

**EDWARDS AQUIFER AUTHORITY
State of Texas**

IN THE MATTER OF THE FOLLOWING)	
APPLICATION TO CONVERT BASE IRRIGATION)	
GROUNDWATER:)	
)	
)	
P100-155)	Union Pacific Railroad Company
(BE00056))	

**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 Union Pacific Railroad Company (“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 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, the EAA issued Initial Regular Permit (“IRP”) No. 2001-BE00056 (P100-155) to Verstraeten Bros. Farms, Inc. in the amount of 792.400 acre-feet/year (“AF/yr”) (396.200 AF/yr BIG and 396.200 AF/yr UIG) based on the irrigation of 396.200 acres of land during the historical period (June 1, 1972 – May 31, 1993).

2. On June 19, 2007, due to the sale of land and BIG rights from Verstraeten Bros. Farms, Inc. to 7844 Pearsall Road EAT, LLC, and a reservation of all UIG in the grantor, pursuant to Warranty Deed dated April 13, 2006, and recorded as Document # 20060085966, Official Public Records, Bexar County, Texas, the EAA approved the transfer of ownership of P100-155 (BE00056) to Pearsall Road EAT, LLC in the amount of 396.200 AF/yr BIG, and the EAA issued Regular Permit No. P103-342 (BE00056) in the amount of 396.200 AF/yr UIG to Verstraeten Bros. Farms, Inc.

3. On April 10, 2008, due to the sale of land and water rights from 7844 Pearsall Road EAT, LLC to Union Pacific Railroad Company, pursuant to General Warranty Deed dated January 12, 2007, and recorded as Document # 20070017491, Official Public Records, Bexar County, Texas, the EAA approved the transfer of ownership of P100-155 (BE00056) to Union Pacific Railroad Company in the amount of 396.200 AF/yr BIG.

4. On March 9, 2010, the EAA approved an Application to Convert BIG for P100-155 (BE00056) in the amount of 174.000 acre-feet based on a change in land use and re-issued

Regular Permit No. P100-155 (BE00056) to Applicant in the amount of 222.2 AF/yr BIG and 174 AF/yr UIG.

5. On July 12, 2011, the EAA approved an Application to Convert BIG for P100-155 (BE00056) in the amount of 34.000 acre-feet based on a change in land use and re-issued Regular Permit No. P100-155 (BE00056) to Applicant in the amount of 188.2 AF/yr BIG and 208 AF/yr UIG.

6. On December 13, 2017, Applicant filed a Conversion Application with the EAA at the official business offices located at 900 E. Quincy, San Antonio, Texas. Applicant seeks issuance of an order granting the Conversion Application by converting 187.200 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 December 15, 2017, the General Manager notified 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 January 12, 2018, 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.

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 February 13, 2018, 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 January 12, 2018, the EAA provided written notice to Applicant by United States mail, that Applicant's Conversion Application was scheduled for consideration at the regular meeting of the Board on February 13, 2018, at the official offices of the EAA, 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. Applicant paid the application fee of \$25 at the time the Conversion Application was filed with the EAA.

17. 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. Applicant has filed with the EAA all applicable reports.

19. The place of use set out in Regular Permit P100-155 (BE00056) was irrigated land during the historical period. A description of the irrigated lands is as follows:

the tract(s) of land described in General Warranty Deed dated 1/12/2007, as recorded with the Clerk as Document # 20070017491, Volume 12652, Pages 38 - 47, Official Public Records, Bexar County, Texas.

20. A change in land use has occurred relative to 187.2 acres of the historically irrigated lands constituting the place of use set out in Regular Permit P100-155 (BE00056). The historically irrigated land that is the subject of the Application has been acquired by an entity with the power of condemnation or eminent domain, and the entity uses the land in a manner within the entity's legally authorized purposes.

21. A map showing the location of the 187.200 acres is attached as Exhibit A.

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

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

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

25. Applicant was not required to submit a new survey of the historically irrigated acres constituting the place of use set out in Regular Permit P100-155 (BE00056).

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 P100-155 (BE00056).
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 187.200 AF/yr of BIG to UIG associated with Regular Permit P100-155 (BE00056) and 187.2 acres of 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 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 13TH DAY OF FEBRUARY, 2018.

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 FROWNFEILER
General Counsel