

Consideration for Changes to Well Spacing Rules

Presented and discussed at:

Post Oak Savannah Rules Committee Meeting

Jan. 14 , 2013

RULE 7.10. EXEMPT WELL STATUS.

1. Wells exempted or partially exempted by local rule:

a. Wells exempted by local rule:

- i. A well that was in use prior to the effective date, that is used solely for domestic use, and that was drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater per day is an exempt well.
- ii. A well that, after the effective date is drilled in full compliance with these rules, that is used solely for domestic use and that is completed, equipped and maintained so that it is incapable of producing more than 25,000 gallons of groundwater per day, shall be an exempt well from and after the completion. [Amended July 12, 2005]

b. Wells partially exempted by local rule:

- i. Wells that are not produced for 180 consecutive days, or more, in any twelve consecutive calendar months, that are less than 80 feet in depth, and that produce groundwater from the Brazos River Alluvium or the Little River Alluvium for the non-wasteful use by the Owner to raise livestock or agricultural crops, are exempt from production fees, and the public hearing and spacing requirements.
- ii. Wells that will produce groundwater for non-wasteful use by the owner for the purpose of raising domestic livestock or agricultural crops and that comply with the spacing and production requirements, are exempt from the payment of production fees and the public hearing requirements.
- iii. Wells previously permitted by the Railroad Commission and exempt under Rule 7.10(2)(b) that are to be re-drilled, replaced or altered for the purpose of supplying water to a rig or equipment engaged in drilling or exploration for oil and gas, without a new or amended permit issued by the Railroad Commission, are not exempt from these rules, but are exempted from the public hearing requirements if the well meets the qualification requirement provided in Rule 4.2(7). [Added April 8, 2008; Amended December 9, 2009] [Amended June 12, 2012]
- iv. A well that is: (A) on a tract of land that is larger than 10 acres; (B) equipped so that it is incapable of producing more than 50,000 gallons of groundwater per day; and (C) used or will be used by a person or a household solely for a domestic activity is exempt from the requirements for a public hearing. The general manager may grant a permit for any such well without a public hearing; provided the well is fully compliant with these rules and shall not produce more groundwater than the maximum allowable per acre under these rules. [Added June 12, 2012]

2. Wells exempted by State law: As provided in *Chapter 36, Texas Water Code*, the following are exempt wells: [Amended April 8, 2008]
 - a. A well used solely for domestic use or for providing water for livestock or poultry on a tract of land larger than 10 acres, that is either drilled, completed, or equipped so that it is incapable of producing more than 25,000 gallons of groundwater a day;
 - b. The drilling of a well and production to supply water solely for a rig or equipment that is actively engaged in drilling ~~or exploration for an~~ oil and gas well, that is permitted by the Railroad Commission, if: (i) the person holding the permit is responsible for the water well; and (ii) the water well is located on the lease on which the drilling rig is located, or within the boundaries of the field in which the drilling rig is located; (iii) the well is used with a rig that is actively engaged in drilling an oil and gas well ~~or exploration~~; (iv) the water is produced solely for the purpose of providing water that is necessary for the actual drilling of the oil and gas well; and ~~(iv)~~ the rig has not been removed and the use of the well under a permit issued by the Railroad Commission has not terminated or otherwise expired; or [Rule 7.10(2)(b) Amended December 9, 2009] [Amended June 12, 2012]
 - c. The drilling of a well under a permit issued by the Railroad Commission under *Chapter 134, Texas Natural Resources Code*, or for production from such a well if the water produced or to be produced is necessary or will be necessary for mining purposes.
3. Railroad Commission Jurisdiction. A well drilled or operated with a rig engaged in drilling an oil and gas well ~~or exploration~~, as authorized under a permit issued by the Railroad Commission, is under the exclusive jurisdiction of the Railroad Commission and is exempt from regulation by the District. The following provisions are applicable to wells permitted by the Railroad Commission: [Amended June 12, 2012]
 - a. Groundwater produced in an amount ~~and for a purpose~~ authorized by a Railroad Commission permit for the purpose of drilling an oil and gas well may be used within or exported from the District for the authorized purpose without a permit from the District; [Amended April 8, 2008]
 - b. To the extent groundwater is produced in excess of Railroad Commission authorization for use in the drilling of an oil and gas well, or for a purpose not authorized by a Railroad Commission permit, the holder of the Railroad Commission permit must apply to the District for the appropriate permit for the well and the production or the excess production, as applicable, and is subject to all applicable fees; [Amended April 8, 2008]
 - c. Groundwater that is produced, for the sole purpose of drilling an oil and gas well, -from a well under the jurisdiction of the Railroad Commission is generally exempt from District fees, however, the District may impose a pumping fee and, as applicable, an export fee on groundwater produced from an otherwise exempt mine well that is used for either municipal purposes or by a public utility; and any fee imposed by the District under this Rule 7.10(3)(c) may not exceed the fee imposed on other groundwater producers in the District; and [Amended April 8, 2008]
 - d. Wells permitted by the Railroad Commission are exempt to the extent the water use operation and production is permitted and authorized by the Railroad Commission for the drilling of an oil and gas well. [Added April 8, 2008]
4. The District may require an exempt well to obtain an operating permit and comply with these rules if:

