

**EDWARDS AQUIFER AUTHORITY  
State of Texas**

**IN THE MATTER OF THE FOLLOWING  
APPLICATION TO CONVERT BASE IRRIGATION  
GROUNDWATER:**

P200-219            Second Nature Compost, LLC  
(BE00039)

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**FINAL ORDER GRANTING APPLICATION  
TO CONVERT BASE IRRIGATION GROUNDWATER**

**ON THIS DAY CAME ON TO BE HEARD** the above-styled and numbered Application to Convert Base Irrigation Groundwater (“Conversion Application” or “Application”) of Second Nature Compost, LLC (“Applicant”). As set forth below, the General Manager of the Edwards Aquifer Authority (“EAA”) issued notice of his proposed action on the Conversion Application. The Board of Directors (“Board”) of the EAA, after having reviewed and considered the summaries of the evidence for the Conversion Application as contained in the materials in the Board Packet, the arguments and presentation of the General Manager of the EAA, and the arguments and presentations of the Applicant, or its representatives, and other applicants or permittees, or their representatives, who may have appeared before the Board, is of the opinion and finds that:

1.        the facts necessary to support the General Manager’s proposed action to grant the Conversion Application have been established by convincing evidence; and
2.        the General Manager’s proposed action is entitled to prevail with reference to the above-styled and numbered application.

Accordingly, the Board is of the opinion and finds that the Conversion Application should be **GRANTED**. In support of this Final Order, the Board makes its Findings of Fact and

Conclusions of Law as follows:

### **FINDINGS OF FACT**

1. On May 11, 2021, Applicant was issued Regular Permit P200-219 (BE00039), in the amount of 87.000 acre-feet (“AF”) of Base Irrigation Groundwater (“BIG”) based on the purchase of 92.51 historically irrigated acres of land, pursuant to General Warranty Deed with Vendor’s Lien dated October 5, 2020, and recorded as Document # 20200237939, Official Public Records, Bexar County, Texas.

2. On September 17, 2021, Applicant filed a Conversion Application with the EAA at the official business offices located at 900 E. Quincy, San Antonio, Texas. Applicant seeks to convert 87.000 AF of BIG to UIG due to a change in land use.

3. After receipt of the Conversion Application, the General Manager of the EAA conducted an initial review of the Application for administrative completeness.

4. By letter dated October 14, 2021, the General Manager notified the Applicant that he had determined that the Application was administratively complete.

5. After determining that the Conversion Application was administratively complete, the General Manager conducted a technical review of the Application for the purpose of determining if the Application should be granted or denied, in whole or in part.

6. After completing the technical review of the Conversion Application, the General Manager concluded that he should recommend to the Board that the Application be granted in whole.

7. In conjunction with the proposed action, the General Manager prepared a Technical Summary.

8. On July 21, 2022, the General Manager provided written notice by United States

mail to the Applicant that technical review of the Conversion Application was complete and provided the Applicant with a copy of the proposed action and Technical Summary in support thereof.

9. The Docket Clerk of the EAA scheduled before the Board a presentation by the General Manager on the Conversion Application, his proposed action, and the proposed issuance of a Regular Permit associated therewith. The presentation occurred at the regular meeting of the Board on September 13, 2022, at the Edwards Aquifer Authority, 900 E. Quincy, San Antonio, Texas. Notice of public meeting for this meeting was duly and properly posted in accordance with Chapter 551, Texas Government Code. Additionally, an agenda item that is the subject of this Final Order was duly and properly listed in the notice of public meeting.

10. Between the dates of July 21, 2022, and August 3, 2022, pursuant to EAA Rules § 707.525, the Applicant published a Notice of Proposed Action on Application for Conversion of Base Irrigation Groundwater to Unrestricted Irrigation Groundwater in five newspapers within the EAA's jurisdiction, outlining the General Manager's proposed action.

11. On July 22, 2022, pursuant to § 1.34 of the EAA Act and § 711.342(c) of the EAA Rules, the EAA provided permit holders, by United States mail, a copy of the Notice of Proposed Action on Application for Conversion of Base Irrigation Groundwater to Unrestricted Irrigation Groundwater, outlining the General Manager's proposed action.

