

**EDWARDS AQUIFER AUTHORITY
State of Texas**

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

**P100-077
(BE00042)**

Tierra Lytle LLC

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**ORDER GRANTING APPLICATION
TO CONVERT BASE IRRIGATION GROUNDWATER PURSUANT TO THE
TEMPORARY INJUNCTION ISSUED IN UVALDE COUNTY UNDERGROUND WATER
CONSERVATION DIST. V. EDWARDS AQUIFER AUTH., NO. 2018-01-31972-CV**

ON THIS DAY CAME ON TO BE HEARD the above-styled and numbered Application to Convert Base Irrigation Groundwater (“Conversion Application” or “Application”) of Tierra Lytle 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 their 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 Order, the Board makes its Findings of Fact and Conclusions of Law as follows:

FINDINGS OF FACT

1. On January 1, 2001, Ralph & Sons Farms, Inc. were granted Initial Regular Permit (“IRP”) No. 2001-BE00042 (P100-077) by the EAA in the amount of 173.000 acre-feet/year (“AF/yr”) (86.500 AF/yr of Base Irrigation Groundwater rights or “BIG” and 86.500 AF/yr Unrestricted Irrigation Groundwater rights or “UIG”) based on the irrigation of 86.500 acres of land during the historical period (June 1, 1972 – May 31, 1993).

2. On October 30, 2018, due to the sale of land and water rights from Ralph & Sons Farms, Inc. to Tierra Lytle LLC pursuant to General Warranty Deed dated August 7, 2018, and recorded as Document # 20180156077, Official Public Records, Bexar County, Texas, EAA issued Regular Permit P100-077 (BE00042) in the amount of 86.500 AF/yr of BIG to Tierra Lytle LLC.

3. On February 12, 2019, due to the Irrevocable Designation of Historically Irrigated Lands Pertaining to Edwards Aquifer Groundwater Rights approved on December 13, 2018, and recorded as Document # 20190004322, Official Public Records, Bexar County, Texas, the EAA re-issued P100-077 (BE00042) to Applicant.

4. On March 11, 2019, 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 57.255 AF/yr of BIG to UIG.

5. After receipt of the Conversion Application, the General Manager of the EAA

conducted an initial review of the Application for administrative completeness.

6. By letter dated March 12, 2019, the General Manager notified the Applicant that he had determined that the Application was administratively complete.

7. 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.

8. 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.

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

10. On April 12, 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.

11. 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 May 14, 2019, 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 Order was duly and properly listed in the notice of public meeting.

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.

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

16. The place of use set out in IRP P100-077 (BE00042) 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 8/7/2018 as recorded with the Clerk as Document # 20180156077, Official Public Records, Bexar County, Texas; and more specifically the tract(s) of land more fully described in Irrevocable Designation of Historically Irrigated Lands Pertaining to Edwards Aquifer Groundwater Rights dated 12/13/2018 as recorded with the Clerk as Document # 20190004322, Official Public Records, Bexar County, Texas.

17. IRP P100-077 (BE00042) contains base irrigation groundwater at an amount in excess of one acre-foot per acre of historically irrigated land. Per Section 711.342(7) of the EAA rules, the conversion application seeks to convert only the amount of base irrigation groundwater that is in excess of one acre-foot per acre of historically irrigated land. The 86.500 acre-feet of BIG are stacked on a 29.245 acre-tract place of use.

18. A map showing the location of the 29.245 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 Conversion Application is appurtenant.
22. The Applicant is not required to submit a new survey of the historically irrigated acres constituting the place of use set out in Regular Permit P100-077 (BE00042).

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(7) of the EAA Rules.
3. The Conversion Application otherwise complies with the Act and the EAA's Rules.
4. The EAA shall not approve the permanent transfer of rights converted from BIG to UIG as a result of stacked BIG to a place of use outside of the county where the BIG rights were initially permitted during the period that the Unopposed Order Modifying Temporary Injunction

and Staying Proceedings Pending the 86th Texas Legislative Session in *Uvalde County Underground Water Conservation Dist. v. Edwards Aquifer Auth.*, No. 2018-01-31972-CV (38th Dist. Ct., Uvalde Cty., Tex. Jan. 16, 2018) is in effect, although the EAA may approve the temporary transfer of such rights to a place of use outside of the county where the BIG rights were initially permitted.

5. Accordingly, the Conversion Application should be granted in accordance with this Order hereby converting 57.255 AF/yr of BIG to UIG associated with Regular Permit P100-077 (BE00042) 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 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 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 Order, and the special conditions required to implement Paragraph 4 of the Conclusions of Law, for presentation to the Chairman of the Board of Directors of the EAA for signature;
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 Order; and

4. during the period that the Unopposed Order Modifying Temporary Injunction and Staying Proceedings Pending the 86th Texas Legislative Session in *Uvalde County Underground Water Conservation Dist. v. Edwards Aquifer Auth.*, No. 2018-01-31972-CV (38th Dist. Ct., Uvalde Cty., Tex. Jan. 16, 2018) is in effect, the EAA may not approve a permanent transfer of rights converted from BIG to UIG by this Order to a place of use or point of withdrawal outside of the county where they were initially permitted, although the EAA may approve the temporary transfer of such rights to a place of use or point of withdrawal outside of the county where they were initially permitted.

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE EDWARDS
AQUIFER AUTHORITY THIS 14TH DAY OF MAY, 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