



FOX CANYON GROUNDWATER MANAGEMENT AGENCY

MEMORANDUM

Date: June 15, 2023
To: Executive Committee
From: Arne Anselm, Deputy Director
Subject: Item D – Combined Operation of Extraction Facilities Under “CombCodes”

BACKGROUND:

The Executive Committee and Board has been discussing the administrative challenges and potential impacts to basin health from the combination of wells and their allocations into CombCodes for over a year. Agency and pumper concerns have been presented and options for addressing these issues have been explored at this committee and several past Board meetings. Changes to how CombCodes are implemented will require modifications to the Agency’s ordinance code. At the May 24, 2023 Board Meeting, your Board directed the Executive Committee to identify specific recommendations of ordinance changes, resolutions or other efforts for public input and eventually full Board consideration.

DISCUSSION:

Board direction has been provided on many issues, but differing proposals were offered by Board members to resolve others. This meeting will focus on refining the direction and proposals to provide direction to staff to work with counsel to draft the resolutions and ordinances needed for their implementation.

Below are items where the staff have received Board direction and only minimal discussion is needed:

- **Owner Accountability-** Amend the Well Operator Authorization form and CombCode to include language informing well owners of their responsibility and advising them to protect themselves from actions taken by operators and sublessees where they may not have a direct contractual relationship. In addition, require a CombCode Authorization form to be prepared by the operator to inform all owners within a CombCode of all the other wells, well allocations, and well owners to be included in the CombCode and include the intended use of the water, and parcels irrigated within the CombCode.
- **Frequent Changes to CombCodes** - Agency Ordinance Code should be amended to prohibit changes to wells in a CombCode during a water year and to formalize the requirement that notice of any change of assignment of the wells in a CombCode must be submitted to the Agency by June 30 prior to the water year starting October 1 of the same year. If there is a change of owner or operator mid-water year, the registered CombCode operator at the start of the water year should be required to report extractions at the end of the water year.

- **Allocation Carryover** - Amend ordinances to clarify that any allocation carryover be distributed proportionally among the wells in a CombCode according to the individual allocations of the wells in the CombCode.
- **Transfer of Pumping Between Management Areas** - Continue to monitor the potential impact of pumping shifts between management areas in the OPV Basins due to multi-well CombCodes as part of the Agency's continued GSP monitoring and return to the Board with recommendations if management-area limitations are found to be needed.
- **Transition to new CombCode Policies** - Require all owners and operators to submit to the Agency a one-time certification confirming their acknowledgement and compliance with all Agency ordinances regarding CombCode policies by a date prior to the start of the water year any new ordinances become effective.

Issues where different proposals were offered by your Board or where more thorough discussion is needed to identify specific recommendations include:

- **Variance Approval** - An option of not allowing a change to a CombCode if a well within it was granted a variance, or that the well be removed from the CombCode was suggested. Otherwise, awareness is needed that any additional allocation received with the approval of variance request may be extracted at another owner's well(s) in a multi-owner CombCode without restriction.
- **Multi-Owner CombCodes** – Two mutually exclusive staff recommendations were provided at the May 24, 2023, Board meeting. Board member comments suggested that the recommendation to limit CombCodes to wells (and their allocations) under a single owner and prohibit multiple owners from combining wells into a CombCode was perceived as too limiting at this time. Alternative suggestions were to amend the Agency Ordinance Code to define each well owner's individual responsibility for compliance and liability for reporting, fees, surcharges, and penalties should the operator not keep the CombCode in compliance. The Board appeared to coalesce around a policy of allowing multi-owner CombCodes to continue, but hold that all well owners within a CombCode are joint and several liable for failure to comply with Agency rules and regulations.

Requiring a CombCode Authorization form be prepared by the operator to inform all owners within a CombCode of all the other wells, well allocations, and well owners to be included in the CombCode and parcels irrigated within the CombCode was supported. This would include any changes in ownership requiring new signatures and a resubmittal of the CombCode Authorization form to the Agency. Requiring the operator to provide an annual accounting of the total pumped from each well to all well owners was not thoroughly discussed.

CONCLUSION:

Discussion and direction on these issues is requested so staff can work with counsel to draft ordinance changes, resolutions. These work products will return to the Executive Committee for final recommendation to the full Board for adoption.