

FOX CANYON GROUNDWATER MANAGEMENT AGENCY

A STATE OF CALIFORNIA WATER AGENCY



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INTERIM EXECUTIVE OFFICER

Jeff Palmer

June 13, 2025

Board of Directors
Fox Canyon Groundwater Management Agency
800 South Victoria Avenue
Ventura, CA 93009-1600

SUBJECT: Public Hearing on Appeal of Interim Executive Officer's Decision to Deny FCGMA Water Well Application No. 0309, R.N. Daily Ranch, LLC [CombCode: RNDCAM] – (New Item)

RECOMMENDATIONS: (1) Conduct a hearing on the appeal of R.N. Daily Ranch, LLC (Daily Ranch), from the decision of the Interim Executive Officer to deny FCGMA Water Well Permit Application No. 0309 (Application No. 0309); (2) Affirm the Interim Executive Officer's denial of Application No. 0309; (3) Direct Agency Counsel to prepare a written decision affirming the denial of Application No. 0309; and (4) Continue this hearing until the June 25, 2025 FCGMA Board meeting where a final written decision on Daily Ranch's appeal can be adopted.

BACKGROUND:

Well permit applications for proposed wells in the Pleasant Valley Basin are reviewed for compliance with the Agency Ordinance Code, Emergency Ordinance E, and the OPV Allocation Ordinance. Daily Ranch filed an application for a well permit on January 22, 2025 (see Exhibit 17A), to install a well in the Pleasant Valley Basin, Pumping Trough Management Area, to replace State Well Number (SWN) 01N21W03H03S (03H03). Application No. 0309 is for a new well to replace the two previous wells, SWN 03H02 and SWN 03H03. The original well, SWN 01N21W03H02S (03H02), was operational and reported extractions to the Agency since 2002. This well was also operational during the period 2005 through 2014, which is the base period used in *An Ordinance To Establish An Allocation System For The Oxnard And Pleasant Valley Groundwater Basins* (OPV Allocation Ordinance). As such, SWN 03H02 received a base allocation of 308.627 acre-feet (AF) per year (308.627 AF/year) under the OPV Allocation Ordinance. The replacement well, SWN 03H03, was drilled between December 2018 and January 2019, based on well completion logs, as a replacement for SWN 03H02. However, a valid transfer of the extraction allocation from SWN 03H02 to SWN 03H03 was never completed because the application materials received by the Agency were incomplete and/or did not satisfy the requirements of the Agency's ordinances. Therefore, the Interim Executive Officer denied

FCGMA Water Well Permit Application No. 0309, and SWN 03H02 retains the total amount of the current extraction allocation (Exhibit 17A).

DISCUSSION

Well History

In order to understand this appeal, the history of the two previous wells must be understood. SWN 03H02 and SWN 03H03 are located on different parcels, APN: 230-0-061-090 (P50) and APN: 9230-0-061-010 (P225), respectively. The two wells have never been operated at the same time because SWN 03H03 was drilled as a replacement for SWN 03H02. However, each well was drilled with the condition that it supplies water to both parcels.

SWN 03H02 and APN 230-0-061-090 (50 acres) are owned by Noel Nottingham Daily, Trustee of the Daily Marital Trust UTD May 25, 1995 (Nottingham Trust). SWN 03H03 and APN 230-0-061-010 (225 acres) are owned by RND Camarillo Ranch Partnership, which was reorganized in 2019 to become R.N. Daily Ranch, LLC (Daily Ranch). Daily Ranch is managed by Adele Poliquin. Ms. Nottingham is the mother of Ms. Poliquin.

Sometime in 2017, SWN 03H02 failed. In October 2018, Daily Ranch, which owns the parcel without the original well (SWN 03H02), prepared and submitted FCGMA Water Well Permit Application No. 0272 (Application No. 0272), which sought a permit to drill a well on APN 230-0-061-010, the parcel owned by Daily Ranch rather than the Nottingham Trust, to replace 03H02 (see Exhibit 17B). Application No. 0272 included a letter of support from the attorney representing the Nottingham Trust, which owns APN 230-0-061-090 and SWN 03H02, and acknowledged the understanding that the new well (SWN 03H03) would continue to serve both parcels (see Exhibit 17B).

