

**EDWARDS AQUIFER AUTHORITY  
State of Texas**

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

**P100-014  
(AT00902)**

**Jerry Kye Mask**

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**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 Jerry Kye Mask (“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 his 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 December 27, 1996, Jerry Kye Mask filed an Application for Initial Regular Permit and Declaration of Historical Use for irrigation use. On January 31, 2001, the EAA issued Initial Regular Permit No. 2001-AT00902 to Jerry Kye Mask in the amount of 1,415.6 acre-feet for irrigation use, with 966.8 acre-feet Base Irrigation Groundwater (“BIG”) and 448.8 acre-feet Unrestricted Irrigation Groundwater (“UIG”). However, the BIG and UIG amounts should have been 707.800 acre-feet each due to the irrigation of 707.800 historically irrigated lands (“HIL”) during the historical period (June 1, 1972 – May 31, 1993). On January 14, 2003, the EAA approved a Final Order Correcting Initial Regular Permit pursuant to § 711.320(1) of the EAA’s Rules and issued 2003-AT00902 with 707.800 acre-feet BIG and 707.800 acre-feet UIG.

2. On November 13, 2018, due to the Irrevocable Designation of Historically Irrigated Lands Pertaining to Edwards Aquifer Groundwater Rights approved on October 10, 2018, and recorded as Document # 191138, Official Public Records, Atascosa County, Texas, the EAA re-issued P100-014 (AT00902) to Applicant.

3. On October 19, 2018, the Applicant filed a Conversion Application with the EAA at the EAA’s official business offices located at 900 E. Quincy, San Antonio, Texas. The Applicant seeks issuance of an order granting the Conversion Application to authorize converting 393.111 AF/yr of BIG to UIG.

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

5. By letter dated October 22, 2018, the General Manager notified the Applicant that

he had determined that the Application was administratively complete.

6. 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.

7. 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.

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

9. On January 11, 2019, 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.

10. 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 an amended Regular Permit associated therewith. The presentation occurred at the regular meeting of the Board held on February 12, 2019, at the official offices of the Edwards Aquifer Authority, located at 900 E. Quincy, San Antonio, Texas. Notice of public meeting for the meeting was duly and properly posted in accordance with Chapter 551, Texas Government Code.

11. On January 11, 2019, 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 February 12, 2019, at the Edwards Aquifer Authority, 900 E. Quincy, San Antonio, Texas.

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

14. 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.

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

16. The place of use set out in the Permit 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 Assumption Warranty Deed dated 10/17/1996 as recorded with the Clerk as Document # 15347, Official Public Records, Atascosa County, Texas; the tract(s) of land more fully described in Special Warranty Deed dated 10/17/1996 as recorded with the Clerk as Document # 15349, Official Public Records, Atascosa County, Texas; the tract(s) of land more fully described in Special Assumption Warranty Deed dated 10/17/1996 as recorded with the Clerk as Document # 15348, Official Public Records, Atascosa County, Texas; the tract(s) of land more fully described in Assumption Warranty Deed with Vendor's Lien dated 2/28/1978 as recorded with the Clerk as Document, Volume 477, Pages 188 - 191, Official Public Records, Atascosa County, Texas; and the tract(s) of land more fully described in Irrevocable Designation Of Historically Irrigated Lands Pertaining To Edwards Aquifer Groundwater Rights dated 10/10/2018 as recorded with the Clerk as Document # 191138, Official Public Records, Atascosa County, Texas.

17. The water conservation equipment is described as a Mid-Elevation Spray

Application (“MESA”) center pivot irrigation system consisting of eight (8) center pivots. 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 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 393.111 AF/yr of water will be conserved annually, including 222.797 AF/yr conserved through direct application of the water conservation equipment and an additional 170.314 AF/yr of water conserved due to the non-use of adjacent corners of the land due to the use of the MESA system, 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 is 25 years.

20. The water conservation equipment pivots were installed as follows: 2006 (1), 2013 (2), 2015 (2), 2016 (2), 2017 (1).

21. A map showing the location of the water conservation equipment relative to the HIL 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 base irrigation groundwater is

appurtenant.

25. The Applicant was not required to submit a new survey of the HIL constituting the place of use set out in the Permit.

### **CONCLUSIONS OF LAW**

1. Because the Conversion Application seeks to convert BIG in the Permit 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(5) of the EAA Rules and, therefore, conservation has occurred relative to the HIL constituting the place of use set out in the Permit 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 393.111 AF/yr of BIG to UIG associated with the Permit and the HIL constituting the place of use for the 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 12<sup>th</sup> DAY OF FEBRUARY, 2019.

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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 FROWNELTER  
General Counsel