

EDWARDS AQUIFER AUTHORITY
State of Texas

IN THE MATTER OF THE FOLLOWING)
APPLICATION TO CONVERT BASE IRRIGATION)
GROUNDWATER:)
)
)
P100-966 F & M Santleben Properties, Ltd.)
(ME00336))

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 (“Application”) of F & M Santleben Properties, Ltd. (“Applicant”). As set forth below, the General Manager of the Edwards Aquifer Authority (“EAA”) issued notice of his proposed action on the Application. The Board of Directors (“Board”) of the EAA, after having reviewed and considered the summaries of the evidence for the 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 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 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 March 15, 2001, Floyd and Myrtle Santleben were granted Initial Regular Permit 2001-ME00336 (P100-966) by the EAA in the amount of 278.600 acre-feet/year (AF/yr) (139.300 AF/yr Base Irrigation Groundwater (“BIG”) and 139.300 AF/yr Unrestricted Irrigation Groundwater (“UIG”)) based on the ownership and irrigation of 71.400 acres, as well as the irrigation of an adjacent 67.900 acres, during the historical period (June 1, 1972 – May 31, 1993).

2. On February 4, 2013, due to the sale of 263.520 acres, containing 139.300 acres HIL, from Floyd and Myrtle Santleben to Applicant, pursuant to Special Warranty Deed dated December 30, 2009, and recorded as Document # 2010006931, Official Public Records, Medina County, Texas, the EAA reissued Regular Permit P100-966 (ME00336) to Applicant in the amount of 278.600 AF/yr (139.300 BIG and 139.300 UIG).

3. On October 5, 2018, Applicant filed the 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 Application to convert 43.401 AF/yr of BIG to UIG. A 71.40-acre tract of land out of the 139.300 acres is the subject of the conversion application.

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

5. By letter dated October 5, 2018, the General Manager notified Applicant that he

had determined that the Application was administratively complete.

6. After determining that the 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.

7. After completing the technical review of the Application, the General Manager concluded that he should recommend to the Board that the Application be granted in whole.

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

9. On December 18, 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.

10. The Docket Clerk of the EAA scheduled before the Board a presentation by the General Manager on the Application, his proposed action, and the proposed issuance of an amended Regular Permit in accordance therewith. The presentation occurred at the regular meeting of the Board held on January 8, 2019, at the official offices of the EAA, 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.

11. The 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.

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

13. Applicant is not delinquent in the payment of any fee due and owing to the EAA, including but not limited to aquifer management fees.

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

15. The place of use set out in Regular Permit P100-966 (ME00336) 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 12/30/2009 as recorded with the Clerk as Document # 2010006931, Volume 799, Pages 347 - 353, Official Public Records, Medina County, Texas; and the tract(s) of land more fully described in Special Warranty Deed dated 9/21/2012 as recorded with the Clerk as Document # 2012006621, Volume 865, Pages 384 - 389, Official Public Records, Medina County, Texas.

16. The water conservation equipment is described as one T-L Irrigation center pivot with Mid-Elevation Spray Applicators (MESA), covering approximately 37.54 acres of land installed August 9, 2016. Operation of this 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.

17. EAA staff calculated the area under the pivot system to be 37.540 acres. Staff has calculated a projected water savings of 32.551 acre-feet due to the installation of the water conservation equipment that would be eligible for conversion, with an additional 10.851 acre-feet awarded for corner credit, based on an Irrigation Water Savings Documentation Form.

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

19. Installation of water conservation equipment occurred on August 9, 2016.

20. A map showing the location of the 71.40-acre tract is attached as Exhibit A.

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

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

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

24. Applicant is not required to submit a new survey of the HIL constituting the place of use set out in Regular Permit P100-966 (ME00336).

CONCLUSIONS OF LAW

1. Because the Application seeks to convert BIG 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 Conservation Application meets the requirements of Section 711.342(5) of the EAA Rules and, therefore, conservation has occurred relative to the HIL constituting the place of use set out in Regular Permit P100-966 (ME00336) due to the installation of the conservation equipment.

3. The Application otherwise complies with the Act and the EAA's Rules.

4. Accordingly, the Application should be granted in accordance with this Final Order hereby converting 43.401 AF/yr of BIG to UIG associated with Regular Permit P100-966 (ME00336) 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 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 8TH DAY OF JANUARY, 2019.

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