Application No. 0272, which authorized the drilling of the replacement well (SWN 03H03), was approved with several conditions. Condition No. 2 required the operator to report groundwater extractions under the same CombCode as the original well (SWN 03H02) to ensure that the Agency properly tracked the allocation transfer in process and accounted for the well's production (see Exhibit 17B.) Unfortunately, Daily Ranch failed to observe this condition and instead reported extractions from SWN 03H03 under a new CombCode. In June 2020, Daily Ranch staff acknowledged that they changed CombCodes and that it had been reporting extractions from SWN 03H03 in violation of Condition No. 2 of Application No. 0272 since the well began operating in early 2019 until the CombCodes for the wells were correctly assigned starting Water Year 2020-2021: "We apologize for this error. We reviewed the well permit and see that we were supposed to keep the same comb code. When we completed the Fox Canyon registration form we left it blank instead of putting the OVP-OTR comb code so we ended up with a new comb code." (Exhibit 17C; see also Exhibit 17D). This error – the reporting of extractions under the wrong CombCode – resulted in the CombCode, RNDCCAM, being assigned an initial allocation of 0.000 AF for WY 2020/2021 under the OPV Allocation Ordinance (Exhibit 17E). Once the issue was identified and corrected, SWN 03H03 extractions were reported under the same CombCode as SWN 03H02 ensuring that the CombCode had an allocation which was still under the original well. Thereafter, although Application No. 0272 never transferred the extraction allocation from the original well, SWN 03H02, to the

replacement well, SWN 03H03, because the wells were registered under the same CombCode and delivered water to both parcels, the CombCode was able to operate with an allocation which technically was with 03H02 (see Exhibit 17F). Notwithstanding the ability to operate the replacement well, SWN 03H03, Daily Ranch staff acknowledged that the extraction allocation remained with the original well, SWN 03H02: “The allocation for the RN Daily Ranch is on the destroyed well 01N21W03H02 with comb code of OVP-OTR.” (Exhibit 17C.)

Agency Ordinance Requirements

On October 23, 2019, your Board adopted the OPV Allocation Ordinance, which transitioned the Agency from its previous allocation ordinances to a new ordinance to advance the Agency’s sustainable management of the Oxnard and Pleasant Valley Groundwater Basins (OPV Basins) in accordance with the requirements of the Sustainable Groundwater Management Act (SGMA). Among other things, the OPV Allocation Ordinance sets new extraction allocations for operators in the OPV Basins; these new extraction allocations are based on operators’ historical extractions during the 2005 through 2014. The OPV Allocation Ordinance includes provisions that allow for the transfer of extraction allocations; these provisions supersede conflicting transfer provisions or requirements in the FCGMA Agency Ordinance Code. (See OPV Allocation Ordinance, § 9.1.) In pertinent part, the OPV Allocation Ordinance provides:

[T]ransfers or temporary assignments of extraction allocation are authorized provided the Agency finds that it does not impede achievement of the sustainability goals of the groundwater sustainability plan and would not be detrimental to an Agency-approved water market. In making this determination, the Agency shall, at a minimum, consider the location of the extraction facilities, the total quantity of groundwater extracted in any year, groundwater quality impacts of the transfer, and whether the proposed transfer or temporary assignment could be approved under an Agency-approved water market. *Requests for transfer or temporary assignment of extraction allocations shall be submitted jointly by the operators and owners involved and shall include the specific details of their proposal.* To ensure consistency with the sustainability goals of the groundwater sustainability plan, transfers and temporary assignments of an extraction allocation shall be subject to conditions as determined by the Executive Officer. A temporary assignment of allocation shall not exceed one year.

(OPV Allocation Ordinance, § 9.2 (emphasis added).)

