



## Legislation Details (With Text)

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|----------------------|--|----------------------|-------------------------------|--------------|--------------|
| <b>File #:</b>       | AI 13-1922   | <b>Version:</b>      | 2                             | <b>Name:</b> | Oct ASR item |
| <b>Type:</b>         | Action Item  | <b>Status:</b>       | Passed                        |              |              |
| <b>File created:</b> | 10/1/2018  | <b>In control:</b>   | Permits/Enforcement Committee |              |              |
| <b>On agenda:</b>    | 11/13/2018   | <b>Final action:</b> | 11/13/2018                    |              |              |
| <b>Title:</b>        | Consider recommendation from EAA staff to approve ASR springflow protection program forbearance agreements with Manry Family Investments, Ltd, Dietrich J. Gembler III and Barbara J. Gembler, Sharon Nester Bader, Larry M. Haby & Dwight W. Haby, Mark Arlen Wiemers and Timothy Oren Wiemers, Medina Robles, LLC, Martha Watkins Hardesty, Lena Jo Davenport, as Trustee of the Lena Jo Davenport Revocable Trust, M&B Farms, A General Partnership, Eugene Verstuyft and wife, Mildred C. Verstuyft, Shirley Seewald, Jardon Boehme, K. Irene Stone, individually, and Trustee William Cecil Reagan GST Exempt Trust 3, and Trustee K. Irene Stone Trust, and Hermann Clinton Carlisle, Jr. individually, and Trustee Herman Clinton Carlisle, Jr. Trust, Cynthia Ann Weber Fohn, Kenneth D. Sparks, Karolyn Irene Stone, Herman Clinton Carlisle, Jr., J&E Fohn, Ltd., Winship Holdings, LLC, Susan Bordano, Kathleen Elizabeth Fohn Reavis, Armando Luna aka Armando Luna, Jr., David Alan Fohn, Susan Elaine Fohn Kass, John A. Persyn and wife, Karen P. Persyn, Roger L. Berry and wife, Sharon B. Berry, Anthony P. Stinson, Deborah Breen, Clayton W. Heyen and wife, Peggy Heyen, David Henry Steubing, Deborah Steubing Jacobs, Patricia Ann Daugherty, Richard Samuel Stuebing, Fry Homes, Inc., Brenda M. Hoffman, and Steve M. Tedford for the Aquifer Storage and Recovery Forbearance Program, in support of the Edwards Aquifer Habitat Conservation Plan, in the total amount of \$5,781,045.10. |                      |                               |              |              |

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Exhibit A ASR Agreement

| Date       | Ver. | Action By          | Action   | Result |
|------------|------|--------------------|----------|--------|
| 11/13/2018 | 2    | Board of Directors | approved |        |

**Consider recommendation from EAA staff to approve ASR springflow protection program forbearance agreements with Manry Family Investments, Ltd, Dietrich J. Gembler III and Barbara J. Gembler, Sharon Nester Bader, Larry M. Haby & Dwight W. Haby, Mark Arlen Wiemers and Timothy Oren Wiemers, Medina Robles, LLC, Martha Watkins Hardesty, Lena Jo Davenport, as Trustee of the Lena Jo Davenport Revocable Trust, M&B Farms, A General Partnership, Eugene Verstuyft and wife, Mildred C. Verstuyft, Shirley Seewald, Jardon Boehme, K. Irene Stone, individually, and Trustee William Cecil Reagan GST Exempt Trust 3, and Trustee K. Irene Stone Trust, and Hermann Clinton Carlisle, Jr. individually, and Trustee Herman Clinton Carlisle, Jr. Trust, Cynthia Ann Weber Fohn, Kenneth D. Sparks, Karolyn Irene Stone, Herman Clinton Carlisle, Jr., J&E Fohn, Ltd., Winship Holdings, LLC, Susan Bordano, Kathleen Elizabeth Fohn Reavis, Armando Luna aka Armando Luna, Jr., David Alan Fohn, Susan Elaine Fohn Kass, John A. Persyn and wife, Karen P. Persyn, Roger L. Berry and wife, Sharon B. Berry, Anthony P. Stinson, Deborah Breen, Clayton W. Heyen and wife, Peggy Heyen, David Henry Steubing, Deborah Steubing Jacobs, Patricia Ann Daugherty, Richard Samuel Stuebing, Fry Homes, Inc., Brenda M. Hoffman, and Steve M. Tedford for the Aquifer Storage and Recovery Forbearance Program, in support of the Edwards Aquifer Habitat Conservation Plan, in the total amount of \$5,781,045.10.**

