



Legislation Text

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Consider recommendation from the Permits/Enforcement Committee to approve ASR springflow protection program forbearance agreements with William Cecil Reagan, Jr., individually, and Trustee William Cecil Reagan GST Exempt Trust 2, Robert Carl Reagan, individually, and Trustee William Cecil Reagan GST Exempt Trust 1, and Trustee Robert Carl Regan Trust, Cecile Tindall Graham, BFPL, Ltd., J. Allen Carnes, Vicki Jean Hagen, Malvern J. Benke and Deborah Keller Benke, husband and wife, William George Reichert Trust, Deborah Ann Benke, Mark Thomas Huffstutler ETUX Kimberly Fulton Huffstutler and Roger L. Berry and William O. Berry for the Aquifer Storage and Recovery Forbearance Program, in support of the Edwards Aquifer Habitat Conservation Plan, in the total amount of \$2,940,379.00.

RECOMMENDED MOTION:

Move the board approve springflow protection program forbearance agreements with the permit holders listed, 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 a Permits/Enforcement Committee 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 2,940.379 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. All of these contracts have 10-year terms.

Permit: P108-737
Permit Holder: William Cecil Reagan, Jr., individually, and Trustee William Cecil

Transfer Amount:	Reagan GST Exempt Trust 2 686.335 acre-feet
Annual Cost:	\$68,633.50
Total Cost:	\$686,335.00
Permit:	P108-741
Permit Holder:	Robert Carl Reagan, individually, and Trustee William Cecil Reagan GST Exempt Trust 1, and Trustee Robert Carl Regan Trust
Transfer Amount:	500.000 acre-feet
Annual Cost:	\$50,000.00
Total Cost:	\$500,000.00
Permit:	P102-135
Permit Holder:	Cecile Tindall Graham
Transfer Amount:	421.900 acre-feet
Annual Cost:	\$42,190.00
Total Cost:	\$421,900.00
Permit:	P101-112
Permit Holder:	BFPL, Ltd.
Transfer Amount:	400.000 acre-feet
Annual Cost:	\$40,000.00
Total Cost:	\$400,000.00
Permit:	P101-196
Permit Holder:	BFPL, Ltd.
Transfer Amount:	250.000 acre-feet
Annual Cost:	\$25,000.00
Total Cost:	\$250,000.00
Permit:	P101-952
Permit Holder:	J. Allen Carnes
Transfer Amount:	177.230 acre-feet
Annual Cost:	\$17,723.00
Total Cost:	\$177,230.00
Permit:	P101-682
Permit Holder:	Vicki Jean Hagen
Transfer Amount:	139.914 acre-feet
Annual Cost:	\$13,991.40
Total Cost:	\$139,914.00
Permit:	P101-225
Permit Holder:	Malvern J. Benke and Deborah Keller Benke, husband and wife
Transfer Amount:	106.000 acre-feet
Annual Cost:	\$10,600.00
Total Cost:	\$106,000.00

Permit: P102-648
Permit Holder: William George Reichert Trust
Transfer Amount: 100.00 acre-feet
Annual Cost: \$10,000.00
Total Cost: \$100,000.00

Permit: P101-031
Permit Holder: Deborah Ann Benke
Transfer Amount: 94.000 acre-feet
Annual Cost: \$9,400.00
Total Cost: \$94,000.00

Permit: P101-914
Permit Holder: Mark Thomas Huffstutler ETUX Kimberly Fulton Huffstutler
Transfer Amount: 45.000 acre-feet
Annual Cost: \$4,500.00
Total Cost: \$45,000.00

Permit: P101-725
Permit Holder: Roger L. Berry and William O. Berry
Transfer Amount: 20.000 acre-feet
Annual Cost: \$2,000.00
Total Cost: \$20,000.00

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

At the September 25 meeting, the Permits/Enforcement Committee voted to recommend 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.

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 total 10-year cost of these forbearance agreements is \$2,940,379. Funding in the amount of \$294,037.90, associated with these forbearance agreements will be included in the 2019 EAHCP budget. This same amount will be included in future budgets.