



Legislation Text

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Consider recommendation from EAA staff to approve forbearance agreements with Zinsmeyer Farms, and Lucille Carson Hutcherson for Edwards groundwater withdrawal rights for the Voluntary Irrigation Suspension Program Option in support of the Edwards Aquifer Habitat Conservation Plan, in the total amount of not less than \$110,060.10, and not to exceed \$436,164.10.

STAFF RECOMMENDED MOTION:

Move the board adopt Resolution and Order No. 10-22-040 of the Edwards Aquifer Authority Board of Directors to approve VISPO forbearance agreements for permitted Edwards groundwater rights between the EAA and Zinsmeyer Farms, and Lucille Carson Hutcherson in the total amount of not less than \$110,060.10, and not to exceed \$436,164.10, 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 approve forbearance agreements (Agreements) for permitted Edwards groundwater rights for the Voluntary Irrigation Suspension Program Option (VISPO) 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 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 annually maintain 41,795 acre-feet of permitted irrigation rights 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.

The VISPO enrollees will begin to receive payments in 2024, 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 permitted irrigation rights enrolled 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 permitted irrigation rights

enrolled 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 VISPO Enrollment Applications from the following permit holders for a five-year contract term.

Permit No.:	P101-130
Permit Holder:	Zinsmeyer Farms
Effective:	2024
Enrolled Amt.:	250.000 acre-feet
Option Costs (min/max):	\$67,500.00 / \$267,500.00

Permit No.:	P102-105
Permit Holder:	Lucille Carson Hutcherson
Effective:	2024
Enrolled Amt.:	157.630 acre-feet
Option Costs (min/max):	\$42,560.10 / \$168,664.10

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 2024 is now 30,907.650 acre-feet. Attached to this summary is the template of the five-year agreement and Resolution and Order No. 10-22-040 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 helps build and/or create Assuredness in Regulatory Programming - a key objective in achieving the EAA's goals identified in the 2021-30 Strategic Plan.

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 agreement effective 2024 considered here will be disbursed by March 1, 2024 and will range in total from \$22,012.02 (stand-by payment only) to \$87,232.82 (forbearance + stand-by). The 2024 budget will reflect the appropriate amount for VISPO payments following the October 1, 2023 "trigger" date.

The amount of \$22,012.02 for standby payments and \$87,232.82 for suspension payments will be included in Table 7.1 of the EAHCP.

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