

# BRAZORIA COUNTY GROUNDWATER CONSERVATION DISTRICT

## FIFTH AMENDED ORDER

### ESTABLISHING FEES, CHARGES, AND PENALTIES

WHEREAS, the Brazoria County Groundwater Conservation District (the "District") was created by enabling legislation House Bill No. 3602 of the 78th Texas Legislature, as amended by House Bill 4114 of the 80<sup>th</sup> Texas Legislature (the "Act");

WHEREAS, pursuant to the Act, the Board of Directors of the District (the "Board") has the permitting and general management powers granted under Chapter 36 of the Texas Water Code;

WHEREAS, Section 36.101 of the Texas Water Code authorizes a groundwater conservation district to make and enforce rules to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence or prevent waste of groundwater and to carry out the powers and duties provided by Chapter 36 of the Texas Water Code;

WHEREAS, the Board has adopted rules for the District (the "District's Rules");

WHEREAS, Section 3.31 of the District's Rules authorizes the Board to establish permit application fees, production fees, export fees, and other administrative fees;

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF THE BRAZORIA COUNTY GROUNDWATER CONSERVATION DISTRICT AS FOLLOWS:

Section 1: Permit Application Fees. An annual permit application fee of \$100.00 is hereby adopted by the Board. Unless exempt under the District's rules or the Act, such permit application fees shall be assessed against all wells as provided by the District's Rules. The permit application fee shall be effective as of August 1, 2007 and shall be due and payable within seven days of the time a permit application is submitted to the District under the District's Rules. All permit application fees are considered delinquent if not paid within seven days of submitting the permit application to the District under the District's Rules.

An emergency permit application fee of \$100.00 is hereby adopted by the Board. Unless exempt under the District's rules or the Act, such emergency permit application fees shall be assessed only when an applicant requests an emergency permit by completing an emergency permit application and the emergency permit is approved by the District. The emergency permit application fee of \$100.00 shall be in addition to the permit application fee of \$100.00, shall be effective as of August 1, 2007, and shall be due and payable within seven days of the time an emergency permit application is submitted to the District under the District's Rules. All emergency permit application fees and permit application fees are considered delinquent if not paid within seven days of submitting the emergency permit application to the District under the District's Rules.

The General Manager may rule on any application for an Emergency Permit without notice, hearing, or further action by the Board, or without such notice and hearing as the General Manager deems practical and necessary under the circumstances. The General Manager may deny any application for an Emergency Permit on any reasonable ground, including, but not limited to, a determination that the applicant is currently in violation of these Rules or Chapter 36, Texas Water Code, that the applicant has a previously unresolved violation on record with the District, or that the application does not meet the requirements of this Rule.

A permit amendment fee of \$50.00 is hereby adopted by the Board. Unless exempt under the District's rules or the Act, such permit amendment fees shall be assessed for amending the permit application including but not limited to change of ownership on all wells. The permit amendment fees shall be effective as of August 1, 2007 and shall be due and payable at the time a permit is amended by the District. The permittee shall notify the District, in writing, at the time a permit requires amendment by the District.

Section 2: Production Fees. A production fee of \$0.03 per 1,000 gallons of groundwater withdrawn is hereby adopted by the Board. Unless exempt under the District's rules or the Act, such production fees shall be assessed against all groundwater withdrawn as provided by the District's Rules. The production fee shall be effective as of October 1, 2006, and shall be due and payable by the last day of the month following the month for which the production fee was calculated. (For example, payment for groundwater withdrawn during the month of October, 2006, is due and payable by November 30, 2006; payment for groundwater withdrawn during the month of November, 2006, is due and payable by December 31, 2006.)

A Minimum Production Fee of \$3.00 per well per month is hereby adopted by the Board. Unless exempt under the District's rules or the Act, such minimum production fees shall be assessed by the District. If payment for groundwater withdrawn per well during the month equals an amount less than \$3.00, the production fee payment to be assessed shall be the "Minimum Production Fee" established as \$3.00 by the Board. The minimum production fee shall be effective as of November 1, 2007,

and shall be due and payable by the last day of the following month for which the production fee was calculated by the permittee. If payment for groundwater withdrawn per well during the month equals an amount less than \$3.00, the permittee may opt to pay the minimum production fees in advance on an annual basis in the amount of \$30.00. If eligible, the permittee shall notify the District, in writing, should the permittee opt to pay the minimum production fees in advance on an annual basis in the amount of \$30.00. Payments received after the due date may be subject to late payment penalties which may include loss of annual payment option in the future.

Section 3: Export Fees. An export fee of \$2.00 per 1,000 gallons of groundwater transferred out of the District is hereby adopted by the Board. Unless exempt under the District's rules or the Act, such export fees shall be assessed in addition to the District's production fee. The export fee shall be effective as of August 1, 2007, and shall be due and payable by the last day of the month following the month for which the export fee was calculated. (For example, payment for groundwater transferred out of the District during the month of August, 2007, is due and payable by September 30, 2007; payment for groundwater transferred out of the District during the month of September, 2007, is due and payable by October 31, 2007.) Export fees will not apply to the export of groundwater that occurs as a result of the distribution of water within a single, aggregate system of a retail public water system that overlaps the District boundary.