STAFF RECOMMENDED MOTION:

Move the board approve springflow protection program forbearance agreements with the permit holders listed herein, to the EAA for the Aquifer Storage and Recovery Program in support of the Edwards Aquifer Habitat Conservation Plan, and authorize the General Manager to execute the agreements.

SUMMARY:

The purpose of this agenda item is for the board to consider an EAA staff recommendation to approve springflow protection program forbearance agreements for the Aquifer Storage and Recovery (ASR) Program in support of the Edwards Aquifer Habitat Conservation Plan (EAHCP). The EAHCP includes several measures intended to minimize and mitigate the impact of the use of Edwards groundwater on federally-listed threatened and endangered species associated with the Edwards Aquifer. A significant component of the EAHCP is the use of the ASR Project of the San Antonio Water System as a long-term conservation measure to: (1) offset SAWS pumping from the Edwards Aquifer; and (2) help maintain minimum spring flow at Comal and San Marcos Springs. Through this partnership effort, the EAA has been tasked with acquiring 50,000 acre-feet of permitted Edwards Aquifer groundwater rights through leases and forbearance agreements. Leased groundwater rights will be stored in the Twin Oaks ASR Project of the San Antonio Water System until filling of the ASR Project reaches completion. Once filling is complete, the water associated with both the leases and agreements will be left unpumped during a repeat of drought of record conditions (when the 10-year annual recharge average falls below 500,000 acre-feet).

EAA staff has secured forbearance agreements of groundwater rights in the amount of 5,855.748 acre-feet from the permit holders listed below. EAA staff has completed its technical review of the forbearance agreement documents and has confirmed their accuracy.

Permit: P101-970  
Permit Holder: Manry Family Investments, Ltd  
Transfer Amount: 1,620.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$162,000.00  
Total Cost: \$1,620,000.00

Permit: P102-065  
Permit Holder: Dietrich J. Gembler III and Barbara J. Gembler  
Transfer Amount: 500.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$50,000.00  
Total Cost: \$500,000.00

Permit: P101-279  
Permit Holder: Sharon Nester Bader  
Transfer Amount: 383.800 acre-feet

Term: 10 years  
Effective: 2019  
Annual Cost: \$38,380.00  
Total Cost: \$383,800.00

Permit: P101-234  
Permit Holder: Larry M. Haby & Dwight W. Haby  
Transfer Amount: 330.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$33,000.00  
Total Cost: \$330,000.00

Permit: P101-411  
Permit Holder: Mark Arlen Wiemers and Timothy Oren Wiemers  
Transfer Amount: 325.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$32,500.00  
Total Cost: \$325,000.00

Permit: P100-067  
Permit Holder: Medina Robles, LLC  
Transfer Amount: 253.950 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$25,395.00  
Total Cost: \$253,950.00

Permit: P101-890  
Permit Holder: Martha Watkins Hardesty  
Transfer Amount: 248.552 acre-feet  
Term: 9 years  
Effective: 2020  
Annual Cost: \$24,855.20  
Total Cost: \$223,696.80

Permit: P101-869  
Permit Holder: Lena Jo Davenport, as Trustee of the Lena Jo Davenport Revocable Trust  
Transfer Amount: 242.000 acre-feet  
Term: 9 years  
Effective: 2020  
Annual Cost: \$24,200.00  
Total Cost: \$217,800.00

