

Rules of
The Permian Basin
Underground Water Conservation District
Enacted 2-8-93

PBUWCD

District Water Well Regulations

RULE 1 – DEFINITIONS Amended 7-20-92

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- (a) **The “Board” shall mean the Board of Directors of the Permian Basin Underground Water Conservation District, consisting of 6 duly elected members.**
- (b) **“District” shall mean the Permian Basin Underground Water Conservation District, maintaining its office in Stanton, Texas. Where applications, reports and other papers are required to be filed with or sent to “The District”, this means the District Headquarters in Stanton, Texas.**
- (c) **The term “Well” or “Water Well” shall mean and include any artificial excavation constructed to produce or which produces more than 25,000 gallons per day or 17.36 gallons per minutes.**
- (d) **“Water” shall mean underground water.**
- (e) **“Owner” shall mean and include any person, firm, partnership or corporation that has the right to produce water from the land either by ownership, contract, lease, easement, or any other estate in the land.**
- (f) **“Person” shall mean any individual, partnership, firm or corporation.**
- (g) **The work “Waste” as used herein shall have the same meaning as defined by the Legislature as follows:**
 - (1) **The withdrawal of underground water from an underground water reservoir at such rate and in such amount so as to cause the intrusion therein of water not suitable for agricultural, gardening, domestic, or stock raising purposes.**
 - (2) **The flowing or producing of wells from an underground water reservoir when the water produced therefrom is not used for a beneficial purpose.**
 - (3) **The escape of underground water from one underground water reservoir to any other reservoir not containing underground water.**
 - (4) **The pollution or harmful alteration of the character of the underground water within the underground water reservoir of the District by means of salt water or other deleterious matter admitted from some other stratum or strata or from the surface of the ground; and**

(5) Willfully causing, suffering, or permitting underground water produced for irrigation or agricultural purposes to escape into any river, creek, or other natural watercourse, depression, or lake, reservoir, drain, or into any sewer, street, highway, road, road ditch, or upon the land of any other person than the owner of such well, or upon public land.

(h) An “Authorized Well Site” shall be:

(1) The location of a proposed well on an application duly filed until such application is denied; or

(2) The location of a proposed well on a valid permit. (An authorized well site is not a permit to drill.)

(i) Open or Uncovered Well” shall mean any artificial excavation drilled or dug for the purpose of producing water from the underground reservoir, not capped or covered as required by these rules, which is as much as ten (10) feet deep, and not less than ten (10) inches, nor more than six (6) feet in diameter.

RULE 2 – WASTE

(a) Underground water shall not be produced within, or used within or without the District, in such a manner or under such conditions as to constitute waste as defined in Rule 1 hereof.

(b) Any person producing or using underground water shall use every possible precaution, in accordance with the most approved methods, to stop and prevent waste of such water.

(c) No person shall pollute or harmfully alter the character of the underground water reservoir of the District by means of salt water or other deleterious matter admitted from some other stratum or strata or from the surface of the ground.

(d) No person shall commit waste as that term is defined by Section (g), Rule 1 of the Rules of The Permian Basin Underground Water Conservation District.

RULE 3 – PERMIT REQUIRED

(A) No person shall hereafter begin to drill or drill a well, which well could reasonably be expected to produce, or pump designed to produce, in excess of 25,000 gallons of water per day, without having first applied to the Board, and had issued a permit to do so, unless the drilling and operation of the well is exempt by the law or by these rules.

RULE 4 – ISSUANCE OF PERMITS

- (a) The Board shall issue or cause to be issued a drilling permit for a well upon proper application executed and filed by the owner with the District and containing the matters specified below. An application shall be considered filed when properly made out, completed, and signed and tendered to the District or a person duly designated by such District to receive the same.**

Such applications shall be on forms provided by the District and shall be in writing and shall be prepared in accordance with and contain the information called for in the form of application, if any, prescribed by the Board, and all instructions which may have been issued by the Board with respect to the filing of an application. Otherwise, the application will not be considered.

- (b) Rules for filing applications:**

- (1) If the applicant is an individual, the application shall be signed by the applicant or his duly appointed agent. The agent may be requested to present satisfactory evidence of his authority to represent the applicant.**
- (2) If the application is by a partnership, the applicant shall be designated by the firm name followed by the words “a Partnership” and the application shall be signed by at least one of the general partners who is duly authorized to bind all of the partners.**
- (3) In the case of corporation, public district, county or municipality, the application shall be signed by a duly authorized official. A copy of the resolution or other authorization to make the application may be required by the officer or agent receiving the application.**
- (4) In the case of an estate or guardianship, the application shall be signed by the duly appointed guardian or representative of the estate.**

- (c) Such applications shall set forth the following:**

- (1) The exact proposed location of the well to be drilled as provided in the application including the county, the section, block, survey and township; labor and league; and exact number of yards to the**

nearest non-paralleled property lines (legal survey line); or other adequate legal description.

