

CHAPTER 10

INVESTIGATIONS AND ENFORCEMENT

Section

10.1 Notice and Access to Property

10.2 Investigation of Possible Violation(s) (§36.123)

10.3 Rule Enforcement

10.4 Sealing, Capping and Plugging Wells

10.1 Notice and Access to Property: (36.123)

Board Members and District representatives and employees are entitled to access to all property within the District to carry out technical and other routine investigations (i.e. photographing, sampling, monitoring and testing) necessary to the implementation of the District Rules. Prior to entering upon the property for the purpose of conducting an investigation, the person seeking access will give notice in writing or in person or by telephone to the owner, operator, agent, or employee of the well owner, as determined by information contained in the application or other information on file with the District. Notice is not required if prior permission is granted to enter without notice. Inhibiting or prohibiting access to any Board Member or District representative or employees who are attempting to conduct an investigation under District Rules constitutes a violation and subjects the person who is inhibiting or prohibiting access, as well as any other person who authorizes or allows such action, to the penalties set forth in the Texas Water Code Chapter 36.102.

Adopted January 11, 2007 by Board Order 2007-002; effective January 11, 2007.

10.2 Investigation of Possible Violation(s) (§36.123)

A. When the District's Board of Directors has been informed of a possible violation of a District Rule, the District Representative will send a letter notifying the owner about the potential violation and arranging to meet with the owner to investigate the potential violation.

B. Investigations or inspections that require entrance upon property will be conducted at reasonable times, and will be consistent with the establishment's reasonable rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations shall identify themselves and present credentials upon request of the owner.

C. Following the investigation, the District Representative shall report to the Board of Directors the findings of the investigation. If the Board determines that no violation has occurred, the District will notify the owner by letter of the Board's finding that no violation has occurred.

D. If the Board of Directors determines from the investigation that a violation has occurred, the District will notify the owner by certified mail that the owner is in violation and outline the

action the owner shall take to come into compliance with District Rules.

E. When the owner notifies the District that compliance has been met, an investigation by the District Representative will be made and reported to the Board. The Board shall determine if compliance has been met by the owner. If so, the District will notify the owner by letter that compliance with District Rules has been met.

Adopted January 11, 2007 by Board Order 2007-002; effective January 11, 2007.

10.3 Rule Enforcement

If the Board determines that compliance has not been met, then the Board may chose from the following actions to ensure compliance with District Rules:

A. Begin the enforcement hearing process for permit revocation, involuntary amendment or suspension.

B. Enforce these rules by injunction, mandatory injunction or other appropriate remedy in a court of competent jurisdiction.

C. Assess reasonable civil penalties for breach of any District Rule as authorized in Chapter 36 of the Texas Water Code. A penalty under this Rule is in addition to any other penalty provided by law of this state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the District's principal office or meeting place is located. If the District prevails in any suit to enforce its Rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other cost incurred by the District before the court. The amount of the attorney's fee shall be fixed by the court.

D. After a notice and an enforcement hearing, order a non-compliant well to be sealed under District Rule 10.4.

E. Continue to work with the owner until compliance is met and may mandate the monitoring of groundwater use by requiring the metering of the well or any other monitoring methods and provide regular production reports as determined by the Board.

F. Any combination of the above actions or other reasonable means as determined by the Board to ensure compliance.

Adopted January 11, 2007 by Board Order 2007-002; effective January 11, 2007.

10.4 Sealing, Capping and Plugging Wells

A. Sealing of Wells: After notice and an enforcement hearing, the District may seal wells to ensure that a well is not operated in violation of the District Rules. A well may be sealed when:

- (1) no permit has been obtained to drill a new water well that requires a permit under Rule 5.1
- (2) no application form has been filed for a permit to withdraw groundwater; or
- (3) the Board has denied, cancelled or revoked a drilling permit or an operating permit.

The well may be sealed by physical means and tagged to indicate that the well has been sealed by the District. Other appropriate action may be taken as necessary to preclude operation of the well or to detect unauthorized operation of the well.

Tampering with, altering, damaging, or removing the seal of a sealed well, or in any other way violating the integrity of the seal, or pumping of groundwater from a well that has been sealed constitutes a violation of these rules and subjects the person performing that action, as well as any well owner or primary operator who authorizes or allows that action, to such penalties as provided by the District Rules.

B. Capping Wells: After notice and an enforcement hearing , the District may require a well to be capped to prevent waste, prevent pollution, or prevent further deterioration of a well casing. The well shall remain capped until such time as the conditions that led to the capping requirement are eliminated. If well pump equipment is removed from a well and the well will be re-equipped at a later date, the well shall be capped, provided however that the casing is not in a deteriorated condition that would permit commingling of water strata in which case the well shall be plugged. The cap shall be capable of sustaining a weight of at least four hundred (400) pounds.

C. Plugging Wells: A deteriorated or abandoned or open and uncovered well shall be plugged in accordance with the Well Driller and Pump Installers Rules, 16 Texas Administrative Code Chapter 76. It is the responsibility of the owner to see that such a well is plugged to prevent pollution of the underground water and to prevent injury to persons.

D. Plugging Report: Not later than the 30th day after a well is plugged, the person plugging the well shall submit a plugging report to the District on a form provided by the District.

Adopted January 11, 2007 by Board Order 2007-002; effective January 11, 2007.