- ___ a. a well exempted under Rule 7.10(2)(b) above: (i) is no longer used to supply water for a rig or equipment that is actively engaged in drilling ~~or exploration-an oil and gas well operations~~ permitted by the Railroad Commission; or (ii) is re-drilled, altered or replaced for that purpose without first obtaining a new or amended permit from the Railroad Commission; [Amended December 9, 2009] [Amended June 12, 2012]
- ___ b. withdrawals from the exempted well are:
- i. no longer necessary for mining purposes permitted by the Railroad Commission; or
 - ii. greater than the amount necessary for mining purposes permitted by the Railroad Commission under *Chapter 134, Natural Resources Code*;
- c. the area of the tract of land on which the well is located is reduced, or the well is modified or operated improperly, such that the well is no longer qualified as an exempt well under Rule 7.10; or
- d. the well is maintained, pumped, operated or used so as to no longer be qualified as an exempt well.
5. A person holding a permit, issued by the Railroad Commission under *Chapter 134, Texas Natural Resources Code*, that authorizes the drilling of a well, shall report monthly to the District the total amount of water withdrawn from the well, the quantity of water necessary for mining purposes, and the quantity of water withdrawn for other purposes.
6. The District shall require all exempt wells to be registered in accordance with these rules. All exempt wells shall be equipped and maintained so as to conform to the rules requiring installation of casing, pipe, and fittings to prevent the escape of groundwater from one aquifer to another and to prevent the pollution or harmful alteration of the character of the groundwater in any aquifer. A landowner, well owner, or any other person acting on their behalf, of an exempt well shall register the well with the District and comply with all applicable statutes, codes and regulations applicable to the drilling and opening up of the well.
7. A well to supply water for a subdivision of land for which a plat approval is required under *Chapters 212 or 232, Texas Local Government Code*, is not exempted under these rules.
8. Groundwater withdrawn from a well exempt from permitting or regulation under Rule 7.10 and subsequently transported outside the boundaries of the District shall be subject to all applicable water use and transport fees.
9. Wells permitted by the TCEQ pursuant to the Water Code or the Natural Resources Code are exempt only to the extent, if any, provided by State law for the water use and the operation and production permitted and authorized by the TCEQ. [Added April 8, 2008]
10. ~~Wells used to produce groundwater for pumping into and fracturing underground strata or formations are exempt from the requirements for a public hearing, but are not otherwise exempt from these rules.~~ Excluding injection wells that receive a permit granted by the TCEQ or the Railroad Commission, which grant is upheld ~~if judicially contested by a final judgment of a court of competent jurisdiction if the issuance of the permit is appealed~~, this Rule 7.10 does not apply to nor exempt any injection well. [Added April 8, 2008] [Amended June 12, 2012]
11. The exemptions and partial exemptions provided in this Rule 7.10 do not exempt a well from the

requirements to register or to obtain a permit for the well. [Added] June 12, 2012]

12. Permits issued by the Railroad Commission for the drilling of an oil and gas well may include a permit to produce water for the drilling of the oil and gas well. So long as the Railroad Commission permit for the water well remains in full force and effect and the groundwater is produced for the sole purpose of drilling an oil and gas well, the water well is an exempt well and the District will not issue permits for such wells or for the production of water from wells permitted by the Railroad Commission for the sole purpose of drilling and oil and gas well.

RULE 4.1. REQUIRED SPACING.

