

SEP 24 2018

Presented

REQUEST FOR AGENDA PLACEMENT FORM

Submission Deadline - Tuesday, 12:00 PM before Court Dates

SUBMITTED BY:

TODAY'S DATE: 9/6/18

DEPARTMENT:

County Judge's Office

SIGNATURE OF DEPARTMENT HEAD:

REQUESTED AGENDA DATE:

9/24/18

SPECIFIC AGENDA WORDING: Update from Prairielands Groundwater Conservation District on Development of Permanent District Rules and Stakeholder Meetings

PERSON(S) TO PRESENT ITEM: Jim Conkwright, General Manager of PGCD and Brian Sledge, SledgeLaw Group, PLLC

SUPPORT MATERIAL: (Must enclose supporting documentation)

TIME: Presentation

ACTION ITEM:

WORKSHOP

(Anticipated number of minutes needed to discuss item)

CONSENT:

EXECUTIVE:

STAFF NOTICE:

COUNTY ATTORNEY:

IT DEPARTMENT:

AUDITOR:

PURCHASING DEPARTMENT:

PERSONNEL:

PUBLIC WORKS:

BUDGET COORDINATOR:

OTHER:

*******This Section to be Completed by County Judge's Office*******

ASSIGNED AGENDA DATE: _____

REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE _____

COURT MEMBER APPROVAL _____

Date _____

SIMPLIFIED SUMMARY OF DISTRICT RULES FOR WATER WELLS

If you're in Ellis, Hill, Johnson, or Somervell counties and plan to drill a well for the purpose of pumping groundwater, or if you have a well drilled prior to 2019 that is capable of pumping more than 25 gallons per minute, the Prairielands Groundwater Conservation District (the "District") has rules that you need to comply with. Because the rules are quite lengthy, this Summary will give you an overview of the process and guide you through the basic steps that apply to your particular situation. This Summary is not intended as an actual rule of the District or as a substitute for careful review of the rules, but rather only as a tool to help you get started and understand the basics of the District Rules.

I. What Do I Need to Know Before Drilling a Well?

General Rule: You may not drill, complete, alter, operate, or produce groundwater from a well without the District's prior approval.

- (a) Different rules apply depending on when your well was drilled. In this summary, note the difference between the requirements for "existing" and "new" wells:
1. Existing well: a well that was in existence or for which drilling commenced prior to April 1, 2011.
 2. New well: a well for which drilling commenced on or after April 1, 2011.
- (b) If you want to drill a groundwater well on your property, you must:
- Have a minimum tract size of two (2) acres upon which to drill a well. There can only be one (1) well, regardless of type, per 2 acres. *Rule 4.4*
 - Meet spacing requirements to maintain certain distances from your well to your property lines and from other existing wells. *Rule 4.3*
**Under certain limited circumstances, you may seek an exception to the spacing and minimum tract size requirements. Rule 4.6*
 - Register the well, and get a permit if applicable, prior to drilling the well (*See more in Section II. below.*)
 - Comply with the well completion standards of the State of Texas and the District. Assistance is available from the District or from the Texas Department of Licensing and Regulation, which regulates Water Well Drillers and Pump Installers. *Rule 4.5* Also, new wells must be completed and equipped to certain depths to help protect well owners from water level declines in the aquifer.

II. Will I Need to Register or Permit My Well?

General Rule: There are two types of authorizations issued by the District for groundwater wells: registrations and permits. All wells that require a permit must also be registered. You must obtain a well registration before you drill a new well or prior to substantially altering an existing well. You are also required to get a permit for your well unless an exemption applies (mostly for small household wells).

Exceptions to registration and permitting apply to certain domestic (household) wells; see the following page.

(a) Registration | Rule 3.2

1. You *must* register your well if:

- It was drilled on or after April 1, 2011, (regardless of size, capacity, or type of use);
- It was drilled prior to April 1, 2011, and individually, or in combination with other wells in a well system, can pump more than 25 gallons per minute, and is used for any purpose other than domestic (household), livestock, or agricultural use (*Rule 3.3*);
- It is a public water supply well (regardless of size, capacity, or date drilled); or
- It was replaced and plugged under Rule 3.19

2. You *may* register your well if it existed prior to April 1, 2011. Rule 3.2(b) explains the benefits of registering your well to protect it from encroachment by other new wells.

Guidance for Household Well Owners

The majority of wells within the District are small household wells. If that is your situation, you will not be subject to some of the rules of the District. This section helps you determine what rules apply to you.

1. Exempt Wells

You *are not* required to register or permit your household well with the District, regardless of its size or capacity, if:

- Your well existed or prior to April 1, 2011; and
- The well is used solely for domestic (household) use, livestock use, poultry use, or agricultural use

Household wells are exempt from registration and permitting by the District if they meet the above criteria. If your household well is exempt, you do not have to pay water fees, meter the well, or submit water production reports on the well.

