



Legislation Text

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Consider recommendation from EAA staff to approve ASR springflow protection program forbearance agreements with Jack David Wardlaw and wife, Jessie Lem Wardlaw, Jack D. Wardlaw III, Mack M. Wardlaw, and William Chase Wardlaw, OJR Farms, Inc., Mark C. Kelling, Jana Lyda Mask, Tierra Mireles Limited Partnership, Jerry Kye Mask, Weiblen Enterprises Ltd., Charles Fohn Family Investments, LLC, Annie J. Halbardier, James Ray Carnes, Jr., Thomas Boehme and wife Helene Mae Boehme, Wilde Family Farms, Ltd., Callaghan Road, Ltd., TJ Hondo Ranch, Ltd. and M4 Enterprises, LLC, Lena Jo Davenport, as Trustee of the Lena Jo Davenport Revocable Trust, Lyle N. Riff, Trustee of the Gertrude S. Riff Family Trust, WM Kenton Hammond and wife, Linda R. Hammond, James L. Persyn and wife, Ruth E. Persyn, New Fountain United Methodist Church Board of Trustees, Carol Todd, and Church of Christ of New Braunfels for the Aquifer Storage and Recovery Forbearance Program, in support of the Edwards Aquifer Habitat Conservation Plan, in the total amount of \$6,111,503.00.

STAFF RECOMMENDED MOTION:

Move the board adopt Resolution and Order No. 12-18-920 of the Edwards Aquifer Authority Board of Directors to approve springflow protection program forbearance agreements with the permit holders listed below, 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 6,126.653 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: P101-788
Permit Holder: Jack David Wardlaw and wife, Jessie Lem Wardlaw, Jack D. Wardlaw III, Mack M. Wardlaw, and William Chase Wardlaw
Transfer Amount: 916.786 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$91,678.60
Total Cost: \$916,786.00

Permit: P101-966
Permit Holder: OJR Farms, Inc.
Transfer Amount: 749.200acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$74,920.00
Total Cost: \$749,200.00

Permit: P101-875
Permit Holder: Mark C. Kelling
Transfer Amount: 548.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$54,800.00
Total Cost: \$548,000.00

Permit: P104-939
Permit Holder: Jana Lyda Mask
Transfer Amount: 457.800 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$45,780.00
Total Cost: \$457,800.00

Permit: P105-037
Permit Holder: Tierra Mireles Limited Partnership
Transfer Amount: 424.060 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$42,406.00
Total Cost: \$424,060.00

Permit: P100-014
Permit Holder: Jerry Kye Mask
Transfer Amount: 407.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$40,700.00

Total Cost: \$407,000.00

Permit: P100-934
Permit Holder: Weiblen Enterprises Ltd.
Transfer Amount: 350.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$35,000.00
Total Cost: \$350,000.00

Permit: P105-121
Permit Holder: Charles Fohn Family Investments, LLC
Transfer Amount: 342.270 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$34,227.00
Total Cost: \$342,270.00

Permit: P100-232
Permit Holder: Annie J. Halbardier
Transfer Amount: 268.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$26,800.00
Total Cost: \$268,000.00

Permit: P101-965
Permit Holder: James Ray Carnes, Jr.
Transfer Amount: 225.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$22,500.00
Total Cost: \$225,000.00

Permit: P101-005
Permit Holder: Thomas Boehme and wife Helene Mae Boehme
Transfer Amount: 200.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$20,000.00
Total Cost: \$200,000.00

Permit: P102-015
Permit Holder: Wilde Family Farms, Ltd.
Transfer Amount: 195.500 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$19,550.00

Total Cost: \$195,500.00

Permit: P102-013
Permit Holder: Wilde Family Farms, Ltd.
Transfer Amount: 193.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$19,300.00
Total Cost: \$193,000.00

Permit: P100-273
Permit Holder: Callaghan Road, Ltd.
Transfer Amount: 192.700 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$19,270.00
Total Cost: \$192,700.00

Permit: P102-007
Permit Holder: Wilde Family Farms, Ltd.
Transfer Amount: 175.971 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$17,597.10
Total Cost: \$175,971.00

Permit: P102-012
Permit Holder: Wilde Family Farms, Ltd.
Transfer Amount: 140.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$14,000.00
Total Cost: \$140,000.00

Permit: P101-126
Permit Holder: TJ Hondo Ranch, Ltd. and M4 Enterprises, LLC
Transfer Amount: 102.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$10,200.00
Total Cost: \$102,000.00

Permit: P101-869
Permit Holder: Lena Jo Davenport, as Trustee of the Lena Jo Davenport Revocable Trust
Transfer Amount: 70.000 acre-feet
Term: 8 years
Effective: 2021
Annual Cost: \$7,000.00

Total Cost: \$56,000.00

Permit: P100-925
Permit Holder: Lyle N. Riff, Trustee of the Gertrude S. Riff Family Trust
Transfer Amount: 60.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$6,000.00
Total Cost: \$60,000.00

Permit: P102-014
Permit Holder: Wilde Family Farms, Ltd.
Transfer Amount: 37.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$3,700.00
Total Cost: \$37,000.00

Permit: P100-455
Permit Holder: WM Kenton Hammond and wife, Linda R. Hammond
Transfer Amount: 30.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$3,000.00
Total Cost: \$30,000.00

Permit: P102-005
Permit Holder: Wilde Family Farms, Ltd.
Transfer Amount: 13.366 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$1,336.60
Total Cost: \$13,366.00

Permit: P100-564
Permit Holder: James L. Persyn and wife, Ruth E. Persyn
Transfer Amount: 11.500 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$1,150.00
Total Cost: \$11,500.00

Permit: P100-564
Permit Holder: James L. Persyn and wife, Ruth E. Persyn
Transfer Amount: 11.500 acre-feet
Term: 9 years
Effective: 2020
Annual Cost: \$1,150.00

Total Cost: \$10,350.00

Permit: P103-391
Permit Holder: New Fountain United Methodist Church Board of Trustees
Transfer Amount: 4.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$400.00
Total Cost: \$4,000.00

Permit: P101-337
Permit Holder: Carol Todd
Transfer Amount: 1.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$100.00
Total Cost: \$1,000.00

Permit: P104-776
Permit Holder: Church of Christ of New Braunfels
Transfer Amount: 1.000 acre-feet
Term: 10 years
Effective: 2019
Annual Cost: \$100.00
Total Cost: \$1,000.00

Attached are the ASR Program Springflow Protection Program Forbearance Agreement template and Resolution and Order No. 12-18-920 that have 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:

The total one-year cost of these forbearance agreements is \$612,665.30. Funding in the amount of \$604,515.30, is available in the 2019 EAHCP budget. Funding in the amount of \$8,150, will be included in future budgets.