

POLICY REGARDING OPEN, ABANDONED OR DETERIORATED WELLS

Section 36.118, Water Code, allows the Brazoria County Groundwater Conservation District ("District") to require the owner or lessee of land on which an open or uncovered well is located to keep the well permanently closed or capped with a covering capable of sustaining weight of at least 400 pounds. If the owner or lessee fails or refuses to close or cap the well in compliance with this policy, the District may employ any person, firm, or corporation to go on the land and close or cap the well safely and securely. Section 1901.255, Occupations Code, requires a landowner or other person who possesses an abandoned or deteriorated well to have the well plugged or capped. Section 1901.256, Occupations Code, allows the District to:

1. enforce compliance with Section 1901.255, Occupations Code, related to wells located in the boundaries of the district;
2. bring an action to enjoin a person from violating Section 1901.255, Occupations Code;
3. enforce by injunction or other appropriate remedy any rule, decision, determination, or order adopted or entered related to Section 1901.255, Occupations Code; or
4. bring an action to recover a civil penalty under Section 1901.401, Occupations Code, for a violation of a statute or rule related to Section 1901.255, Occupations Code.

Section 1901.255, Occupations Code, defines "Abandoned well" as a well that is not in use. A well is considered to be in use if:

1. the well is not a deteriorated well and contains the casing, pump, and pump column in good condition;
2. the well is not a deteriorated well and has been capped;
3. the water from the well has been put to an authorized beneficial use, as defined by the Water Code;
4. the well is used in the normal course and scope and with the intensity and frequency of other similar users in the general community; or
5. the owner is participating in the Conservation Reserve Program authorized by Sections 1231-1236, Food Security Act of 1985 (16 U.S.C. Sections 3831-3836), or a similar governmental program.

Section 1901.255, Occupations Code, defines "Deteriorated well" as a well that, because of its condition, will cause or is likely to cause pollution of any water in this state, including groundwater.

Any open, uncovered or abandoned well must be either permanently plugged, repaired or capped. Any deteriorated well must be permanently plugged or repaired. When the District discovers a deteriorated well, the District staff shall notify the owner or lessee of the condition of the well and the requirement to either repair or plug the well.

Should the owner or lessee fail to properly repair or plug the well within 10 days of receiving the notification from the District, the District may employ any person, firm, or corporation to go on the property and plug or repair a deteriorated well. The District will provide the owner or lessee notice of the date the District intends to repair or plug the well. The District will provide the owner or lessee an invoice for the cost of repairing or plugging the well and provide the owner or lessee 45 days to pay the invoice before the District places a lien on the property. Reasonable expenses incurred by the District in plugging or repairing a well constitute a lien on the land on which the well is located.

The lien arises and attaches upon recordation of an affidavit in the deed records of the county where the well is located, if such affidavit is executed by a person conversant with the facts, stating the following:

1. the existence of the well;
2. the legal description of the property on which the well is located;
3. the approximate location of the well on the property;
4. the failure or refusal of the owner or lessee, after notification, to repair or plug the well within 10 days after the notification;
5. the repairing or plugging of the well by the District, or by an authorized agent, representative, or employee of the district; and
6. the expense incurred by the district in repairing or plugging the well.

APPROVED this 8th day of June, 2017



Alan Mueller, President

Board of Directors