You may voluntarily register your well with the District to protect it from encroachment from new wells (See Rule 3.2(b))

2. Non-Exempt Wells

You *are* required to register your household well if it was drilled on or after April 1, 2011. These are considered new wells and are not exempt from registration. New household wells:

- Must be registered in accordance with Rule 3.2
- Must comply with the minimum tract property tract size and well spacing requirements of Section 4 of the rules
- Are exempt from water fees, metering, and water production reports

No household well, whether new or existing, is required to obtain a permit from the District to operate the well.

Part II. Cont.

(b) Permits | Rule 3.6

1. If required to register your well, you *must* also permit your well unless an exemption applies. These wells are exempt from permitting, reporting, fees, and metering requirements under Rule 2.1:
 - Existing or new wells of any size or capacity used solely for domestic, livestock, poultry, or agricultural use
 - Existing or new wells that don't produce more than 25 gallons per minute and are used for any purpose other than domestic, livestock, or agricultural use, and are not public water supply wells
 - A new well with a maximum designed production capacity of 17.36 gallons per minute or less used for any purpose of use other than public water supply
 - Leachate and monitoring wells

** Even if exempt from permitting and other requirements of the rules, most wells must still be registered unless an exemption applies.*

2. These wells are exempt from permitting requirements only (must still register, report, pay fees, have a meter, and meet the well completion, spacing and location requirements of the rules) under Rule 2.4:
 - Wells used to supply water for drilling rigs in oil and gas drilling or exploration if the water well is on the oil and gas lease (but not wells supplying water for hydraulic fracking for oil and gas)
 - Wells used for coal mining and authorized by a permit issued by the Railroad Commission of Texas

(c) Multiple Wells on One Tract | Rule 1.1

Wells feeding into a common distribution system, common storage, or common purpose of use will be considered a well system. The combined capacity of the wells in the system will be considered for purposes of determining the "capacity" to determine whether it is above or below the threshold capacity for permitted or exempt.

III. Types of Permits

Depending on when your well was drilled and other considerations, you will be required to obtain either a Historic Use Permit, an Operating Permit, or both. The District has the authority to regulate the amount of groundwater produced from a well in accordance with the amount authorized in the permit.

(a) Historic Use Permit – Existing Wells | Rule 3.11

If you own an existing well, you must apply for a Historic Use Permit from the District prior to September 1, 2019, if:

- The well is not exempt from registration or permitting requirements as set forth above (*see Rule 2.1(a) and Rule 2.4(a)*);
- The well was completed and operational prior to the effective date of these rules (XXXXXX); and
- The well produced and used groundwater for a beneficial use in any year during the existing and historic use period (January 1, 2004, through December 31, 2018).

How Much Can I Pump Each Year Under a Historic Use Permit?

The District Board of Directors will consider your Historic Use Permit application in a hearing and will approve the total amount you can pump annually from your well or well system based on your maximum amount of pumping in one calendar year during the 15-year existing and historic use period. If there has not yet been a full year of use because the well was drilled during the last year of the 15-year period, extrapolation for a full year of historic use will be allowed. Between the time you file your permit application and the time the Board takes final action on it, you will be authorized to pump the maximum historic amount declared in your permit application annually.

Historic users who seek increases in production are limited to the greater of the following:

- Their Historic Use Permit amount; or
- Their production allowable based upon acreage.

**Special requirements apply to existing wells for which metered records of pumping during the existing and historic use period are limited or do not exist. Rule 3.11(j)*

(b) Operating Permits – New Wells/Certain Existing Wells | Rule 3.12

1. If you are drilling a new well, an Operating Permit is required unless the well is exempt from registration or permitting requirements as set forth above (*see Rule 2.1(a) and Rule 2.4(a)*).
2. If you have an existing well for which you are required to obtain a Historic Use Permit and want to increase the amount of water you pump annually above the amount authorized under your Historic Use Permit, you must obtain an Operating Permit for the amount of the increased pumping. *Rule 3.12*

How Big of a Well Can I Drill?

The size of well you can drill on your land generally depends on the amount of land you own, because of well spacing requirements. *Rule 4.3*. The larger the well, the further your well has to be from your property lines and from other existing wells.

How Much Can I Pump Each Year Under an Operating Permit?

