

Legislation Text

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Consider recommendation from the Permits/Enforcement Committee to approve amended leases of permitted Edwards groundwater rights with Thomas Verstuyft and wife, Betty Verstuyft, Fred Verstuyft etux Nancy Verstuyft and Randy Verstuyft; and Verstuyft Family Farms for the Aquifer Storage and Recovery Project of the San Antonio Water System, in support of the Edwards Aquifer Habitat Conservation Plan, in the total amount of \$223,300.00.

RECOMMENDED MOTION:

Move the board adopt Resolution and Order No. 02-17-868 of the Edwards Aquifer Authority Board of Directors to approve amended leases of permitted Edwards groundwater rights from the permit holder as listed therein to the EAA for the Aquifer Storage and Recovery Project of the San Antonio Water System in support of the Edwards Aquifer Habitat Conservation Plan, and authorizing the General Manager to execute the amended leases.

SUMMARY:

The purpose of this agenda item is for the board to consider a Permits/Enforcement Committee recommendation to approve amended leases of permitted Edwards groundwater rights for the Aquifer Storage and Recovery (ASR) Project of the San Antonio Water System 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 as a conservation and springflow protection measure is the use of the SAWS ASR project as a long-term conservation measure to replace SAWS pumping from the Edwards Aquifer and maintain a minimum spring flow at Comal and San Marcos Springs. Through this effort, the EAA has been tasked with acquiring 50,000 acre-feet of permitted Edwards Aquifer groundwater rights through leases and lease options to be stored in the ASR project.

The following entities have filed transfer documents to amend their existing ASR leases to extend the current lease term for groundwater rights totaling 385,000 acre-feet. EAA staff completed its technical review of the transfer documents and confirmed the accuracy of these amended leases, as summarized below.

The leases are 1-year (auto-renewing) leases paid at a rate of \$120 per acre-foot, and if approved, the permit holders would be allowed amend these to 5-year leases paid at a rate of \$140 per acre-foot. The lease term of these leases would begin in 2017. The permit holders were paid in January 2017, at the \$120 lease rate, and the "2017 Additional Cost" shows the amount of payment due this year at the \$140 lease rate. The "Remaining Lease Cost" shows the total payments through the remaining four years of the amended lease term.

Permit: P102-204
Permit Holder: Thomas Verstuyft and wife, Betty Verstuyft, Fred Verstuyft etux Nancy Verstuyft and Randy Verstuyft
Transfer Amount: 300.000 acre-feet
Term: 5 year
2017 Additional Cost: \$6,000.00
Remaining Lease Cost: \$168,000.00

Permit: P100-571
Permit Holder: Verstuyft Family Farms
Transfer Amount: 85.000 acre-feet
Term: 5 year
2017 Additional Cost: \$1,700.00
Remaining Lease Cost: \$47,600.00

Attached is the amended ASR template lease agreement and Resolution and Order No. 02-17-868 that have been reviewed by legal counsel. The lease agreements listed above were signed and returned by the applicant, and if these lease are approved, the total amount of groundwater rights secured by the EAA in ASR leases remains unchanged, as these amounts were in existing leases effective in 2017.

At the January 24 meeting, the Permits/Enforcement Committee voted to recommend the board approve the aforementioned amended leases of permitted Edwards groundwater rights from the permit holders listed above to the EAA for the Aquifer Storage and Recovery Project of the San Antonio Water System in support of the Edwards Aquifer Habitat Conservation Plan, and authorize the General Manager to execute the amended leases.

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:

The lease holders of these amended leases were paid in January 2017 based on the old lease rate.

The additional costs based on the new rate is in the amount of \$7,700.00, and is available in the 2017 EAHCP budget. The total remaining cost of these leases over the remainder of the lease term is \$215,600.00.