1. Except for a well exempted under Rules 4.2(6) or (7), Rule 7.10(b) or 7.10(2)(c), a new well may not be drilled within 50 feet of an existing well, or the property line of any abutting land that is not owned or controlled by the owner of the new well. [Amended April 8, 2008]

2. In the Simsboro formation the spacing of a new well shall be as provided in (a) or (b), at the election of the owner exercised when the application for a new well permit is filed:

a. the spacing of a new well from any well existing in that formation shall be a distance of one foot per one gallon per minute of production capacity and one-half foot per gallon per minute from the property line of each adjoining landowner; or

b. the spacing of the new well shall be based on engineering studies and drawdown criteria derived from GAM simulations which have been appropriately modified to; (i) represent the aquifer properties near the new well based on publicly available information; and (ii) to represent current and probable future groundwater development in the District, to meet the following performance standards:

A. no more than 8% drawdown of hydraulic head [using GAM (2000) levels and referenced from top of the aquifer] at the property boundary;

B. no more than 25% drawdown of hydraulic head anywhere within the property from which the well will produce water; and

C. the applicant must provide for a minimum of one monitoring well for every 1,000 acre/feet/year of permitted production capacity, to demonstrate continuing compliance with these standards.

.3 A new well ~~to be completed that will pump from the in the Trinity, Sparta, Queen City,~~ Carrizo, Calvert Bluff or Hooper formations shall be spaced a distance of two feet per one gallon per minute production capacity from any well existing in the same formation, and one foot per gallon per minute from the property line of each owner of abutting land that is not owned or controlled by the owner of the new well.

4. A new well that will pump from the Trinity, Yegua-Jackson, Sparta or the Queen City aquifers, shall be spaced a distance of not less than two feet per one gallon per minute production capacity from any well existing in the same formation, and one foot per gallon per minute from the property line of each owner of abutting land that is not owned or controlled by the owner of the new well. The minimum spacing between the new well and any well existing in the same formation and the property line will vary depending on the production capacity of the well according to the following table.

<u>Production Capacity</u>		<u>Minimum Spacing Per GPM of Production Capacity</u>	
<u>More than</u>	<u>Equal to or less than</u>	<u>From any Existing Well</u>	<u>From Property Line</u>
<u>NA</u>	<u>50 gpm</u>	<u>2 feet</u>	<u>1 foot</u>
<u>50 gpm</u>	<u>100 gpm</u>	<u>3 feet</u>	<u>1.5 feet</u>
<u>100 gpm</u>	<u>150 gpm</u>	<u>4 feet</u>	<u>2 feet</u>
<u>150 gpm</u>	<u>200 gpm</u>	<u>5 feet</u>	<u>2.5 feet</u>
<u>200 gpm</u>	<u>NA</u>	<u>7 feet</u>	<u>3 feet</u>

In Section 1: Definition and Concepts:

Define:

“Production capacity the maximum discharge rate that a well is allowed to pump in accordance with its operating permit and expressed in the units of gallons per minute.

RULE 4.2. EXCEPTIONS TO SPACING REQUIREMENTS.

~~7. Wells previously permitted by the Railroad Commission, and exempt under Rule 7.10(2)(b), that are to be re-drilled, replaced or altered for the purpose of supplying water to a rig or equipment engaged in drilling or exploration for oil and gas without a new or amended permit being issued by the Railroad Commission, are exempt from the public hearing if the well: [Amended December 9, 2009] [Amended June 12, 2012]~~

~~a. will not produce more than 4 times its Monthly Maximum Withdrawal over a consecutive 180 calendar days ; and is:~~

~~(a). is owned or operated by the same person that was issued the initial permit by the Railroad Commission; and [Amended June 12, 2012]~~

~~(b). is located on the same oil and gas lease, or within the boundaries of the same field, on which the drilling rig was located when the original permit was granted. [Rule 4.2(7); and [Amended December 9, 2009.] [Amended June 12, 2012]~~

~~(c) — the flow pumping rate is continuously measured by a flowmeter approved by the District and total groundwater volume produced per month is reported to the District.~~

~~8. Wells exempt pursuant to Rule 7.10(2)(b) or (c) are not subject to the spacing requirements. [Amended April 8, 2008]9. Existing wells that are limited production wells are not subject to the spacing requirements. [Added October 14, 2008] [Amended June 12, 2012]~~

Rule 4.2. EXCEPTIONS TO SPACING REQUIREMENTS.

7. Wells previously permitted by the Railroad Commission, and exempt under Rule 7.10(2)(b), that are to be altered, or replaced with a well having the same casing diameter, for the purpose of supplying water to a rig or equipment engaged in drilling or exploration for oil and gas for hydraulic fracturing or a similar purpose or use without a new or amended permit being issued by the Railroad Commission are exempt from the public hearing and spacing requirements, if the well and use comply with Rule 7.17(11).