- (2) The proposed use of the well to be drilled, whether municipal, industrial, irrigation, domestic, or livestock.
- (3) The approximate date drilling operations are to begin.
- (4) An agreement by the applicant that a completed well registration and log will be furnished to the District (on forms furnished by it) by the applicant upon completion of this well and prior to the production of water therefrom (except for such production as may be necessary to the drilling and testing of such well).
- (5) Such additional data as may be required by the Board.
- (6) The name and address of the fee owner and the land upon which the well location is to be made.

RULE 4 – A

All wells drilled in the District shall be drilled and completed in accordance with the standards set out in 31 Texas Administration Code Ch 287 Water Well Drillers.

Rule 5 – REQUIREMENT OF DRILLER’S LOG, CASING AND PUMP DATA

- (A) Complete records shall be kept and reports thereof made to the District concerning the drilling, equipping and completion of all wells drilled. Such records shall include an accurate driller’s log, any electric log which shall have been made, and such additional data concerning the description of the well, its discharge, and its equipment as may be required by the Board. Such records shall be filed with the District Board within 30 days after completion of the well.
- (B) No person shall produce water from any well hereafter drilled and equipped within the District, except that necessary to the drilling and testing of such equipment, unless or until the District has been made, and a registration of the well correctly furnishing all available information required on the forms furnished by the District.

RULE 6 - -PLACE OF DRILLING OF WELL

After an application for a well permit has been granted, the well, if drilled, must be drilled within 30 feet of the location specified in the permit, and not elsewhere. If the well should be commenced or drilled at a different location, the drilling or operation of such well may be enjoined by the Board pursuant to Chapter 52, Texas Water Code.

RULE 7 – REPLACING OF A WELL

- (a) No person shall drill a replacement well without a permit from the Board. A replacement well, in order to be considered as such, must be drilled within one hundred fifty (150) feet of the old well and not elsewhere. Provided, however, that the Board may grant an exception without notice or hearing in any instance where the replacement well is placed farther away from any existing wells or authorized well sites.**

The landowner or his agent must within 120 days of the issuance of the permit declare in writing to the District which one of these two wells he desires to produce. If the landowner does not notify the district of his choice within 120 days, then it will be conclusively presumed that the new well is the well he desires to retain. Immediately after determining which well will be retained for production, the other well shall be:

- (1) Filled and abandoned; or**
- (2) Properly equipped in such a manner that it cannot produce more than 25,000 gallons of water a day; or**
- (3) Closed in accordance with Article 9202, Vernon's Annotated Civil Statutes. Violation of such Article is made punishable thereby a fine of not less than \$100.00 nor more than \$500.00**

An application to replace an existing well may be granted by the Board without notice or hearing.

RULE 8 – TIME DURING WHICH A PERMIT SHALL REMAIN VALID

Any permit granted hereunder shall be valid if the work permitted shall have been completed within four (4) months from the filing date of the application. It shall therefore be void. Provided, however, that the Board, for good cause, may extend the life of such permit for an additional four (4) months if an application for such extension shall have been made to the Board during the first four (4) months period. Provided, further, that

when it is made known to the Board that a proposed project will take more time to complete, the Board, upon receiving written application may grant such time as a reasonably necessary complete such project.

RULE 9 – RECHARGE WELLS

Applications shall be made to and permits must be obtained from the Board to drill and complete recharge wells. Applications therefore shall state that it is an application for a recharge well. It shall be filed with the Board and shall contain the information required herein for new wells insofar as is applicable. After the well shall have been drilled, the owner shall promptly furnish the District with a completion report.

Recharge wells shall be completed and equipped in such a manner as to protect human life. The owner of such recharge well shall assume and shall be charged with full responsibility for the prevention of pollution from such well.

RULE 10 – CHANGED CONDITIONS

The decision of the Board on any matter contained herein may be reconsidered by it on its own motion or upon motion showing changed conditions, or upon the discovery of new or different conditions or facts after the hearing or decision on such matter. If the Board should decide to reconsider a matter after having announced a ruling or decision, or after having finally granted or denied an application, it shall give notice to persons who were proper parties to the original action, and such persons shall be entitled to a hearing thereon if they file a request therefore within fifteen days from the date of the mailing of such notice.