Permit: P101-133  
Permit Holder: M&B Farms, A General Partnership  
Transfer Amount: 226.000 acre-feet

Term: 10 years  
Effective: 2019  
Annual Cost: \$22,600.00  
Total Cost: \$226,000.00

Permit: P101-771  
Permit Holder: Eugene Verstuyft and wife, Mildred C. Verstuyft  
Transfer Amount: 200.00 acre-feet  
Term: 9 years  
Effective: 2020  
Annual Cost: \$20,000.00  
Total Cost: \$180,000.00

Permit: P101-546  
Permit Holder: Shirley Seewald  
Transfer Amount: 174.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$17,400.00  
Total Cost: \$174,000.00

Permit: P100-988  
Permit Holder: Jardon Boehme  
Transfer Amount: 115.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$11,500.00  
Total Cost: \$115,000.00

Permit: P108-738  
Permit Holder: K. Irene Stone, individually, and Trustee William Cecil Reagan GST Exempt Trust 3, and Trustee K. Irene Stone Trust, and Hermann Clinton Carlisle, Jr. individually, and Trustee Herman Clinton Carlisle, Jr. Trust  
Transfer Amount: 102.665 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$10,266.50  
Total Cost: \$102,665.00

Permit: P105-578  
Permit Holder: Cynthia Ann Weber Fohn  
Transfer Amount: 100.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$10,000.00  
Total Cost: \$100,000.00

Permit: P101-670

Permit Holder: Kenneth D. Sparks  
Transfer Amount: 80.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$8,000.00  
Total Cost: \$80,000.00

Permit: P108-739  
Permit Holder: Karolyn Irene Stone  
Transfer Amount: 75.224 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$7,522.40  
Total Cost: \$75,224.00

Permit: P108-740  
Permit Holder: Herman Clinton Carlisle, Jr.  
Transfer Amount: 75.224 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$7,522.40  
Total Cost: \$75,224.00

Permit: P105-122  
Permit Holder: J&E Fohn, Ltd.  
Transfer Amount: 75.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$7,500.00  
Total Cost: \$75,000.00

Permit: P101-242  
Permit Holder: Winship Holdings, LLC  
Transfer Amount: 70.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$7,000.00  
Total Cost: \$70,000.00

Permit: P101-809  
Permit Holder: Manry Family Investments, Ltd  
Transfer Amount: 53.956 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$5,395.60  
Total Cost: \$53,956.00

Permit: P102-542  
Permit Holder: Susan Bordano

Transfer Amount: 51.600 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$5,160.00  
Total Cost: \$51,600.00

Permit: P108-419  
Permit Holder: Kathleen Elizabeth Fohn Reavis  
Transfer Amount: 50.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$5,000.00  
Total Cost: \$50,000.00

Permit: P101-754  
Permit Holder: Armando Luna aka Armando Luna, Jr.  
Transfer Amount: 50.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$5,000.00  
Total Cost: \$50,000.00

Permit: P108-693  
Permit Holder: David Alan Fohn  
Transfer Amount: 50.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$5,000.00  
Total Cost: \$50,000.00

Permit: P108-694  
Permit Holder: Susan Elaine Fohn Kass  
Transfer Amount: 50.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$5,000.00  
Total Cost: \$50,000.00

Permit: P100-881  
Permit Holder: John A. Persyn and wife, Karen P. Persyn  
Transfer Amount: 48.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$4,800.00  
Total Cost: \$48,000.00

Permit: P101-722  
Permit Holder: Roger L. Berry and wife, Sharon B. Berry  
Transfer Amount: 45.000 acre-feet

Term: 9 years  
Effective: 2020  
Annual Cost: \$4,500.00  
Total Cost: \$40,500.00

Permit: P107-502  
Permit Holder: Manry Family Investments, Ltd  
Transfer Amount: 40.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$4,000.00  
Total Cost: \$40,000.00

