

**EDWARDS AQUIFER AUTHORITY**  
**State of Texas**

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

**P109-384  
(ME00455)**

**JARCO Holdings LP**

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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 JARCO Holdings LP (“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 January 9, 2001, Harold A. Trip, Jr. was granted Initial Regular Permit No. 2001-ME00455 (P101-260) by the EAA in the amount of 262 acre-feet/year (“AF/yr”) (131 AF/yr of Base Irrigation Groundwater (“BIG”) and 131 AF/yr of Unrestricted Irrigation Groundwater (“UIG”)) based on the irrigation of 131.769 acres of land during the historical period (June 1, 1972 – May 31, 1993).

2. On April 13, 2013, due to the sale of 122.130 historically irrigated acres (“HIA”) and associated Regular Permit No. P101-260 (ME00455) from Harold A. Trip, Jr. to Thomas Anthony Wetegrove and Charlene Doolen Wetegrove pursuant to Warranty Deed with Vendor’s Lien dated October 23, 2013, and recorded as Document # 2013007791, Official Public Records, Medina County, Texas, the EAA issued P106-998 (ME00455) in the amount of 121.495 AF/yr (121.495 AF/yr of BIG and 0 AF/yr of UIG) to Thomas Anthony Wetegrove and Charlene Doolen Wetegrove.

3. On September 13, 2016, due to the sale of 60.500 HIA and associated Regular Permit No. P106-998 (ME00455) from Thomas Anthony Wetegrove and Charlene Doolen Wetegrove to KHK Ranches, Ltd. pursuant to General Warranty Deed dated August 17, 2016, and recorded as Document # 2016005868, Official Public Records, Medina County, Texas, the EAA issued Regular Permit No. P108-217 (ME00455) in the amount of 60.500 AF/yr (60.500 AF/yr of BIG and 0 AF/yr of UIG) to KHK Ranches, Ltd.

4. On September 12, 2017, due to the sale of 12.380 HIA and associated Regular Permit No. P108-217 (ME00455) from KHK Ranches, Ltd. to Ernest J. Evers, Jr. and Diana M.

Evers pursuant to General Warranty Deed dated August 21, 2017, and recorded as Document # 2017006347, Official Public Records, Medina County, Texas, the EAA issued Regular Permit No. P108-515 (ME00455) in the amount of 12.380 AF/yr (12.380 of AF/yr BIG and 0 AF/yr of UIG) to Ernest J. Evers, Jr. and Diana M. Evers.

5. On October 20, 2017, due to the sale of 18.780 HIA and associated Regular Permit No. P108-217 (ME00455) from KHK Ranches, Ltd. to AVB Construction, LLC and Israel Baltazar pursuant to Warranty Deed with Vendor's Lien dated August 25, 2017, and recorded as Document # 2017006900, Official Public Records, Medina County, Texas, the EAA issued Regular Permit No. P108-523 (ME00455) in the amount of 18.780 AF/yr (18.780 AF/yr of BIG and 0 AF/yr of UIG) to AVB Construction, LLC and Israel Baltazar.

6. On October 19, 2020, due to the sale of 29.35 HIA and associated Regular Permit No. P108-217 (ME00455) from KHK Ranches, Ltd. to Applicant pursuant to Warranty Deed with Vendor's Lien dated August 18, 2020, and recorded as Document # 2020007987, Official Public Records, Medina County, Texas, the EAA issued Regular Permit No. P109-384 (ME00455) in the amount of 29.340 AF/yr (29.340 AF/yr of BIG and 0 AF/yr of UIG) to Applicant.

7. On February 12, 2021, Applicant filed a Conversion Application with the EAA at the official business offices located at 900 E. Quincy, San Antonio, Texas. On September 24, 2021, Applicant filed an amended Conversion Application with the EAA at the official business offices located at 900 E. Quincy, San Antonio, Texas. Applicant seek issuance of an order granting the Conversion Application by converting 29.340 AF/yr of BIG to UIG.

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 February 19, 2021, 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 full, and a Regular Permit should be issued to Applicant converting 29.340 acre-feet BIG to UIG based on 29.35 HIA that are no longer practicable to farm.

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

13. On October 19, 2021, 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 in accordance therewith. The presentation occurred at the regular meeting of the Board held on December 14, 2021, 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.

15. On October 21, 2021, 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.

16. On October 20, 2021, 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 October 19, 2021 written letter to Applicant, the October 21, 2021 newspaper publications, and the October 20, 2021 letters 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 November 22, 2021. 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 with the EAA all applicable reports.
22. The place of use set out in Regular Permit P109-384 (ME00455) 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 Warranty Deed with Vendor's Lien dated 8/18/2020 as recorded with the Clerk as Document # 2020007987, Official Public Records, Medina 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 P109-384 (ME00455) such that, in accordance with EAA Rules § 711.342(c)(6)(A) and (B), the historically irrigated land that is the subject of the Application has been developed and is no longer practicable to farm. The HIA are now classified as an aggregate production operation and are developed into a dirt quarry as evidenced by the systematic removal of the topsoil. Additionally, Applicant provided documentation demonstrating that, because of the quarry operations on the HIA, and development on land in close proximity to the HIA, agricultural activities performed on the remainder of the land, including crop dusting or other applications of pesticides, have the potential to compromise the health and safety of a farm operator or of persons occupying or residing on property in close proximity to the HIA and the quarry operations on the HIA. There is no well located on the land that is the subject of the Application.
24. A map showing the location of the 29.35 HIA is attached as Exhibit A.
25. Applicant was not required to submit a groundwater conservation plan to the EAA.
26. Applicant is in compliance with the Act, the EAA's Rules, other permits, and orders of the Board.

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

28. Applicant was not required to submit a new survey of the historically irrigated acres constituting the place of use set out in Regular Permit P109-384 (ME00455).

### **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 Section § 711.342(c)(6)(A) and (B) 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 P109-384 (ME00455) such that these lands have been developed and 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 29.340 AF/yr of BIG to UIG in Regular Permit P109-384 (ME00455).

### **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 14<sup>TH</sup> DAY OF DECEMBER, 2021.

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**LUANA BUCKNER**  
Chairman, Board of Directors  
Edwards Aquifer Authority

**ATTEST:**

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**Benjamin F. Youngblood III**  
Secretary, Board of Directors  
Edwards Aquifer Authority

**APPROVED AS TO FORM:**

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**DARCY ALAN FROWNFELTER**  
General Counsel