12. In accordance with §§ 707.525 and 707.603, the July 21, 2022 written letter to the Applicant, the newspaper publications ranging from July 21, 2022, through August 3, 2022, and the July 22, 2022, letters to permit holders provided notice of the right for any permit holder to request a contested case hearing on the Application and the General Manager's proposed action. The deadline to request a contested case hearing was September 2, 2022. No requests were

received.

13. The Conversion Application was, contemporaneous with its receipt, affixed with a “date stamp” by the EAA to the front page of the Application indicating its date of receipt by the EAA.

14. The Applicant paid the application fee of \$25 at the time the Conversion Application was filed with the EAA.

15. The Applicant is not delinquent in the payment of any fee due and owing to the EAA, including but not limited to aquifer management fees.

16. The Applicant has filed with the EAA all applicable reports.

17. The place of use set out in the Regular Permit was irrigated land during the historical period. A description of the irrigated lands is as follows:

The tract(s) of land more fully described in Warranty Deed with Vendor's Lien dated 10/05/2020 as recorded with the County Clerk as Document #20200237939, Official Public Records, Bexar County, Texas.

18. A change in land use has occurred relative to the historically irrigated lands constituting the place of use set out in Regular Permit P200-219 (BE00039), such that, in accordance with EAA Rules § 711.342(c)(6)(A), approximately 92.51 historically irrigated acres are developed into a composting facility as evidenced by the construction of above ground tanks, processing and office buildings with parking areas; installation of electrical lines powering various processing areas and buildings; and the development of stormwater retention ponds. Additionally, the remaining areas of the HIA, which do not have structures or pavement, have been developed into an impermeable surface as evidenced by the application of bentonite to the soil.

19. The Applicant was not required to submit a groundwater conservation plan to the EAA.

20. The Applicant is in compliance with the Act, the EAA Rules, other permits, and orders of the Board.

21. The Applicant is the owner of the land to which the BIG is appurtenant.

22. The Applicant was not required to submit a new survey of the historically irrigated acres.

### **CONCLUSIONS OF LAW**

1. Because the Conversion Application seeks to convert BIG in the regular permit to UIG associated with the groundwater withdrawal permit issued by the EAA, the Board of Directors of the EAA has jurisdiction over the Application.

2. The Conversion Application meets the requirements of Section 711.342(6)(A) of the EAA Rules and, therefore, a change in land use has occurred relative to the historically irrigated lands constituting the place of use set out in Regular Permit P200-219 (BE00039) such that these lands are no longer practicable to farm.

3. The Conversion Application otherwise complies with the Act and the EAA Rules.

4. Accordingly, the Conversion Application should be granted in accordance with this Final Order, hereby converting 87.000 AF/yr of BIG to UIG associated with Regular Permit P200-219 (BE00039) and the historically irrigated lands constituting the place of use for this Permit.

### **ORDERING PROVISION**

**IT IS THEREFORE ADJUDGED, ORDERED, AND DECREED** that the above-styled and numbered Conversion Application is hereby **GRANTED** as follows:

1. the General Manager is directed to advise Applicant in writing of the issuance and effect of this Final Order;

2. when appropriate as determined by the General Manager, the General Manager is

directed to prepare an amended Regular Permit to Applicant in the form of the approved Regular Permit form and subject to the Conditions for Regular Permits as may be in effect at the time, for presentation to the Chairman of the Board of Directors of the EAA for execution; and

3. the General Manager is directed to make appropriate adjustments, changes, or modifications to the EAA's permits and water accounting database consistent with this Final Order.

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE EDWARDS  
AQUIFER AUTHORITY THIS 13<sup>TH</sup> DAY OF SEPTEMBER 2022.

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**LUANA BUCKNER**  
Chairman, Board of Directors  
Edwards Aquifer Authority

**ATTEST:**

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**BENJAMIN F. YOUNGBLOOD, III**  
Secretary, Board of Directors  
Edwards Aquifer Authority

**APPROVED AS TO FORM:**

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**DARCY ALAN FROWNFELTER**  
General Counsel