Although the OPV Allocation Ordinance’s transfer provisions supersede conflicting Agency Ordinance Code provisions (see OPV Allocation Ordinance, § 9.1), the OPV Allocation Ordinance and the Agency Ordinance Code both require that the requested transfer be submitted “jointly” by the parties involved (i.e., owners and operators) and “include the specific details of their proposal.” (OPV Allocation Ordinance, § 9.2; Agency Ordinance Code, § 5.3.5.)

In addition to the OPV Allocation Ordinance, *An Emergency Ordinance Limiting Extractions From Groundwater Extraction Facilities, Suspending Use of Credits and Prohibiting Construction of Any Groundwater Extraction Facility and/or the Issuance of Any Permit Therefor* (Emergency Ordinance E) also contains rule and regulations for allocation transfers. Although the OPV Allocation Ordinance supersedes any conflicting provision in Emergency Ordinance E, those provisions of Emergency Ordinance E that do not conflict with the OPV Allocation Ordinance remain in effect because Emergency Ordinance E has not been repealed. Consequently, the transfer requirements of Emergency Ordinance E remain in effect to the extent they do not conflict within the transfer requirements of the OPV Allocation Ordinance. In pertinent part, Emergency Ordinance E provides:

The Board prohibits the issuance of any permit for construction of a groundwater extraction facility, other than a replacement, backup or standby facility which does not allow the initiation of any new or increased use of groundwater, within the territory of the Agency....[A] new or increased use is one that did not exist or occur before the effective date of this emergency ordinance. The Board may grant exceptions to the prohibition set forth in this Article 4 on a case-by-case basis. Applications for exceptions shall conform to the requirements of Section 5.2.2.3 of the Agency Ordinance Code and will be approved only if the Board makes the findings set forth in Section 5.2.2.4 of the Agency Ordinance Code.

(Emergency Ordinance E, Art. 4.)

Accordingly, in addition to the transfer requirements specified in the OPV Allocation Ordinance, Emergency Ordinance E additionally limits construction of new wells to “replacement, backup, or standby” wells that does not result in “the initiation of any new or increased use of groundwater...” (Emergency Ordinance E, Art. 4.)

Agency Review; Interim Executive Officer’s Decision

Application No. 0309, which seeking to drill a new well to replace both SWN 03H02 and SWN 03H03, was denied because it failed to satisfy the transfer requirements of both the OPV Allocation Ordinance and Emergency Ordinance E.

The OPV Allocation Ordinance requires: “Requests for transfer or temporary assignment of extraction allocations shall be submitted jointly by the operators and owners involved and shall include the specific details of their proposal.” (OPV Allocation Ordinance, § 9.2.) As explained above, the allocation is currently assigned to the original well, SWN 03H02, which is located on the 50-acre parcel owned by the Nottingham Trust but failed sometime in 2017/2018. Although the allocation was never properly transferred from SWN 03H02 to SWN 03H03, the Agency has allowed extractions to occur at SWN 03H03, which is located on the 225-acre parcel owned by Daily Ranch because they are operated under the same CombCode. But Application No. 0309, which would result in the drilling of a new well to replace now-failed SWN 03H03, was submitted only by Daily Ranch. The Nottingham Trust did not agree or consent to Daily Ranch submitting an application to transfer the allocation currently assigned to SWN 03H02. In 2020, email communications

between Agency staff and counsel for the Nottingham Trust, as well as between Agency staff and Daily Ranch staff, indicated all parties were aware of the need to complete the allocation transfer form (Exhibit 17G) in order to complete the application and effectuate the transfer of allocation from SWN 03H02 to 03H03. In this communication, counsel for the Nottingham Trust represented that their client was waiting for a well sharing agreement to be in place before initiating the allocation transfer(Exhibit 17G). The Agency is not aware of any well sharing agreement being finalized between the parties, and it has not been provided an executed copy of any such well sharing agreement. Nor is the Agency aware of any agreement by the Nottingham Trust authorizing the filing of Application No. 0309 or approving the transfer of allocation from SWN 03H02 to a new replacement well. In the absence of Nottingham Trust's joinder in the submission of Application No. 0309, the Interim Executive Officer denied the application because it failed to satisfy the requirements of Section 9.2 of the OPV Allocation Ordinance, specifically that "[r]equests for transfer or temporary assignment of extraction allocations...be submitted jointly by the operators and owners involved and shall include the specific details of their proposal."

