



May XX, 2018

Ms. Tanya Sommer
United States Fish and Wildlife Services
Austin Ecological Services Field Office
107011 Burnet Road, Suite 200
Austin, Texas 78758

RE: Clarification to the Voluntary Irrigation Suspension Program Option (VISPO) Program Compensation Schedule of the Edwards Aquifer Habitat Conservation Plan (EAHCP § 5.2.1.3).

Dear Ms. Sommer:

This memorandum is submitted on behalf of the Edwards Aquifer Authority (EAA), the City of New Braunfels, the City of San Marcos, the San Antonio Water System and Texas State University (collectively the Permittees of Incidental Take Permit (ITP) #TE-63663A-1), in request of a clarification regarding the compensation schedule associated with the Voluntary Irrigation Suspension Program Option (VISPO) program, as defined in Chapter 5 of the Edwards Aquifer Habitat Conservation Plan (EAHCP § 5.2.1.3). More specifically, the Permittees seek affirmation of the ability to deviate from the original VISPO compensation schedule such as to make pricing adjustments to maintain the program's competitive nature within the regional water market and thus ensure continued full enrollment in the VISPO program for the duration of the ITP.

The VISPO program is a conservation measure within the EAHCP established to minimize and mitigate the impacts of pumping from the Edwards Aquifer during periods of low spring flow and regional drought by suspending the withdrawal of groundwater for irrigation purposes. The volume target for the VISPO program is to enroll 40,000 ac-ft/yr of permitted groundwater for suspension when the J-17 index well water level is at or below 635 ft-MSL on the annual trigger date of October 1st. Irrigation permit-holders that participate in the VISPO program are financially compensated during their time of suspended groundwater pumping and are presented the option of five- or ten-year forbearance agreement commitments.

The current five-year program, as defined in the EAHCP, outlines a standby fee of \$50/acre-foot of groundwater with a 1.5 percent annual increase to be paid to the enrollee every year of the term of their agreement, regardless of Aquifer conditions; and a fee of \$150/acre-foot of groundwater with a 1.5 percent annual increase to be paid to the enrollee each year when temporary pumping suspensions are required. Additionally, the current ten-year program outlines a standby fee of \$57.50/acre-foot for years 1-5 and \$70.20/acre-foot for years 6-10 to be paid to the enrollee every year of the term of their agreement, regardless of Aquifer conditions; and a fee of \$172.50/acre-foot of groundwater for years 1-5 and \$210.60 for years 6-10 to be paid each year when temporary pumping suspensions are required.

The details of the five- and 10- year programs were developed by the EARIP VISPO Work Group to ensure prompt enrollment in 2013. Payment structures stated in the EAHCP were not intended to lock in price points of VISPO groundwater for the term of the ITP but rather, encourage initial participation into the program. Now, as the first set of five-year VISPO forbearance agreements approach expiration, clarification is requested to confirm that the original compensation terms were intended only for rollout and that the EAA may adjust pricing in future years to respond to market conditions as may be warranted to ensure sustained full enrollment in the VISPO program for the duration of the ITP period.

This clarification is only intended to affirm EAA's ability to deviate from the VISPO Program compensation schedule, as originally defined in the EAHCP. In all other respects, the VISPO program, including the target volume, program triggers, spring flow protection plans and the program funding defined in Table 7.1 of the EAHCP, remain unchanged.

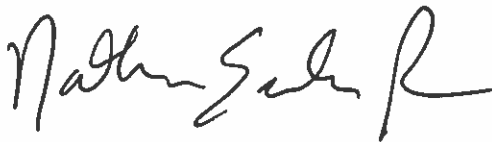
Furthermore, in an effort to ensure transparency of process, the EAHCP program staff presented to the Stakeholder Committee the rationale for this VISPO Program Term clarification and provided the opportunity for input on the proposed changes to the pricing structure. Additionally, the Edwards Aquifer Authority has collaborated with current 5-year VISPO customers for feedback on the current Program Terms and the proposed modification.

On March 22, 2018, the EAA General Manager stated the need and rationale for a clarification of the VISPO Program Terms to the EAHCP Implementing Committee. On May 17, 2018, the Implementing Committee met again to discuss final proposals to the Program Term and approve this Clarification letter. All agendas and minutes from this process are included as Exhibits 1, 2, and 3.

The Permittees seek your formal concurrence with and acceptance of this clarification to allow for modification to the VISPO Program Terms as they relate to price structure such that it remains adaptable and responsive to varying market conditions. Approval of this clarification will encourage continued enrollment in the VISPO program and, most importantly, continued compliance with the spring flow conservation goals of the EAHCP.

We look forward to your formal acceptance of this clarification and appreciate your response on this issue.

Respectfully,

A handwritten signature in black ink, appearing to read "Nathan E. Pence". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Nathan E. Pence
Program Manager