RULE 5.1

6. As used in this Rule 5.1, land and water rights are "contiguous" when:

- a. The land and the water rights: (i) are located within the District; (ii) are owned or controlled by the well owner or operator; (iii) are on one or more tracts that are adjacent each to the other and are located within a continuous common boundary, except as provided in (c) below, with the land on which the well is located; (iv) are associated with the same aquifer as that for which production is to be permitted for the well; and (v) the water quality of the aquifer underlying the well site and that part of the aquifer underlying the contiguous land is substantially the same; or
- b. A waiver or variance is obtained under Rule 5.3; or
- c. The land and water rights that are owned or controlled by the well owner or operator are separated only by a road, highway, railroad or other right-of-way, or river from the other land and water rights within the District that are owned or controlled by the well owner or operator.

RULE 7.17. HYDRAULIC FRACTURING.

1. Drilling and Operating permits for wells that will be drilled, operated or produced for the purpose of hydraulic fracturing, or for any similar purpose or use, shall be issued pursuant to this Rule 7.17.
2. Wells used to produce groundwater for pumping into and fracturing underground strata or formations, or for any similar purpose or use, are exempt from the requirements for a public hearing if the term of the permit does not exceed 1 calendar year, but are not otherwise exempt from these rules.
3. Wells permitted under this Rule 7.17 shall comply with spacing requirements set forth by Rule 4.1.
4. An application for a permit under Rule 7.17 shall contain the following information.
 - a. The name and address of the applicant and the owner of the land on which the well is to be drilled or operated;
 - b. The name of the oil and gas lease and unit number;
 - c. Documentation establishing the applicant's ownership of the land on which the oil and/or gas well is or will be located, or, if the applicant is other than the owner of the property, documents establishing the applicant's authority to construct or operate an oil and/or gas well on such property;

- d. The proposed location of the water well and the maximum rate at which groundwater is proposed to be withdrawn, accompanied by a map showing the location of the well and the property owned or controlled by the applicant for the production of water;
 - e. The total amount of groundwater requested accompanied by a list which includes the following:
 - i. Name of each oil and/or gas well where groundwater is to be pumped into for purpose of hydraulic fracturing, or similar use;
 - ii. The estimated amount of groundwater to be used in each oil and/or gas well;
 - f. A statement by the applicant that the groundwater withdrawn under the permit will be put to beneficial use at all times;
 - g. The aquifer and formation from which the applicant intends to produce groundwater;
 - h. The total acreage that is owned or controlled for the production of groundwater, accompanied by documents establishing ownership of the land on which the well is, or will be, located, or one or more valid groundwater lease(s) establishing authorization to produce the volume of groundwater requested by the permit application on the land on which the well is or will be located;
 - i. Any other information identified by the Board during the permitting process as reasonably required or beneficial to the District's decision;
 - j. Payment by the applicant of the appropriate application fee.
5. An application may be rejected as not administratively complete if the District finds that substantive information required by the permit application is missing, false, or incorrect.
6. An application will be considered administratively complete if it complies with all requirements set forth under this Rule 7.17, includes all information to be included in the application, and is accompanied by the required application fee.
7. The general manager shall determine if an application is administratively complete, subject to the applicant's right of appeal to the Board.
8. Production of groundwater under this Rule 7.17 shall be subject to application and production fees as they apply according to Section 9 of these Rules.
9. Within 15 days of January 31 of each year, each permit holder, for permits issued under this Rule 7.17, must submit a water use report to the District which includes the following: (a) the name of the permittee; (b) the permit number(s); (c) the well numbers or names of each water well for which the permittee holds a permit; (d) the amount of water produced from each permitted well on a monthly basis; and (e) any other information required by the District.
10. The District may require metering of wells permitted under this Rule 7.17 using meters subject to Section 11 of these Rules and other instruments as required by the District.

11. Wells previously permitted by the Railroad Commission, and exempt under Rule 7.10(2)(b), that are to be altered, or replaced with a well having the same casing diameter, for the purpose of supplying water for hydraulic fracturing or a similar purpose or use without a new or amended permit being issued by the Railroad Commission are exempt from the public hearing and spacing requirements, if the well and use comply with Rule 7.17(11).: [Amended December 9, 2009] [Amended June 12, 2012]

a. will not produce water for more than 180 calendar days, or will not produce more than 50,000 gallons of water per day;

b. is owned or operated by the same person that was issued the initial permit by the Railroad Commission; [Amended June 12, 2012]

c. is located on the same oil and gas lease, or within the boundaries of the same field, on which the drilling rig was located when the original permit was granted; [Rule 4.2(7) Amended December 9, 2009.] [Amended June 12, 2012]

d. the owner or operator of the well provides written representation that he has the right to produce the groundwater required for the well; provided that:

e. wells permitted under this Rule 7.17(11) that are to be replaced with a larger casing diameter shall not be exempt from the spacing requirements.