



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 April 19, 2005, Ernest and Terri Schirmer, were granted Initial Regular Permit 2005-BE00064A (P100-171 (BE00064)), in the amount of 162.500-acre feet (“AF”) (81.250 AF of Base Irrigation Groundwater “BIG” and 81.250 AF of Unrestricted Irrigation Groundwater “UIG”) based on the ownership of a 206.87 acre tract of land, of which 81.250 acres were irrigated during the historical period (June 1, 1972 – May 31, 1993).

2. On October 17, 2008, due to the sale of 206.87 acres of land, containing 81.250 acres of historically irrigated acres associated with Initial Regular Permit P100-171 (BE00064) from Ernest and Terri Schirmer to Peoples Verdes Ranch Holding Co., Ltd. c/o Hugo Gutierrez, pursuant to Warranty Deed with Vendor’s Lien dated August 25, 2005, and recorded as Document # 20060143815, Official Public Records, Bexar County, Texas, the EAA reissued Regular Permit P100-171 (BE00064) to Peoples Verdes Ranch Holding Co., Ltd. c/o Hugo Gutierrez in the amount of 81.250 AF of BIG.

3. On July 11, 2017, due to the EAA Board’s approval of an Irrevocable Designation of Historically Irrigated Lands Pertaining to Edwards Aquifer Groundwater Rights dated May 30, 2017, and recorded as Document # 20170102455, Official Public Records, Bexar County, Texas, the EAA reissued Regular Permit P100-171 (BE00064) to Peoples Verdes Ranch Holding Co., Ltd. c/o Hugo Gutierrez in the amount of 81.250 AF of BIG.

4. On June 12, 2018, due to the sale of 98.453 acres of land containing 35.129 historically irrigated acres associated with Initial Regular Permit P100-171 (BE00064) from Peoples Verdes Ranch Holding Co., Ltd. c/o Hugo Gutierrez to Applicants, pursuant to Special Warranty Deeds dated March 7, 2018, and recorded as Documents # 20180044319 and # 20180044320, Official Public Records, Bexar County, Texas, the EAA issued Regular Permit P108-770 (BE00064) to Applicants in the amount of 35.129 AF of BIG.

5. On June 23, 2020, due to the sale of 169.689 acres of land containing 26.136 historically irrigated acres associated with Initial Regular Permit P100-171 (BE00064) from Peoples Verdes Ranch Holding Co., Ltd. c/o Hugo Gutierrez to Applicants, pursuant to Special Warranty Deeds dated March 18, 2020, and recorded as Documents # 20200059145, # 20200059144, and # 20200059146, Official Public Records, Bexar County, Texas, the EAA issued Regular Permit P109-320 (BE00064) to Applicants in the amount of 26.136 AF of BIG.

6. On September 4, 2020, Applicants filed a Conversion Application with the EAA at the official business offices located at 900 E. Quincy, San Antonio, Texas. Applicants seek to convert 26.136 AF of BIG to UIG due to a change in land use.

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 September 25, 2020, the General Manager notified the Applicants 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 February 12, 2021, the General Manager provided written notice by United States mail to the Applicants that technical review of the Conversion Application was complete and provided the Applicants 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 associated therewith. The presentation occurred at the regular meeting of the Board on April 13, 2021, at 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 and the Governor's orders temporarily suspending certain provisions of Chapter 551 due to the Covid-19 pandemic. 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 February 22, 2021, pursuant to § 1.34 of the EAA Act and § 711.342(c) of the EAA's Rules, the EAA provided permit holders, by United States mail, a copy of the Notice Of Proposed Action On Application For Conversion Of Base Irrigation Groundwater To Unrestricted

Irrigation Groundwater, outlining the General Manager's proposed action.

15. Between the dates of February 16, 2021, and February 24, 2021, pursuant to EAA Rule § 707.525, the Applicants published a Notice of Proposed Action on Application For Conversion Of Base Irrigation Groundwater To Unrestricted Irrigation Groundwater in five newspapers within the EAA's jurisdiction outlining the General Manager's proposed action.

16. In accordance with §§ 707.525 and 707.603, the February 12, 2021, written letter to the Applicants, the newspaper publications ranging from February 16, 2021, through February 24, 2021, and the February 22, 2021, letters to permit holders provided notice of the right for any permit holder to request a contested case hearing on the Application and the General Manager's proposed action. The deadline to request a contested case hearing was March 26, 2021. No requests were received.

17. 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.

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

19. The Applicants are not delinquent in the payment of any fee due and owing to the EAA, including but not limited to aquifer management fees.

20. The Applicants have filed with the EAA all applicable reports.

21. The place of use set out in the Regular 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 Warranty Deed dated 3/18/2020 as recorded with the Clerk as Document # 20200059144, Official Public Records, Bexar County, Texas; Special Warranty Deed dated 3/18/2020 as recorded with the Clerk as Document # 20200059145, Official Public Records, Bexar County, Texas; Special Warranty Deed dated 3/18/2020 as recorded with the Clerk as Document # 20200059146, Official Public Records, Bexar County, Texas; and more specifically, described in an Irrevocable Designation of Historically Irrigated Lands Pertaining to Edwards Aquifer Groundwater Rights dated 5/24/2017 as recorded with the Clerk as Document # 20170102455, Volume 18537, Pages 2456-2464, Official Public Records, Bexar County, Texas.

22. A change in land use has occurred relative to the historically irrigated lands constituting the place of use set out in Regular Permit P109-320 (BE00064) such that, in accordance with EAA Rules § 711.342(c)(6)(A), approximately 26.132 historically irrigated acres have been developed into sections containing single family homes in some areas, and in others, drainage features adjacent to newly constructed roads.

23. The Applicants were not required to submit a groundwater conservation plan to the EAA.

24. The Applicants are in compliance with the Act, the EAA's rules, other permits, and orders of the Board.

25. The Applicants are the owners of the land to which the BIG is appurtenant.

26. The Applicants were not required to submit a new survey of the historically irrigated acres.

## **CONCLUSIONS OF LAW**

1. Because the Conversion Application seeks to convert BIG in the IRP to UIG associated with the 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 P109-320 (BE00064) such that these lands are no longer practicable to farm.

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 26.132 AF/yr of BIG to UIG associated with Regular Permit P109-320 (BE00064) 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 Applicants 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 to Applicants 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, for

presentation to the Chairman of the Board of Directors of the EAA for execution; 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 this Final Order.

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE EDWARDS  
AQUIFER AUTHORITY THIS 13<sup>TH</sup> DAY OF APRIL, 2021.

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**LUANA BUCKNER**  
Chairman, Board of Directors  
Edwards Aquifer Authority

**ATTEST:**

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**BENJAMIN F. YOUNGBLOOD III**  
Secretary, Board of Directors  
Edwards Aquifer Authority

**APPROVED AS TO FORM:**

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**DARCY ALAN FROWNFELTER**  
General Counsel