

EDWARDS AQUIFER AUTHORITY
State of Texas

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

P108-161	Electric Transmission Texas, LLC)
(ME00355))

**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 Electric Transmission Texas, 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 January 21, 2001, John R. Windrow and Vivian W. Windrow were granted Initial Regular Permit No. 2001-ME00355 (P101-018) by the EAA in the amount of 1,507.400 acre-feet/year (“AF/yr”) (753.700 AF/yr Base Irrigation Groundwater (“BIG”) and 753.700 AF/yr Unrestricted Irrigation Groundwater (“UIG”)) based on the irrigation of 753.700 acres of land during the historical period (June 1, 1972 – May 31, 1993).

2. On October 12, 2010, due to the sale of land and water rights from IRP P101-018 (ME00355) from John R. Windrow and Vivian W. Windrow to Windrow Ranches, Ltd. pursuant to General Warranty Deed dated September 10, 2004, and recorded as Document # 159096, Volume 551, pages 163 – 170, Official Public Records, Medina County, Texas, the EAA issued Regular Permit P105-009 (ME00355) in the amount of 471.400 AF/yr (235.700 AF/yr BIG and 235.700 AF/yr UIG).

3. On March 12, 2013, due to the sale of land and water rights from John R. Windrow and Vivian W. Windrow to JV, Ltd. pursuant to General Warranty Deed dated October 19, 2012, and recorded as Document # 2012007370, Volume 868, pages 489 – 499, Official Public Records, Medina County, Texas, the EAA approved the transfer of ownership of P101-018 (ME00355) from John R. Windrow and Vivian W. Windrow to JV, Ltd.

4. On April 1, 2013, the Board approved an application to convert 62.900 AF/yr BIG to UIG and the EAA issued P101-018 (ME00355) in the amount of 1036.000 AF/yr (455.100 AF/yr BIG and 580.900 AF/yr UIG).

5. On June 29, 2016, due to the sale of 5.174 historically irrigated acres associated with Regular Permit P101-018 (ME00355) from JV, Ltd. to Electric Transmission Texas, LLC pursuant to Special Warranty Deed dated July 31, 2015, and recorded as Document # 2015005266, Official Public Records, Medina County, Texas, the EAA issued Regular Permit P108-161 (ME00355) for 4.382 AF/yr of BIG to the Applicant.

6. On July 22, 2016, 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 4.382 AF/yr 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 July 25, 2016, 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 September 9, 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 in accordance therewith. The presentation occurred at the regular meeting of the Board held on October 11, 2016, 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.

14. On September 9, 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 October 11, 2016, at the official offices of the Edwards Aquifer Authority, 900 E. Quincy, San Antonio, Texas.

15. 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.

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

17. 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.

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

19. The place of use set out in Regular Permit P108-161 (ME00355) 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 7/31/2015 as recorded with the Clerk as Document # 2015005266, Official Public Records, Medina County, Texas.

20. A change in land use has occurred relative to the historically irrigated lands constituting the place of use set out in Regular Permit P108-161 (ME00355) such that these lands are no longer practicable to farm. The historically irrigated land that is the subject of the Application has been physically developed such that at least 75 percent of the land meets the characteristics of the development.

21. A map showing the location of the 5.174 acres is attached as Exhibit A.

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

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

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

25. 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 P108-161 (ME00355).

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(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 P108-161 (ME00355) 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 4.382 AF/yr of BIG to UIG associated with Regular Permit P108-161 (ME00355) 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 11TH DAY OF OCTOBER, 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 FROWNELTER
General Counsel