



Legislation Text

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Consider recommendation from EAA staff to ratify the General Manager's approval and execution of Voluntary Irrigation Suspension Program Option forbearance agreements with Uptmore Family Limited Partnership, BNSF Railway Company, Aldridge Nursery, Inc., Howard Schirmer, McCombs Legacy, LTD., Frank A. Ramsey, Kessler Ranch, Ltd., East Medina County Special Utility District, Glenda F. Wade, Hugo and Eva Sanchez, Mark Thomas Huffstutler ETUX Kimberly Fulton Huffstutler, Columbia Realty Limited, Jacqueline N. Tschirhart, Texas Biomedical Research Institute, and Helen Ann Bourquin Hawes for Edwards groundwater withdrawal rights in the total amount of not less than \$284,450.40, and not to exceed \$1,127,266.40 for the Voluntary Irrigation Suspension Program Option in support of the Edwards Aquifer Habitat Conservation Plan.

STAFF RECOMMENDED MOTION:

Move the board adopt Resolution and Order No. 01-21-994 of the Edwards Aquifer Authority Board of Directors to ratify General Manager approval and execution of VISPO forbearance agreements for permitted Edwards groundwater rights between the EAA and the permit holders listed below, in the total amount of not less than \$284,450.40, and not to exceed \$1,127,266.40, for the Voluntary Irrigation Suspension Program Option in support of the Edwards Aquifer Habitat Conservation Plan and authorizing 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 ratify the General Manager's approval and execution of VISPO forbearance agreements (Agreements) for permitted Edwards groundwater rights for the VISPO in support of the Edwards Aquifer Habitat Conservation Plan (EAHCP) received in November and December 2020. At the November 10, 2020 meeting, the Board of Directors authorized the General Manager to take such action for any Agreements received during those months.

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 VISPO as a long-term conservation measure to reduce pumping from the Edwards Aquifer during severe droughts and to help maintain a minimum springflow at Comal and San Marcos springs. The VISPO is a voluntary program through which the EAA is attempting to enroll and maintain 41,795 acre-feet of permitted irrigation rights annually into "forbearance agreements" so that the rights will go un-pumped in years of severe drought, thereby reducing demand on the aquifer at the most critical time. Such demand reduction will improve aquifer levels and protect springflows at Comal and San Marcos springs.

In 2021, the listed VISPO enrollees will begin to receive payments in two ways according to the following payment schedule. Standby Payment: Every participant in VISPO will receive a “Standby Payment” of \$54 per acre-foot of enrolled permitted irrigation rights no later than March 1st of each year. This payment will be made regardless of whether or not the participant is required to suspend pumping the enrolled rights during that year. Forbearance Payment: If the water level at the J-17 index well in San Antonio is at or below 635 feet above mean sea level (msl) on October 1 of any year, the EAA will notify program participants to suspend the pumping of the enrolled water for the following year beginning on January 1. In years in which pumping of enrolled water is suspended, participants will be paid an additional “Forbearance Payment” of \$160 per acre-foot of enrolled permitted irrigation rights no later than March 1st of that year. The enrolled irrigation groundwater rights may not be pumped for the remainder of that year, regardless of aquifer levels.

EAA received a VISPO Enrollment Application from the following permit holders for a 5-year contract term.

Permit No.:	P100-502
Permit Holder:	Uptmore Limited Partnership
Effective:	2021
Enrolled Amt.:	250.000 acre-feet
Option Costs (min/max):	\$67,500.00 / \$267,500.00

Permit No.:	P107-613
Permit Holder:	BNSF Railway Company
Effective:	2021
Enrolled Amt.:	227.026 acre-feet
Option Costs (min/max):	\$61,297.02 / \$242,917.82

Permit No.:	P100-506
Permit Holder:	Aldridge Nursery, Inc.
Effective:	2021
Enrolled Amt.:	101.492 acre-feet
Option Costs (min/max):	\$27,402.84 / \$108,596.44

