



Legislation Text

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Consider recommendation from the Permits/Enforcement Committee to approve forbearance agreements with Weldon Gilleland and Judie M. Gilleland; Malcolm Richey; Linda Tucker Sparks, Trustee of the Sparks Family Trust, dated February 8, 2013; Lena Jo Davenport, as Trustee of the Lena Jo Davenport Revocable Trust; Roger L. Berry and Sharon B. Berry; and Deborah L. Weiblen 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 \$178,146.43, and not to exceed \$705,987.71.

RECOMMENDED MOTION:

Move the board adopt Resolution and Order No. 04-24-085 of the Edwards Aquifer Authority Board of Directors to approve VISPO forbearance agreements for permitted Edwards groundwater rights between the EAA and: (1) Weldon Gilleland and Judie M. Gilleland; (2) Malcolm Richey; (3) Linda Tucker Sparks, Trustee of the Sparks Family Trust, dated February 8, 2013; (4) Lena Jo Davenport, as Trustee of the Lena Jo Davenport Revocable Trust; (5) Roger L. Berry and Sharon B. Berry; and (6) Deborah L. Weiblen in the total amount of not less than \$178,146.43, and not to exceed \$705,987.71, 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 a Permits/Enforcement Committee 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 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 minimum springflows 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 2025 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 that year, regardless of aquifer levels.

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

Permit No.: P101-707
Permit Holder: Weldon Gilleland and Judie M. Gilleland
Effective: 2025
Enrolled Amt.: 200.000 acre-feet
Option Costs (min/max): \$43,200.00 / \$171,200.00

Permit No.: P101-972
Permit Holder: Malcolm Richey
Effective: 2025
Enrolled Amt.: 139.000 acre-feet
Option Costs (min/max): \$30,024.00 / \$118,984.00

Permit No.: P101-978
Permit Holder: Malcolm Richey
Effective: 2025
Enrolled Amt.: 113.900 acre-feet
Option Costs (min/max): \$24,602.40 / \$97,498.40

Permit No.: P101-670
Permit Holder: Linda Tucker Sparks, Trustee of the Sparks Family Trust, dated February 8, 2013
Effective: 2025
Enrolled Amt.: 108.886 acre-feet
Option Costs (min/max): \$23,519.38 / \$93,206.42

Permit No.: P101-869
Permit Holder: Lena Jo Davenport, as Trustee of the Lena Jo Davenport Revocable Trust
Effective: 2025
Enrolled Amt.: 100.000 acre-feet
Option Costs (min/max): \$21,600.00 / \$85,600.00
Permit No.: P101-975

Permit Holder: Malcolm Richey
Effective: 2025
Enrolled Amt.: 78.000 acre-feet

Option Costs (min/max): \$16,848.00 / \$66,768.00

Permit No.: P101-722
Permit Holder: Roger L. Berry and Sharon B. Berry
Effective: 2025
Enrolled Amt.: 45.000 acre-feet
Option Costs (min/max): \$9,720.00 / \$38,520.00

Permit No.: P101-983
Permit Holder: Malcolm Richey
Effective: 2025
Enrolled Amt.: 29.000 acre-feet
Option Costs (min/max): \$6,264.00 / \$24,824.00

Permit No.: P104-271
Permit Holder: Deborah L. Weiblen
Effective: 2025
Enrolled Amt.: 10.966 acre-feet
Option Costs (min/max): \$2,368.66 / \$9,386.90

EAA staff reviewed and confirmed the accuracy of the permit information contained in the applications above. Attached to this summary is the template of the four-year agreement and Resolution and Order No. 04-24-085, which have been reviewed by legal counsel.

At the meeting on March 26, the Permits/Enforcement Committee recommended the board adopt a resolution and order of the Edwards Aquifer Authority Board of Directors to approve VISPO forbearance agreements for permitted Edwards groundwater rights between the EAA and: (1) Weldon Gilleland and Judie M. Gilleland; (2) Malcolm Richey; (3) Linda Tucker Sparks, Trustee of the Sparks Family Trust, dated February 8, 2013; (4) Lena Jo Davenport, as Trustee of the Lena Jo Davenport Revocable Trust; (5) Roger L. Berry and Sharon B. Berry; and (6) Deborah L. Weiblen in the total amount of not less than \$178,146.43, and not to exceed \$705,987.71, 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.

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 2021-30 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 2025 considered here will be disbursed by March 1, 2025 and will range in total from \$44,536.61 (stand-by payment only) to \$176,496.93 (forbearance + stand-by). The 2025 budget will reflect the appropriate amount for VISPO payments following the October 1, 2024 "trigger" date.

The amount of \$44,536.61 for standby payments and \$176,496.93 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 15-year term is \$62,580,000.