Permit: P101-058  
Permit Holder: John A. Persyn and wife, Karen P. Persyn  
Transfer Amount: 29.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$2,900.00  
Total Cost: \$29,000.00

Permit: P101-059  
Permit Holder: Anthony P. Stinson  
Transfer Amount: 28.268 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$2,826.80  
Total Cost: \$28,268.00

Permit: P107-200  
Permit Holder: Deborah Breen  
Transfer Amount: 24.700 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$2,470.00  
Total Cost: \$24,700.00

Permit: P101-530  
Permit Holder: Clayton W. Heyen and wife, Peggy Heyen  
Transfer Amount: 24.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$2,400.000  
Total Cost: \$24,000.00

Permit: P108-442  
Permit Holder: David Henry Steubing  
Transfer Amount: 15.000 acre-feet  
Term: 10 years

Effective: 2019  
Annual Cost: \$1,500.00  
Total Cost: \$15,000.00

Permit: P108-438  
Permit Holder: Deborah Steubing Jacobs  
Transfer Amount: 15.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$1,500.00  
Total Cost: \$15,000.00

Permit: P108-437  
Permit Holder: Patricia Ann Daugherty  
Transfer Amount: 15.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$1,500.00  
Total Cost: \$15,000.00

Permit: P108-439  
Permit Holder: Richard Samuel Stuebing  
Transfer Amount: 15.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$1,500.00  
Total Cost: \$15,000.00

Permit: P104-517  
Permit Holder: Fry Homes, Inc.  
Transfer Amount: 14.972 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$1,497.20  
Total Cost: \$14,972.00

Permit: P106-991  
Permit Holder: Manry Family Investments, Ltd  
Transfer Amount: 11.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$1,100.00  
Total Cost: \$11,000.00

Permit: P101-055  
Permit Holder: John A. Persyn and wife, Karen P. Persyn  
Transfer Amount: 10.000 acre-feet  
Term: 10 years  
Effective: 2019



Annual Cost: \$1,000.00  
Total Cost: \$10,000.00

Permit: P106-860  
Permit Holder: Brenda M. Hoffman  
Transfer Amount: 6.477 acre-feet  
Term: 9 years  
Effective: 2020  
Annual Cost: \$647.70  
Total Cost: \$5,829.30

Permit: P100-224  
Permit Holder: Steve M. Tedford  
Transfer Amount: 5.000 acre-feet  
Term: 9 years  
Effective: 2020  
Annual Cost: \$500.00  
Total Cost: \$4,500.00

Permit: P106-992  
Permit Holder: Manry Family Investments, Ltd  
Transfer Amount: 4.000 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$400.00  
Total Cost: \$4,000.00

Permit: P108-471  
Permit Holder: Richard Samuel Stuebing  
Transfer Amount: 3.360 acre-feet  
Term: 10 years  
Effective: 2019  
Annual Cost: \$336.00  
Total Cost: \$3,360.00

Attached is the ASR Program Springflow Protection Program Forbearance Agreement template that has been reviewed by legal counsel.

#### M/WBE PARTICIPATION:

This agenda item does not involve the procurement of goods or services by the EAA and, therefore, this section is not applicable.

#### STRATEGIC PLAN REFERENCE:

This agenda item supports the EAA's policy direction as set forth in the EAA 2016-20 Strategic Plan: Goal A. Sustain Federally Protected Aquifer-Dependent Species.

Acquisition of 50,000 acre-feet of water for the ASR program is required of the Edwards Aquifer Authority to maintain compliance with the Incidental Take Permit issued by USFWS on March 18, 2013. Specifically, this item is related to the obligations of Section 5.5.1 of the Edwards Aquifer Habitat Conservation Plan.

**FISCAL IMPACT:**

Funding in the amount of \$510,871.90 associated with all forbearance agreements effective in 2019 will be included in the 2019 EAHCP budget. The total cost of all leases, forbearance agreements and operations and maintenance under this program in 2019 is estimated to be \$6,603,929.