

Legislation Text

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Consider recommendation from EAA staff to ratify the General Manager's approval and execution of ASR springflow protection program forbearance agreements with Farr Investments, LP and Robert J. Grossenbacher for the Aquifer Storage and Recovery Forbearance Program, in support of the Edwards Aquifer Habitat Conservation Plan, in the total amount of \$39,360.00.

STAFF RECOMMENDED MOTION:

Move the board ratify General Manager approval and execution of 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 ratify the General Manager's approval and execution of springflow protection program forbearance agreements for the Aquifer Storage and Recovery (ASR) Program 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 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 at or below 500,000 acre-feet).

EAA staff has secured forbearance agreements of groundwater rights in the amount of 49.200 acre-feet from the permit holder listed below. EAA staff has completed its technical review of the forbearance agreement documents and has confirmed their accuracy.

Permit: P101-821
Permit Holder: Farr Investments, LP

Amount: 40.000 acre-feet
Term: 8 years
Effective: 2021
Annual Cost: \$4,000.00
Total Cost: \$32,000.00

Permit: P100-030
Permit Holder: Robert J. Grossenbacher
Amount: 9.200 acre-feet
Term: 8 years
Effective: 2021
Annual Cost: \$920.00
Total Cost: \$7,360.00

With the addition of this groundwater into the ASR program, the total amount of forbearance agreements is 50,000 acre-feet. Attached is the ASR Program Springflow Protection Program Forbearance Agreement 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 \$4,920.00 associated with the listed forbearance agreements will be included in the 2021 EAHCP budget. The total cost of these forbearance agreements over the 8-year term is \$39,360.00