9, 2023 newspaper publications, and the March 7, 2023 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 April 10, 2023. No requests were received.

20. 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.

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

22. Applicant is not delinquent in the payment of any fee due and owing to the EAA, including but not limited to aquifer management fees.

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

24. The place of use set out in Regular Permit P200-903 (ME00354) includes irrigated land during the historical period. A description of the lands is as follows:

the tract(s) of land more fully described in Special Warranty Deed dated 03/25/2022 as recorded with the County Clerk as Document #2022003433, Official Public Records, Medina County, Texas.

25. A change in land use has occurred relative to the historically irrigated lands constituting the place of use set out in Regular Permit P200-903 (ME00354) such that, in accordance with EAA Rules § 711.342(c)(6)(A), 42.140 HIA have been developed into a single-family home subdivision.

26. A map showing the location of the HIA is attached as Exhibit A.

27. Applicant is not required to submit a groundwater conservation plan to the EAA.

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

29. Applicant is the owner of the land to which the BIG that is the subject of the Conversion Application is appurtenant.

30. Applicant was not required to submit a new survey of the historically irrigated acres constituting the place of use set out in Regular Permit P200-903 (ME00354).

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 Sections § 711.342(c)(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 P200-903 (ME00354) such that these lands have been developed.

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 42.140 AF/yr of BIG to UIG associated with Regular Permit P200-

903 (ME00354) 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 11TH DAY OF APRIL 2023.

ENRIQUE VALDIVIA
Chairman, Board of Directors
Edwards Aquifer Authority

ATTEST:

BENJAMIN F. YOUNGBLOOD, III
Secretary, Board of Directors
Edwards Aquifer Authority

APPROVED AS TO FORM:

DARCY ALAN FROWNFELTER
General Counsel