

Legislation Text

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Consider recommendation from the Permits/Enforcement Committee to approve a conversion of base irrigation groundwater owned by Union Pacific Railroad Company, based on a change in land use.

RECOMMENDED MOTION:

Move the board adopt a Final Order Granting Application to Convert Base Irrigation Groundwater for Initial Regular Permit No. P100-154 (BE00055), based on changes in land use submitted by Union Pacific Railroad Company.

SUMMARY:

The purpose of this agenda item is for the board to consider a Permits/Enforcement Committee recommendation to approve an Application to Convert Base Irrigation Groundwater to unrestricted irrigation groundwater based on a change in land use. Generally, irrigation Initial Regular Permit (IRP) holders cannot permanently change the place of use or the purpose of use for base irrigation groundwater (BIG) withdrawal rights. However, §711.342 of the EAA Rules allows IRP holders to convert BIG withdrawal rights to unrestricted irrigation groundwater (UIG) withdrawal rights if certain conditions are met under the following two scenarios:

Water Conservation: IRP holders must submit an application that demonstrates the conservation of water after the installation of water conservation equipment, or

Change in Land Use: IRP holders must submit an application to the EAA consistent with §711.342 of the Edwards Aquifer Authority Rules, demonstrating either sufficient physical development of the land or evidence that the land is no longer practicable to farm.

The IRP holder applying to convert BIG withdrawal rights must also provide supporting documentation. In addition to the information provided by the applicant, EAA staff reviews county records and performs a site inspection to verify the BIG withdrawal rights conversion application. In the application presented for consideration, these requirements have been met. Following is a summary of the BIG conversion application based on a change in land use presented for consideration.

P100-154 (BE00055) Union Pacific Railroad Company.

Regular Permit No. P100-154 (BE00055), originally approved by the board on March 15, 2001, is currently permitted for 349.800 acre-feet of BIG withdrawal rights.

On October 18, 2015, the applicant filed an Application to Convert Base Irrigation Groundwater for

Regular Permit No. P100-154 (BE00055) with the EAA. The applicant requested to convert all 349.800 acre-feet of BIG withdrawal rights to unrestricted irrigation groundwater withdrawal rights due to a change in land use. The technical summary and map showing the place of use are attached to this item. The following information relates to the specific criteria required under § 711.342(6)(B) of EAA Rules for a BIG conversion such as this to be granted.

1. § 711.342(6)(B)(i)(a) - *the historically irrigated land is no longer practicable to farm because the land is located within a city's corporate limits or the city's extraterritorial jurisdiction.*

The Applicant successfully demonstrated this criterion by submitting a map showing that the land that is the subject of the application is within the City of San Antonio's extraterritorial jurisdiction.

2. § 711.342(6)(B)(ii) - *the historically irrigated land has not been irrigated for five or more years*

The Applicant successfully demonstrated this criterion by submitting appropriate documentation that the land that is the subject of the application has not been irrigated within the last five years. The well associated with the IRP has been plugged. According to the applicant, dryland farming currently takes place on the land, but such use is a maintenance measure to ensure the land does not get overrun with undesirable weeds and bushes.

3. § 711.342(6)(B)(i)(b) - *the historically irrigated land is no longer practicable to farm because the land is sufficiently bordered by development.*

The Applicant submitted the following information contending that the criterion for No. 3 has been met:

- A. The land is bordered by:
 - (i). Old Pearsall Road on one side;
 - (ii). Union Pacific line on another side;
 - (iii). a road, constructed by Union Pacific, along the area that adjoins the rail line.
- B. The aforementioned road is used by Union Pacific employees to inspect and address any issues on railroad cars leaving or coming into the Intermodal.
- C. The area adjacent to the property is subject to derailments.
- D. The application of any pesticides by aerial methods to this property would be problematic because:
 - (i). Railcars are often parked adjacent to it; and
 - (ii). Railcars are inspected before leaving and entering the Intermodal.

Because the information submitted regarding criterion No. 3 is not representative of what is generally considered by EAA staff during its review of such an Application, staff presented the Application to the committee without a staff recommendation. The technical summary and map showing the place of use, are attached to this item.

At the July 26 meeting, the Permits/Enforcement Committee voted to recommend the board adopt a Final Order granting the Application to Convert Base Irrigation Groundwater for (IRP) Permit No. P100-154 (BE00055) to convert 349.800 acre-feet of BIG withdrawal rights to UIG withdrawal rights. A draft Final Order reviewed by General Counsel is attached for the board's reference.

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 does not relate to a specific goal or action step within the Strategic Plan, but supports the general EAA mission.

FISCAL IMPACT:

None.