RESOLUTION TO JOIN THE MOU WITH THE TDLR AND TCEQ REGARDING THE INVESTIGATION OF ABANDONED AND DETERIORATED WELLS
RESOLUTION: 2005-2

Whereas, there may be abandoned or deteriorated wells located in the Hays Trinity Groundwater Conservation District ("District") requiring investigation and enforcement;

Whereas, Ch. 816, Acts of the 78th Legislature, Regular Session, 2003, added Section 1901.257(c) to the Texas Occupations Code;

Whereas, Section 1901.257(c) of the Texas Occupations Code requires all groundwater conservation districts ("GCD's) in which an abandoned or deteriorated well is located to join into a memorandum of understanding ("MOU") with the Texas Department of Licensing and Regulation ("TDLR") and the Texas Commission on Environmental Quality ("TCEQ") regarding the investigative procedures to be used for complaints of abandoned and deteriorated water wells;

Whereas, the purpose of the MOU between GCD's, the TDLR and the TCEQ is to coordinate the investigatory activities of the governmental entities whenever an abandoned or deteriorated well is identified;

Whereas, the TDLR recently adopted a new rule, 16 Texas Administrative Code §76.1011, to implement Section 1901.257, Texas Occupation Code;

Whereas, Rule 76.1011 sets the TDLR responsibilities as:

(1) Investigate abandoned and/or deteriorated well complaints, including referrals received from the TCEQ regional field offices, unless the complaint is being investigated by a GCD in coordination with TDLR staff.

(2) Enforce compliance with §1901.255 related to persons possessing abandoned and/or deteriorated wells.

(3) Coordinate investigation and enforcement efforts with appropriate GCD for any complaints regarding wells located within the boundaries of a GCD.

(4) When abandoned and/or deteriorated wells are observed while conducting field investigations inside the boundaries of a GCD, a reasonable effort to obtain the landowners' name, mailing address, and latitude and longitude of the well shall be made, and such information shall be referred to the General Manager of the appropriate GCD for investigation and possible enforcement action to assure compliance with §1901.255 related to persons possessing abandoned and/or deteriorated wells.

(5) When an abandoned and/or deteriorated well complaint is received, TDLR will determine if the well is located within a GCD boundaries and provide a referral to the General Manager of the appropriate GCD for investigation and possible enforcement action to assure compliance with §1901.255 related to persons possessing abandoned and/or deteriorated wells.

(6) Provide training and technical assistance to GCD staff and TCEQ Field Operations staff on field recognition of an abandoned and/or deteriorated well.

(7) Annually report to TCEQ the status of all complaints provided to the TDLR under this MOU and the number of wells closed as a result of TCEQ abandoned and/or deteriorated well complaint referrals.

Whereas, Rule 76.1011 sets the TCEQ responsibilities as:

(1) When suspected abandoned and/or deteriorated wells are observed by Field Operations staff while conducting field investigations, information to allow for identification of the well, which may include: the landowners' name, physical address, and latitude and longitude of the well; shall be referred to the TDLR Compliance Division, Water Well Driller/Pump Installer Section. TCEQ field operation staff shall make a reasonable effort to obtain information needed for the identification of any abandoned and/or deteriorated well.

(2) Provide updated list of GCDs as they are confirmed, including boundaries and the name and address of district contacts such as the General Manager.

Whereas, Rule 76.1011 sets the GCD responsibilities as:

(1) When a GCD receives a referral from the TDLR of an abandoned and/or deteriorated well, the GCD shall respond within 14 calendar days informing the TDLR as to whether the GCD will investigate the referral.

(2) After the GCD has been notified by the TDLR or becomes aware of an abandoned and/or deteriorated well, the GCD may:

(A) investigate the complaint of an abandoned and/or deteriorated well within the boundaries of the GCD; and

(B) enforce compliance with Texas Occupations Code, §1901.255 related to landowners that have an abandoned and/or deteriorated well located on their property.

(3) A GCD that performs an investigation related to an abandoned and/or deteriorated well referred to the GCD by TDLR shall notify the TDLR regarding the disposition of the investigation.

(4) Any GCD enforcement under Texas Occupations Code, §§1901.255 and 1901.256, may be coordinated with the TDLR.

(5) A GCD may communicate with the TDLR regarding any phase of the investigation or enforcement action.

Whereas, Rule 76.1011 allows a GCD to join in the MOU through appropriate GCD board action to achieve compliance with Section 1901.257(c) of the Texas Occupations Code; and

Whereas, the District Board of Directors desires to join in the MOU as required by Section 1901.257(c) of the Texas Occupations Code, and understands the District's responsibilities under the MOU and Chapter 1901 of the Texas Occupations Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT AS FOLLOWS:

This resolution is hereby adopted to cause the District to join into the MOU with the TDLR and the TCEQ to comply with Section 1901.257(c) of the Texas Occupations Code; and

The General Manager is authorized to take any and all action necessary to implement this resolution and cause the District to join into the MOU with the TDLR and TCEQ, including the submission of a copy of this resolution to the TDLR.

AND IT IS SO ORDERED.

PASSED AND ADOPTED on this 26 day of MAY, 2005.

HAYS TRINITY GROUNDWATER CONSERVATION DISTRICT

By: _____
President

_____
Secretary