Section 4: Self-Reporting. Each well permit holder shall be responsible for reading the meter which measures the amount of groundwater withdrawn by each permitted well at the end of each month. Each well permit holder shall also be responsible for measuring the amount of groundwater transferred out of the District during the course of each month. Each well permit holder shall accurately report such withdraw and transfer measurements to the District on the District reporting form. Failure to make such withdraw and transfer measurements and report the same to the District shall be a violation of the District's Rules. The District shall have the right to audit the withdraw and transfer measurements submitted by the well permit holder by reading the meter at each permitted well. Failure to maintain meters for accurate reporting shall be a violation of the District's Rules.

A Meter Verification / Inspection Fee of \$50.00 is hereby adopted by the Board. Unless exempt under the District's rules or the Act, such meter verification / inspection fees shall be assessed only when a permitted user fails inspection after being advised that meters must be installed or calibrated, or when a permittee fails to submit the required meter readings and District personnel must visit the well site or take the meter readings. The meter verification / inspection fee shall be effective as of August 1, 2007 and may be assessed as many times as permitted user fails to comply with Board Orders or District Rules to come into compliance.

Section 5: Payment of Fees. All fees must be paid by check or money order made payable to the "Brazoria County Groundwater Conservation District." No cash will be accepted by the District. Production fees and export fees shall be calculated on the District reporting form. The reporting form shall be delivered to the District along with payment of the monthly production and/or export fees. Permit Application Fees shall be submitted within seven days of the time a permit application is submitted to the District under the District's rules.

A returned check fee of \$25.00 is hereby adopted by the Board. The District shall assess the person writing the returned check a \$25.00 fee for each check returned by the District depository due to insufficient funds, account closed, signature missing, or any other reason causing such a return. The fee will be charged each time a check is returned. If bank charges to the District's account exceed \$25.00, the District shall assess the higher of the two amounts. The returned check fee shall be effective as of July 13, 2007 and shall be due and payable upon notice by the District.

Section 6: Late Payment and Penalties. The validity of any permit is contingent upon payment of any applicable Permit Application, Production, Export, or Administrative Fees. Failure to make complete and timely payments of fee may automatically result in a late payment penalty of 30 percent of the amount not paid plus any additional expenses associated with collection of the fees. Failure to make complete and timely payment may also result in declaring the respective well permit void by the Board.

The fees so adopted shall be effective as of the effective dates stated in this Order, and continue in effect until modified by the Board of Directors of the District.

AND IT IS SO ORDERED.

EFFECTIVE this 12<sup>th</sup> day of November, 2009.

**BRAZORIA COUNTY  
GROUNDWATER CONSERVATION  
DISTRICT**

*/s/ John A. Pyburn*  
John A. Pyburn  
President, Board of Directors

ATTEST:

*/s/ Raymond D. Felder*  
Raymond D. Felder

Secretary, Board of Directors

**Exhibit A**  
**CERTIFICATE FOR ORDER**

THE STATE OF TEXAS     §  
  §  
COUNTY OF BRAZORIA   §

I, the undersigned officer of the Board of Directors of Brazoria County Groundwater Conservation District hereby certify as follows:

1. The Board of Directors of Brazoria County Groundwater District convened in regular session on the 12<sup>th</sup> day of November, 2009, at the regular meeting place inside the boundaries of the District, and the roll was called of the duly constituted officers and members of the Board, to-wit:

John Pyburn	President
Donald R. Mudd	Vice President
Raymond Felder	Secretary
Patrick O 'Day	Assistant Secretary
Alan Mueller	Director

and all of said persons were present except Director Mueller, thus constituting a quorum. Whereupon, among other business, the following was transacted at the meeting: a written

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was introduced for the consideration of the Board. It was then duly moved and seconded that the Order be adopted; and, after due discussion, the motion, carrying with it the adoption of the Order, prevailed and carried unanimously.

2. That a true, full and correct copy of the aforesaid Order adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that the Order has been duly recorded in the Board's minutes of the meeting; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of the Board as indicated therein; that each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid meeting, and that the Order would be introduced and considered for adoption at the meeting, and each of the officers and members consented, in advance, to the holding of the meeting for such purpose; that the meeting was open to the public as required by law; and that public notice of the time, place and subject of the meeting was given as required by Chapter 551, Texas Government Code, and Section 36.063, Texas Water Code.

SIGNED AND SEALED on the 12<sup>th</sup> day of November, 2009.

*Raymond D. Felder*  
Secretary, Board of Directors

**ORDER 09-11-07 APPROVE ACTIONS REGARDING EMERGENCY PERMITS**

Motion by Director O'Day, Seconded by Director Pyburn that the District's fee schedule be amended to include the following language:

**The General Manager may rule on any application for an Emergency Permit without notice, hearing, or further action by the Board, or without such notice and hearing as the General Manager deems practical and necessary under the circumstances. The General Manager may deny any application for an Emergency Permit on any reasonable ground, including, but not limited to, a determination that the applicant is currently in violation of these Rules or Chapter 36, Texas Water Code, that the applicant has a previously unresolved violation on record with the District, or that the application does not meet the requirements of this Rule.**

Motion approved with all present voting aye.