- The District Board of Directors will consider your Operating Permit application in a hearing. The maximum annual amount you will be authorized to pump under an Operating Permit will be limited by the Board to a reasonable amount based upon your need for the water using reasonable conservation measures and the number of surface acres of land you own (or lease for the right to produce groundwater) over the aquifer at the well site.
- The maximum annual amount that can be authorized in an Operating Permit is 25,000 gallons per surface acre of land owned or leased around the well, which can be reduced if necessary in the future to meet adopted aquifer management goals. If you also have a Historic Use Permit on the same land, the amount of annual pumping it authorizes will be subtracted from the amount you would otherwise be able to produce under an Operating Permit. If your Historic Use Permit annual pumping authorization is greater than 25,000 gallons per surface acre of land owned or leased around the well, you will not be eligible for an Operating Permit.
- Special rules apply to retail public utilities who supply water to properties within their boundaries, and who are generally eligible to produce groundwater based on the acreage within their boundaries that does not have other private wells located on such acreage.

IV. What is the Approval Process?

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The approval process varies depending on the type of authorization sought from the District. The District will walk you through the applicable requirements as you begin the application process.

In general:

- The General Manager and District staff will review applications for a registration or permit for administrative completeness, and work with you to make sure that you've met the requirements of the rules for your specific application. *Rules 3.2 and 3.6*
- For registration applications, the General Manager of the District may, in most situations, approve the application without notice or hearing before the Board of Directors. *Rule 3.2(d)*
- For permit applications requiring a hearing under Section 3 of the rules, the District Board of Directors will make a decision on the permit at a public hearing held by the Board. Notice to the public is required, and certain permits can be contested. A hearing can be very simple or very complex, depending on the type of permit and whether the permit application is contested. *Section 10: Hearings Processes and Procedures*

V. What Happens After I Get My Registration or Permit?

- (a) Once any registered or permitted well is drilled or substantially altered, the rules require you to file a well report with the District within 60 days of drilling. *Rule 3.16*. For wells that are exempt from the requirement to have a meter and pay fees (mostly domestic [household] and livestock wells), the submission of your well report is your final requirement under the rules, and you are free to use your well as you please so long as you do not commit waste of groundwater (typically, overwatering such that water flows off of your property).
- (b) Well registrations are perpetual in nature (they do not expire); however, if you sell your property, you and the new owner must transfer the well registration to the name of the new owner. Also, you cannot sell off parts of your property in the future if doing so would cause you to no longer meet the minimum well spacing distances from your property line (although you may be able to reduce the pumping capacity of your well to reduce the minimum well spacing distances).
- (c) Unless a registered or permitted well is exempt from the following requirements under Rule 2.1, (typically larger wells and public water supply wells), you must also:

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- Install a meter on your well prior to operating it, keep a log of meter readings monthly, and report the readings to the District twice a year. *Section 8*
- File a report with the District semi-annually indicating the amount of groundwater produced and the purposes for which the water was used. *Rule 3.18*
- Pay fees for the amount of groundwater you pump semi-annually to the District, at a rate set by the District. *Section 7*
- For Operating Permit holders:
 - Renew your Operating Permit every five (5) years
 - Obtain a permit amendment in the future prior to changing the type of use for the water or to change ownership
- For Historic Use Permit holders:
 - Renew your Historic Use Permit every five (5) years
 - Obtain a permit amendment in the future prior to changing ownership (the type of use may not be amended for Historic Use Permits)

VI. What About Retail Public Water Suppliers?

General Rule: Public water supply wells of any capacity are subject to the permitting, reporting, fees, and metering requirements of the rules.

Some special rules apply to retail public water systems:

- For retail public utilities, the maximum acreage that can be assigned to the permit for production limits will be the acreage within their retail water CCN, or acreage within their corporate boundaries if they do not have a retail water CCN, subtracting out any acreage assigned to a permit held by an individual landowner within those boundaries and an estimate of production by exempt wells. In situations where a retail public utility has a retail water CCN that is wholly or partly inside another political subdivision's corporate boundaries, the overlapping acreage not assigned to the permits of individual landowners will be assigned to the CCN holder.
- When drilling a new well, a retail public utility must meet well spacing requirements from existing wells completed in the same aquifer as the proposed well, just like with all other wells. However, for well spacing requirements from property lines, a retail utility may use its CCN or political subdivision boundary as its external property line. But, such a well not

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drilled in compliance with normal spacing distances from property lines will not be protected from encroachment as an existing well from future wells by other landowners.
Rule 4.3

VII. May I Transport Groundwater Out of the District?

Yes, but special rules apply to transport groundwater outside District boundaries. *Section 6*

VIII. Are There Other Rules?

Yes! In addition to the registration and permitting process and requirements included in this summary, the District Rules address in detail:

- Definitions of Terms
- Renewals, Amendments, and Transfers of Permits
- Inspection, Penalties, and Enforcement of Rules
- Drilling Records
- Enforcement Policy and Civil Penalty Schedule
- Hearings Processes and Procedures
- Appeals of Decisions