



Legislation Text

File #: AI 13-1922, Version: 2

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.