

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

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

**P200-470 )**  
**(BE00212) )**  
**Arroyo Cap II-2, LLC )**

**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 Arroyo Cap II-2, LLC (“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 April 2, 2001, Henry Lee Allen Mechler, Jo Ann Davidson Mechler and Herman J. Mechler were granted Initial Regular Permit No. 2001-BE00212 (P100-509) by the EAA in the amount of 310.000 acre-feet/year (“AF/yr”) (155.000 AF/yr of base irrigation groundwater rights (“BIG”) and 155.000 AF/yr unrestricted irrigation groundwater rights (“UIG”) rights), based on the irrigation of 155.0 acres of land during the historical period (June 1, 1972 – May 31, 1993).

2. On February 2, 2010, due to the conveyance of 77.500 acre/feet of UIG from Jo Ann Davidson Mechler to the Henry Lee Allen Mechler Family Trust, pursuant to Water Warranty Deed and Transfer of Water Rights with Bill Of Sale dated July 31, 2009, and recorded as Document # 20090164715, Official Public Records, Bexar County, Texas, the EAA issued Regular Permit P104-565 (BE00212) in the amount of 77.500 AF/yr of UIG to the Henry Lee Allen Mechler Family Trust.

3. On February 2, 2010, due to the conveyance of a 74.468 acre-tract (save and except a 1.05 acre-tract from 1996 Deed 96-0097535) from Linda Susan Mechler and Carol Jean Mechler, Independent Co-Executrixes of the Estate of Herman J. Mechler, deceased, to Linda Susan Mechler and Carol Jean Mechler, individually, pursuant to Executor’s Deed dated June 29, 2009 and recorded as Document # 2009137298, Official Public Records, Bexar County, Texas, the EAA issued Regular Permit P104-763 (BE00212) in the amount of 155.000 AF/yr (77.500 AF/yr of BIG and 77.500 AF/yr of UIG) to Linda Susan Mechler and Carol Jean Mechler, individually.

4. On February 2, 2010, due to the conveyance of a 73.817 acre-tract from Thomas Richard Mechler, Independent Executor of the Estate of Henry Lee Allen Mechler, deceased, to the Henry Lee Mechler Family Trust, pursuant to Executor’s Deed dated September 3, 2008, and

recorded as Document # 20080201287, Official Public Records, Bexar County, Texas, and a 1.05 acre-tract from Thomas Richard Mechler, Independent Executor of the Estate of Henry Lee Allen Mechler, deceased, to the Henry Lee Mechler Family Trust, pursuant to Executive Deed dated February 16, 2009, and recorded as Document # 20090035249, Official Public Records, Bexar County, Texas, the EAA reissued P100-509 (BE00212) in the amount of 77.500 AF/yr of BIG to Jo Ann Davidson Mechler and the Henry Lee Allen Mechler Family Trust.

5. On September 1, 2011, due to an amendment of the permit holder name based on the conveyance of interest in a 73.817 acre-tract and a 1.05 acre-tract from Jo Ann Davidson Mechler to the Jo Ann Alice Davidson Mechler Living Trust pursuant to Corrected General Warranty Deed dated February 12, 2010, and recorded as Document # 20110111639, Official Public Records, Bexar County, Texas, the EAA reissued P100-509 (BE00212) in the amount of 77.500 AF/yr of BIG to the Jo Ann Alice Davidson Mechler Living Trust and the Henry Lee Allen Mechler Family Trust.

6. On November 13, 2020, due to the conveyance of a 172.392 acre-tract (including the 73.817 and 1.05 acre-tracts) from the Jo Ann Alice Davidson Mechler Living Trust and the Henry Lee Allen Mechler Family Trust to Jungman 90 Investors, LP, pursuant to Warranty Deed dated October 7, 2020, and recorded as Document # 20200239237, Official Public Records, Bexar County, Texas, the EAA reissued P100-509 (BE00212) in the amount of 77.500 AF/yr of BIG to Jungman 90 Investors, LP.

7. On April 14, 2021, due to the conveyance of a 4.39 acre-tract from Linda Susan Mechler and Carol Jean Mechler to Jungman 90 Investors, LP, pursuant to Special Warranty Deed dated March 5, 2021, and recorded as Document # 20210058752, Official Public Records, Bexar County, Texas, and the conveyance of a 13.342 acre-tract from Jungman 90 Investors, LP to Linda

Susan Mechler and Carol Jean Mechler, pursuant to Special Warranty Deed dated March 5, 2021, and recorded as Document # 20210058753, Official Public Records, Bexar County, Texas, the EAA reissued P100-509 (BE00212) in the amount of 68.704 AF/yr of BIG to Jungman 90 Investors, LP.

8. On April 12, 2022, due to the conveyance of a 102.367 acre-tract, including 46.57 historically irrigated acres (“HIA”) (41.731 acre-tract and 4.839 acre-tract) from Jungman 90 Investors, LP to Arroyo Cap II-2, LLC, pursuant to Special Warranty Deed dated December 8, 2021 and recorded as Document # 20210342407, Official Public Records, Bexar County, Texas, the EAA issued Regular Permit P200-470 (BE00212) in the amount of 48.213 AF/yr of BIG to Applicant.

9. On May 18, 2022, the Applicant filed a Conversion Application with the EAA at the official business offices located at 900 E. Quincy, San Antonio, Texas. The Applicant seeks issuance of an order granting the Conversion Application by converting 48.213 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 May 20, 2022, the General Manager notified the 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 should recommend to the Board that the Application be granted in

whole.

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

15. On August 22, 2022, the General Manager provided written notice to the 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 the Applicant that the Applicant's Conversion Application was scheduled for consideration at the regular meeting of the Board on October 11, 2022, 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 associated therewith. The presentation occurred at the regular meeting of the Board on October 11, 2022, 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.

17. Between the dates of August 24, 2022, and August 25, 2022, pursuant to EAA Rules § 707.525, the Applicant published a Notice of Proposed Action on 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.

18. On August 24, 2022, 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 August 22, 2022 written letter to the Applicant, the newspaper publications ranging from August 24, 2022, through August 25, 2022, and the August 24, 2022 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 September 26, 2022. 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. The Applicant paid the application fee of \$25 at the time the Conversion Application was filed with the EAA.

22. 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.

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

24. The place of use set out in Regular Permit P200-470 (BE00212) 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 12/09/2021 as recorded with the County Clerk as Document #20210342407, Official Public Records, Bexar 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 P200-470 (BE00212) such that, in accordance with EAA Rules § 711.342(c)(6)(A), EAA Rules § 711.342(c)(6)(A), approximately 46.57 historically irrigated acres are being developed into a subdivision as evidenced by the

clearing and grading of land, the construction of roads and drainage features and the installation of utilities.

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

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

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 BIG that is the subject of the Conversion Application is appurtenant.

30. The Applicant was not required to submit a new survey of the historically irrigated acres constituting the place of use set out in Regular Permit P200-470 (BE00212).

### **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 P200-470 (BE00212) 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 48.213 AF/yr of BIG to UIG associated with Regular Permit P200-470 (BE00212) 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 the 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 11<sup>TH</sup> DAY OF OCTOBER, 2022.

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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