In addition, the Interim Executive Officer denied Application No. 0309 because it did not satisfy the requirements of Emergency Ordinance E. As explained above, Emergency Ordinance E "prohibits the issuance of any permit for construction of a groundwater extraction facility" except "a replacement, backup or standby facility which does not allow the initiation of any new or increased use of groundwater[.]" (Emergency Ordinance E, Art. 4.) For purpose of this article, "a new or increased use is one that did not exist or occur before the effective date of this emergency ordinance." (Emergency Ordinance E, Art. 4.) It is unclear whether Application No. 0309 and the operation of a new well would increase extractions above the levels that previously occurred at SWN 03H02 and SWN 03H03 or that extractions would be used for a something other than agricultural use on the two parcels. But because the application proposes transferring an allocation to a new replacement well that did not exist on a different parcel before Emergency Ordinance E, the Interim Executive Officer also denied Application No. 0309 for failing to satisfy the requirements of Article 4 of Emergency Ordinance E.

It is worth noting that there appears to be a dispute between the parties involved, the Nottingham Trust and Daily Ranch. As explained above, in June 2020, counsel for the Nottingham Trust explained that his client was waiting for a well-sharing agreement to be prepared; however, FCGMA has not received any such agreement, or the "specific details of [the parties'] proposal" for the drilling of new replacement well and delivery of water among the two parcels. (OPV Allocation Ordinance, § 9.2.) Additionally, a quick review of the Ventura County Superior Court's civil dockets reveals that Noel Nottingham Daily (trustee of the Nottingham Trust which owns the 50-acre parcel APN 230-0-061-090 where SWN 03H02 is located) is in a probate dispute with her daughter Adele Poliquin (which manages RN Daily Ranch, LLC which owns the 225-acre parcel APN 230-0-061-010 where the new replacement well would be located) (see Exhibit 17H). It is unclear whether ownership of the original well SWN 03H02, and/or the authority to transfer an extraction allocation, is at issue in this dispute.

CONCLUSION:

In light of the above, it is recommended your Board (1) Conduct a hearing on Daily Ranch's appeal of the Interim Executive Officer's denial of Application No. 0307; (2) Affirm the Interim Executive Officer's denial of Application No. 0307; (3) Direct Agency Counsel to prepare a written decision affirming the denial of Application No. 0307 consistent with your Board's direction; and (4) Continue this hearing until the June 25, 2025 FCGMA Board meeting, where your Board can adopt a final written decision on Daily Ranch's appeal.

This letter has been reviewed by Agency Counsel. If you have any questions, please call me at (805) 654-2064.

Sincerely,



Kudzai Farai Kaseke (Ph.D., PH, PMP, CSM)
Assistant Groundwater Manager

Attachments:

- Exhibit 17A - FCGMA Well Permit No. 0309 and Denial Letters
- Exhibit 17B – FCGMA Well Permit No. 0272 and Approval Letters
- Exhibit 17C – Email from RN Daily Staff
- Exhibit 17D – SAES Reporting 03H02 in Violation of Permit No. 0272
- Exhibit 17E – RND CAM 2021-2 SAES without 03H02
- Exhibit 17F – RND CAM SAES with 03H02 and Allocation
- Exhibit 17G – Emails from Nottingham Trust Counsel, FCGMA and RN Daily
- Exhibit 17H – RN Daily Trust vs Nottingham Trust Case Summary
- Exhibit 17I – Letter from Gary Arnold to FCGMA Board, June 4, 2025
- Exhibit 17J – Public Notice of Hearing and Example Email Reminder