RULE 11 – RIGHT TO INSPECT AND TEST WELLS

Any authorized officer, employee, agent, or representative of the District shall have the right at all reasonable times to enter upon lands upon which a well or wells may be located within the boundaries of the District, to inspect for the purpose of measuring production of water from said well or wells or for employee, agent, or representative of the District shall have the right at all reasonable times to enter upon any lands upon which a well or wells may be located within the boundaries of the District for the purposes of testing the pump and the power unit of the well or wells and of making any other reasonable and necessary inspections and tests that may be required or necessary for the information or any well may be enjoined by the Board immediately upon the refusal to permit the gathering of information as above provided from such well.

RULE 12 – OPEN WELLS TO BE CAPPED

Every owner or operator of any land within the District upon which is located any open or uncovered well is, and shall be, required to close or cap the same permanently with a covering capable of sustaining weight of not less than four hundred (400) pounds, except when said well is in actual use by the owner or operator thereof; and no such owner or operator shall permit or allow any open or uncovered well to exist in violation of this requirement. Officers, agents and employees the District are authorized to serve or cause to be served written notice upon any owner or operator of a well in violation of this rule, thereby requesting such owner and/or operator to close or cap such well permanently with a covering in compliance herewith. In the event any owner or operator fails to comply with such request within ten (10) days after such written notice, any officer, agent, or employee of the District may go upon said land and close or cap said well in a manner complying with this rule and all expenditures thereby incurred shall constitute a lien upon the land where such well is located, provided, however, no such lien shall exceed the sum of One Hundred Dollars (\$100.00) for any single closing. Any officer, agent, or employee of the District, is authorized to perfect said lien by the filing of the affidavit authorized by Section 52.119 of the Texas Water Code. All of the powers and authority granted in such section are hereby adopted by the District, and its officers, agents, and employees are hereby bestowed with all of such powers and authority.

RULE 13 – FINAL ORDERS OF THE BOARD

The orders of the Board in any non-contested application or proceeding shall become the final order of the Board on the day it is entered by the Board. All orders of the Board in contested applications, appeals or other proceedings shall contain a statement that the same was contested. In such event the order will become final after fifteen (15) days from the entry thereof and be binding on the parties thereto unless a motion for rehearing is filed under Rule 15 hereof.

RULE 14 – REHEARING

- (a) Any person whose application is denied, whose contest is overruled, or who is not granted the relief desired, may file with the Board a motion for rehearing within fifteen (15) days from the announcement by the Board of its decision for rehearing is filed and is overruled, the order of the Board shall be final on the date the motion is overruled.
- (b) The Board may, in a proper case, find that an emergency exists and that substantial injustice will result from delay. In that event, and upon recitation of such finding, the order of the Board will become final on the date of the announcement of the order by the Board, and no motion for rehearing will be considered thereon.
- (c) If an application or a contest is denied by the Board or adverse recommendations are made by the Board and if the applicant or contestant shall

not have had and shall not have been afforded an opportunity for a hearing before the Board as elsewhere provided by these rules, the applicant or contestant shall be entitled to a hearing before the Board. A written request to the Board for such a hearing, stating such facts, must be filed with the Board within the above fifteen (15) days period. If such motion is in proper and necessary parties of the time and place of such hearing, and shall proceed to conduct such a hearing.

RULE 15 – RULES GOVERNING PROTESTS

(a) **NOTICE OF PROTEST:** In the event anyone should desire to protest or oppose any pending matter before the Board, or desires to prosecute his appeal from action of the Board, a written notice of protest or opposition shall be filed with the Board on or before the date on which such application or matter has been set for hearing. For the convenience of the Board, it is urged that protests be filed at least five days before the hearing date.

(b) **PROTEST REQUIREMENTS:** Protests shall be submitted in writing with a duplicate copy to the opposite party or parties and shall comply in substance with following requirements:

- (1) Each protest shall show the name and address of the Protestant and show that Protestant has read either the application or a notice relative thereto published by the Board.
- (2) There shall be an allegation of injury to Protestant which will result from the proposed action or matter to be considered by the Board.
- (3) If the protest is based upon claim of interference with some present right of Protestant, it shall include a statement of the basis of Protestant claim of right.
- (4) Protestant should call attention to any amendment of the application or adjustment which, if made, would result in withdrawal of the protest.

(c) **CONTESTED APPLICATIONS OR PROCEEDINGS DEFINED:**

An application, appeal, motion or proceeding pending before the Board is considered contested when either Protestants or interveners, or both files the notice of protest as above set out and appears at the hearing held on the application, or present a question or questions of law with regard to the application, motion or proceeding. Where neither Protestants nor interveners so appear and offer testimony or evidence in support of their contentions, or raise a question of law with reference to any pending application, motion or proceeding, the same shall be considered as non-contested.

