

EDWARDS AQUIFER AUTHORITY
State of Texas

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

P105-785)
(ME00507))
Curtis Boehme and Nelson Boehme)

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 Curtis Boehme and Nelson Boehme (“Applicants”). 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 Applicants, or their 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 June 18, 2002, Raymond M. Patterson, Trustee of the Milton Poehler Residuary Trust, was granted Initial Regular Permit 2002-ME00507 by the EAA in the amount of 552.000 acre-feet/year (“AF/yr”) (276.000 AF/yr Base Irrigation Groundwater (“BIG”) and 276.000 AF/yr Unrestricted Irrigation Groundwater (“UIG”)), based on the irrigation of 276.000 acres of land out of a 334.93-acre tract during the historical period (June 1, 1972 – May 31, 1993).

2. On August 31, 2006, due to the purchase of 334.93 acres of land containing 276.00 historically irrigated acres pursuant to Special Warranty Deed dated February 4, 2005, and recorded as Document # 165317, Official Public Records, Medina County, Texas, the EAA issued Regular Permit P101-386 (ME00507) in the amount of 552.000 AF/yr (276.000 BIG and 276.000 UIG) to Mary Poehler Schultze, John Poehler, and Milton Poehler Jr.

3. On September 7, 2012, due to the purchase of 301.02 acres of land containing 276.00 historically irrigated acres pursuant to Warranty Deed with Vendor’s Lein dated December 30, 2011, and recorded as Document # 2012000050, Official Public Records, Medina County, Texas, the EAA issued Regular Permit P105-785 (ME00507) in the amount of 276.000 AF/yr (276.000 BIG) to Curtis Boehme and Nelson Boehme (“Applicants”).

4. On November 3, 2016, Applicants filed a Conversion Application with the EAA at the official business offices located at 900 E. Quincy, San Antonio, Texas. Applicants seek

issuance of an order granting the Conversion Application by converting 58.903 AF/yr of BIG to UIG.

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

6. By letter dated November 29, 2016, the General Manager notified the Applicants that he had determined that the Application was administratively complete.

7. 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.

8. 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.

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

10. On February 9, 2017, the General Manager provided written notice by United States mail to Applicants that technical review of the Conversion Application was complete, and provided Applicants with a copy of the proposed action and Technical Summary in support thereof.

11. 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 March 14, 2017, at the official offices of the Edwards Aquifer Authority, located at 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.

12. 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.

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

14. Applicants are not delinquent in the payment of any fee due and owing to the EAA, including but not limited to aquifer management fees.

15. Applicants have filed with the EAA all applicable reports.

16. The place of use set out in Regular Permit P105-785 (ME00507) 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 12/30/2011 as recorded with the Clerk as Document # 2012000050, Volume 837, Pages 773 - 779, Official Public Records, Medina County, Texas.

17. The water conservation equipment is described as one 6-tower Zimmatic Galvanized non-tow pivot system with Low Elevation Spray Applicators, and one 4-tower Zimmatic Galvanized non-tow pivot system with Low Elevation Spray Applicators. This

equipment qualifies as water conservation equipment because installation and operation of the equipment results in a lesser amount of groundwater from the Aquifer being withdrawn for irrigation purposes at the place of use identified in the Regular Permit.

18. The method used to measure the amount of groundwater from the Aquifer cumulatively conserved on an annual basis results in a finding that 58.903 AF/yr of water will be conserved, including 44.177 AF/yr due to direct application of the water conservation equipment, and an additional 14.726 AF/yr due to non-use of adjacent corners, based on an Irrigation Water Savings Documentation Form.

19. The estimated maximum period of time the water conservation equipment will be reasonably functional in conserving groundwater from the Aquifer will be 15 years.

20. The water conservation equipment was installed in March of 2012.

21. A map showing the location of the 301.02 acres is attached as Exhibit A.

22. Applicants were not required to submit a groundwater conservation plan to the EAA.

23. Applicants are in compliance with the Act, the EAA's rules, other permits, and orders of the Board.

24. Applicants are the owners of the land to which the BIG that is the subject of the Conversion Application is appurtenant.

25. Applicants were not required to submit a new survey of the historically irrigated acres constituting the place of use set out in Regular Permit P105-785 (ME00507).

CONCLUSIONS OF LAW

1. Because the Conversion Application seeks to convert BIG to UIG associated with a Regular 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(5) of the EAA Rules and, therefore, conservation has occurred relative to the historically irrigated lands constituting the place of use set out in Regular Permit P105-785 (ME00507) by the installation of conservation equipment.

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 58.903 AF/yr of BIG to UIG associated with Regular Permit P105-785 (ME00507) 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 Applicants 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.

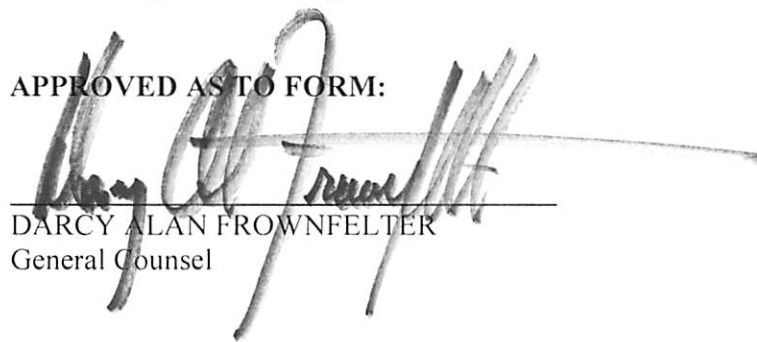
PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE EDWARDS
AQUIFER AUTHORITY THIS 14TH DAY OF MARCH, 2017.

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 FROWN FELTER
General Counsel