

EDWARDS AQUIFER AUTHORITY
State of Texas

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

P108-772 Medina County
(ME00607)

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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 (“Application”) of Medina County (“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 June 18, 2002, Frank Persyn, Jr. and Henry Persyn were granted Initial Regular Permit P101-616 (ME00607) by the EAA, in the amount of 472.600 acre-feet/year (AF/yr) consisting of 236.300 AF/yr of Base Irrigation Groundwater ("BIG") and 236.300 AF/yr Unrestricted Irrigation Groundwater ("UIG"), based on the irrigation of 236.300 acres of historically irrigated land ("HIL") during the historical period (June 1, 1972 – May 31, 1993).

2. On December 13, 2016, due to an amendment of the legal place of use, pursuant to Irrevocable Designation of Historically Irrigated Lands Pertaining to Edwards Aquifer Groundwater Rights, dated November 11, 2016, and recorded as Document # 2016008220, Official Public Records, Medina County, Texas, the EAA reissued Regular Permit P101-616 (ME00607) in the amount of 472.600 (AF/yr) (236.300 BIG and 236.300 UIG) to Frank Persyn, Jr. and Henry Persyn.

3. On June 12, 2018, due to the sale of .026 acres of HIL containing .036 AF BIG associated with Initial Regular Permit P101-616 (ME00607) from Frank Persyn, Jr. and Henry Persyn to Medina County, pursuant to Warranty Deed dated November 30, 2017, and recorded as Document # 2017009020, Official Public Records, Medina County, Texas, the EAA issued Regular Permit P108-772 (ME00607) in the amount of .036 AF/yr BIG to Medina County.

4. On May 2, 2018, the 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 .036 AF/yr of BIG to UIG.

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

6. By letter dated June 28, 2018, the General Manager notified the Applicant that he had determined that the Application was administratively complete.

7. 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.

8. 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.

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

10. On July 12, 2018, the General Manager provided written notice by United States mail to the 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.

11. 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 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 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 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 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.

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

16. The place of use set out in Regular Permit P108-772 (ME00607) 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 dated 11/30/2017 as recorded with the Clerk as Document # 2017009020, Official Public Records, Medina County, Texas.

17. A change in land use has occurred relative to the historically irrigated lands constituting the place of use set out in Regular Permit P108-772 (ME00607) such that these lands are no longer practicable to farm. In accordance with EAA Rules § 711.342(6)(C) Basis for Granting Conversion Applications, 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 that is within the entity’s legally authorized purposes.

18. A map showing the location of the .026 acres is attached as Exhibit A.

19. The Applicant was not required to submit a groundwater conservation plan to the

EAA.

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

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

22. The Applicant is has submitted a new survey of the HIL constituting the place of use set out in Regular Permit P108-772 (ME00607).

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 Conversion Application meets the requirements of Section 711.342(6)(C) 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 P108-772 (ME00607) such that these lands are no longer practicable to farm.

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 .036 AF/yr of BIG to UIG associated with Regular Permit P108-772 (ME00607) 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 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 12TH DAY OF FEBRUARY, 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 FROWNFELTER
General Counsel