Permit No.:	P100-034
Permit Holder:	Howard Schirmer
Effective:	2021
Enrolled Amt.:	100.000 acre-feet
Option Costs (min/max):	\$27,000.00 / \$107,000.00

Permit No.:	P100-072
Permit Holder:	McCombs Legacy, LTD.
Effective:	2021
Enrolled Amt.:	73.000 acre-feet
Option Costs (min/max):	\$19,710.00 / \$78,110.00

Permit No.:	P101-627
Permit Holder:	Frank A. Ramsey

Effective: 2021
Enrolled Amt.: 64.520 acre-feet
Option Costs (min/max): \$17,420.40 / \$69,036.40

Permit No.: P101-834
Permit Holder: Kessler Ranch, Ltd.
Effective: 2021
Enrolled Amt.: 60.000 acre-feet
Option Costs (min/max): \$16,200.00 / \$64,200.00

Permit No.: P101-318
Permit Holder: East Medina County Special Utility District
Effective: 2021
Enrolled Amt.: 50.00 acre-feet
Option Costs (min/max): \$13,500.00 / \$53,500.00

Permit No.: P102-120
Permit Holder: Glenda F. Wade
Effective: 2021
Enrolled Amt.: 50.00 acre-feet
Option Costs (min/max): \$13,500.00 / \$53,500.00

Permit No.: P100-540
Permit Holder: Hugo and Eva Sanchez
Effective: 2021
Enrolled Amt.: 21.759 acre-feet
Option Costs (min/max): \$5,874.93 / \$23,282.13

Permit No.: P101-914
Permit Holder: Mark Thomas Huffstutler ETUX Kimberly Fulton Huffstutler
Effective: 2021
Enrolled Amt.: 15.00 acre-feet
Option Costs (min/max): \$4,050.00 / \$16,050.00

Permit No.: P101-003
Permit Holder: Colombia Realty Limited
Effective: 2021
Enrolled Amt.: 14.390 acre-feet
Option Costs (min/max): \$3,885.30 / \$15,397.30

Permit No.: P101-880
Permit Holder: Jacqueline N. Tschirhart
Effective: 2021
Enrolled Amt.: 11.00 acre-feet
Option Costs (min/max): \$2,970.00 / \$11,770.00

Permit No.: P100-350
Permit Holder: Texas Biomedical research Institute

Effective: 2021
Enrolled Amt.: 11.00 acre-feet
Option Costs (min/max): \$2,970.00 / \$11,770.00

Permit No.: P109-265
Permit Holder: Helen Ann Bourquin Hawes
Effective: 2021
Enrolled Amt.: 4.33 acre-feet
Option Costs (min/max): \$1,169.91 / \$4,636.31

EAA staff has reviewed and confirmed the accuracy of the permit information contained in the applications above. The total amount of groundwater rights secured by the EAA in VISPO Agreements effective in 2021 is now 41,795 acre-feet. Attached to this summary is the template of the five-year agreement and a resolution and order. Both 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 41,795 acre-feet of water for the VISPO 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 5.1.2 of the Edwards Aquifer Habitat Conservation Plan.

FISCAL IMPACT:

Annual Payments for the forbearance agreements, effective 2021 and considered here, will be disbursed by March 1, 2021, and will be for \$56,890.08 (stand-by payment only).

The amount of \$56,890.08 for standby payments will be included in Table 7.1A of the EAHCP.

The amount of \$4,172,000 is included annually in Table 7.1 of the EAHCP and is derived with the following assumptions:

The full enrollment of 40,000 acre-feet is achieved;

The ratio of 5-year to 10-year enrollment is 70% 5-year and 30% 10-year, consistent with the results obtained from an interest survey completed in 2010 by irrigators;

An annual cost for the 5-year and 10-year Standby and Implementation payments is determined by averaging the total 10-year costs; and

Modeled results indicated an implementation rate of 16 times in the 54-year model history (30%) and a spreadsheet was created that contained the projected implementation history for all 54 years; where the annual cost was determined by averaging the costs for the 54-year period.

The total estimated cost for VISPO in Table 7.1 of the EAHCP over the fifteen-year term is \$62,580,000.