- (d) **In the event of a contested hearing each party shall furnish other parties to the proceeding with a copy of all motion, amendments or briefs filed by him with the Board.**

RULE 16 – GENERAL RULES OF PROCEDURE FOR HEARING

- (a) **Hearings will be conducted in such manner as the Board deems most suitable to the particular case, and technical rules of legal and court procedure need not be applied. It is the purpose of the Board to obtain all the relevant information and testimony pertaining to the issue before it as conveniently, inexpensively and expeditiously as possible without prejudicing the rights of either applicants or Protestants.**
- (b) **WHO MAY APPEAR: Any party at interest in a proceeding may appear either in person or by attorney or both in such proceedings. A party at interest is any person owning a water right within the bounds of the District who is or may be affected by such proceeding. At the discretion of the Board anyone not a party at interest in a proceeding may appear.**
- (c) **ADMISSIBILITY: Evidence will be admitted if it is of that quality upon which reasonable persons are accustomed to rely in the conduct of serious affairs. It is intended that needful and proper evidence shall be conveniently, inexpensively and speedily produced while preserving the substantial rights of the parties to the proceeding.**
- (d) **TESTIMONY SHALL BE PERTINENT: The testimony shall be confined to the subject matter contained in the application or contest. In the event that any party at a hearing shall pursue a line of testimony or interrogation of a witness that is clearly irrelevant, incompetent or impartial, the person conducting the hearing may forthwith terminate such line of interrogation.**
- (e) **A STIPULATION: Evidence may be stipulated by agreement of all parties at interest.**
- (f) **LIMITING NUMBER OF WITNESSES: The right is reserved to the Board in any proceeding to limit the number of witnesses appearing whose testimony may be merely cumulative.**

RULE 17 – GENERAL RULES

- (a) **COMPUTING TIME: In computing any period of time prescribed or allowed by these rules, by order of the Board, or by any applicable statute, the day of the**

act, event or default form which the designated period of time begins to run, is not to be included, but the last day of the period so computed is to be included, unless it be a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday.

- (b) **TIME LIMIT:** Applications, requests, or other papers or documents required or permitted to be filed under these rules or by law must be received for filing. The date of receipt and not the date of posting is determinative.
- (c) **SHOW CAUSE ORDERS AND COMPLAINTS:** The Board, either on its own motion or upon receipt of sufficient written protest or complaint, may at any time, after due notice to all interested parties, cite any person operating with the District to appear before it in a public hearing and require time to show cause why his operating authority or permit should not be suspended, canceled, or otherwise restricted and limited, for failure to comply with the orders or rules of the Board or the relevant statutes of the State, or for failure to abide by the terms and provisions of the permit or operation authority itself. The matter of evidence and all other matters of procedure at any such hearing will be conducted in accordance with these rules of procedures and practice.

REPEAL OF PRIOR REGULATIONS

All of the previous rules and regulations of the District have been revised and amended; and except as they are herein republished, they are repealed. Any previous rule or regulation which conflicts with or is contrary to these rules is hereby repealed.

SAVINGS CLAUSE

If any section, sentence, paragraph, clause, or part of these rules and regulations should be held or declared invalid for any reason by a final judgment of the courts of this state or of the United States, such decision or holding shall not effect the validity of the remaining portions of these rules; and the Board does hereby declare that it would have adopted and promulgated such remaining portions of such rules irrespective of the fact that any other sentence, section, paragraph, clause, or part thereof may be declared invalid.

RULE 18 – WELL VALIDATION

In order to provide for the validation of existing water wells that are subject to the rules and regulations of the Permian Basin Underground Water Conservation District (hereinafter referred to as the District), shall be the policy of this Board that a certification of validation for a well can be issued only after the location of the well and the wellhead

equipment of the well has been determined by field survey by District personnel, and/or designated agents acting for said District.

It is the privilege of this Board to cause to be issued a validation certificate for wells drilled and equipped within the District for which the landowner or his agent has not applied for an Application For Water Well Permit; or for wells not otherwise properly permitted, provided that such do not violate any other rules and regulations of the District; nothing in this resolution is intended to limit the powers of this Board to any other course of action granted within Texas Law, or within its rules and regulations, or within the prerogative of the Board.

The Districts Manager is hereby directed to establish and administer the Districts program for well validation; with appeals to the Manager's well validating decisions being subject to Board review at any of its regularly called meetings, or at special called meetings.