

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

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

**P107-761 )**  
**(CO00155) Gruene Rock, 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 Gruene Rock, 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 13, 2004, the EAA issued to the Channing Newton Williams, Trustee of the Williams Family (“Trust”) Initial Regular Permit (“IRP”) No. 2004-CO00155 (P100-786) in the amount of 60.000 acre-feet/year (“AF/yr”) (30.000 AF/yr BIG and 30.000 AF/yr UIG) based on the irrigation of 30.000 acres of land during the historical period (June 1, 1972 – May 31, 1993).

2. On or about February 17, 2010, pursuant to an Application for Probate of Will as Muniment of Title dated and recorded as Document # 201006017260, Official Public Records, Comal County, Texas, the Trust conveyed to June S. Williams 24 acres of historically irrigated land (“HIL”) out of the originally-permitted 30 acres of HIL and IRP No. P100-786 (CO00155) associated therewith in the amount of 54.000 acre-feet/year (“AF/yr”) (24.000 AF/yr BIG and 30.000 AF/yr UIG).

3. On or about January 28, 2011, pursuant to a Special Warranty Deed, recorded as Document # 201106006321, Official Public Records, Comal County, Texas, June S. Williams conveyed to W & E Realty Co., Ltd., a Texas limited Partnership (“W & E Realty”) a tract containing 24 acres of the originally-permitted HIL and IRP No. P100-786 (CO00155) associated therewith in the amount of 54.000 acre-feet/year (“AF/yr”) (24.000 AF/yr BIG and 30.000 AF/yr UIG).

4. On or about May 6, 2011, an Irrevocable Designation of Historically Irrigated Lands Pertaining to Edwards Aquifer Groundwater Rights, recorded as Document # 201106016015, Official Public Records, Comal County, Texas, was prepared and filed with the EAA for the originally-permitted 30 acres of HIL, consisting of separately identified 6 acre and 24 acre portions.

5. On June 14, 2011, the EAA issued to Dennis Lee Ezell and wife Jamie Lynn Ezell (“Ezells”) new Regular Permit P105-207 (CO00155) in the amount of 6.000 AF/yr (6.000 AF/yr BIG and 0.000 AF/yr UIG).<sup>1</sup>

6. Also, on June 14, 2011, the EAA approved the transfer of ownership of IRP P100-786 (CO00155) purporting to be made from the Trust to June S. Williams in the amount of 54.000 AF/yr (24.000 AF/yr BIG and 30.000 AF/yr UIG).<sup>2</sup>

7. On December 9, 2014, the EAA approved the transfer of ownership of P100-786 (CO00155) purporting to be made from the Estate of June S. Williams to the The June S. Williams Testamentary Trust for the benefit of Leslie Dean Ezell; The June S. Williams Testamentary Trust for the Benefit of Darrell Lynn Ezell; The June S. Williams Testamentary Trust for the benefit of Dennis Lee Ezell; The June S. Williams Testamentary Trust for the benefit of Lesa Dee Ezell (“Testamentary Trust”) in the amount of 54.000 AF/yr (24.000 AF/yr

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<sup>1</sup> This permit issuance was based on three “gift deeds” made on or about June 16, 1999, January 1, 2000, and December 20, 2001, from the Trust to the Ezells, of 6 acres of HIL from the originally-permitted 30 acres of HIL and recorded as Document # 9906017022, Official Public Records, Comal County, Texas, Document # 200006004574, Official Public Records, Comal County, Texas, and Document # 200106040161, Official Public Records, Comal County, Texas, respectively. These conveyances had apparently not been previously brought to the attention of the EAA.

<sup>2</sup> Due to the January 28, 2011 conveyance identified in Finding of Fact No. 3 from June S. Williams to W & E Realty, it appears that the correct owner of P100-786 (CO00155) at this time was W & E Realty – not the Trust. However, apparently this conveyance had not yet been previously brought to the attention of the EAA.

BIG and 30.000 AF/yr UIG).<sup>3</sup>

8. On or about February 4, 2015, pursuant to a General Warranty Deed Reserving Vendor's Lien in Favor of Third Party, recorded as Document # 201506005748, Official Public Records, Comal County, Texas, the Estate of June S. Williams and W&E Realty conveyed to Gruene Rock, LLC, 24 acres of HIL and IRP No. P100-786 (CO00155) associated therewith in the amount of 39.000 acre-feet/year ("AF/yr") (24.000 AF/yr BIG and 15.000 AF/yr UIG). The General Warranty Deed contained a reservation of 15 AF/yr UIG in the grantors.<sup>4</sup>

9. On August 10, 2015, the EAA approved the transfer of ownership of P100-786 (CO00155) from June S. Williams to W&E Realty in the amount of 54.000 AF/yr (24.000 AF/yr BIG and 30.000 AF/yr UIG).<sup>5</sup>

10. On October 13, 2015, the EAA issued to Gruene Rock, LLC new Regular Permit P107-761 (CO00155) in the amount of 39.000 AF/yr (24.000 AF/yr BIG and 15.000 AF/yr UIG).

11. On December 20, 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 14.709 AF/yr of BIG to UIG.

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<sup>3</sup> This approval was based on an Order Admitting Will to Probate and Authorizing Letters Testamentary No. 2014PCA002, made on or about January 23, 2014, purporting to convey from the Estate of June S. Williams to the Testamentary Trust, 24 acres of HIL and IRP No. P100-786 (CO00155) associated therewith in the amount of 54.000 acre-feet/year ("AF/yr") (24.000 AF/yr BIG and 30.000 AF/yr UIG). In light of footnote number 3, it appears that the correct owner of P100-786 (CO00155) at this time was W & E Realty – not the Estate of June S. Williams or the Testamentary Trust.

<sup>4</sup> In light of footnote number 3, the participation of the Estate of June S. Williams appears superfluous.

<sup>5</sup> This permit issuance was based on the conveyance identified in Finding of Fact No. 3 occurring on January 28, 2011, from June S. Williams to W & E Realty which had not previously been brought to the attention of the EAA.

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

13. By letter dated December 22, 2016, the General Manager notified the Applicant that he had determined that the Application was administratively complete.

14. 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.

15. 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.

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

17. On May 12, 2017, 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.

18. 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 June 13, 2017, 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.

19. On May 12, 2017, 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 June 13, 2017, at the official offices of the Edwards Aquifer Authority, 900 E. Quincy, San Antonio, Texas.

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 P107-761 (CO00155) 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 General Warranty Deed dated 2/4/2015 as recorded with Clerk as Document # 201506005748, Official Public Records, Comal 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 P107-761 (CO00155) 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.

26. A map showing the location of the 14.709 acres is attached as Exhibit A.

27. The Applicant was 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 P107-761 (CO00155).

### **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 P107-761 (CO00155) 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 14.709 AF/yr of BIG to UIG associated with Regular Permit P107-761 (CO00155) 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 13<sup>TH</sup> DAY OF JUNE, 2017.

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

**ATTEST:**

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**ENRIQUE VALDIVIA**  
Secretary, Board of Directors  
Edwards Aquifer Authority

**APPROVED AS TO FORM:**



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**DARCY ALAN FROWNE**  
General Counsel