

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

**MODEL WELL STANDARDS ORDINANCE
ADOPTED IN ACCORDANCE WITH
WATER CODE SECTION 13801**

NOVEMBER 1, 1989

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MODEL WELL STANDARDS ORDINANCE

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NOVEMBER 1, 1989

1 PURPOSE AND DEFINITIONS:

1.1 INTENT OF ORDINANCE:

It is the purpose of this ordinance to protect the health, safety, and general welfare of the people of the state of California by ensuring that the ground waters of this state will not be polluted or contaminated. To this end, minimum requirements are contained in this ordinance for construction, reconstruction, repair, and destruction¹ of water wells, cathodic protection wells, and monitoring wells.

1.2 DEFINITIONS AND INTERPRETATION:

1.2.1 AS DEFINED IN OTHER DOCUMENTS:

Except as otherwise required by the context of this ordinance, the terms used in this ordinance shall have the same meaning as in Chapter 10 of Division 7 of the California Water Code and the Department of Water Resources Bulletin 74-81 and subsequent supplements or revisions.

1.2.2 "BOARD"

shall mean the governing board of the local jurisdiction having well standards authority: the county Board of supervisors, the city council, or the Water District Board of Directors.

1.2.3 "ENFORCEMENT AGENCY"

shall mean that agency(s) designated by the Board to administer and enforce this ordinance.

1.2.4 "PERSON"

shall mean any person, firm, corporation, or governmental agency, to the extent authorized by law.

1.2.5 "WELL OR WATER WELL"

The California Water Code: Section 13710, defines well or water well to mean "... any artificial excavation constructed by any method for the purpose of extracting water from, or injecting water into, the underground." The State Water Resources Control Board does not intend that potholes, drainage trenches or canals, wastewater ponds, shallow root zone piezometers, stock ponds, or similar excavations be included within the definition of wells.

¹ The California Water Code Section 13801 (b) refers to well construction, maintenance, and abandonment standards. Since the Department of Water Resources' "Water Well Standards" defines an abandoned well in terms of an undesirable condition, best remedied by destruction of the well, this usage is followed in this ordinance.

1.2.6 TENSE OR GENDER:

Words used in the present tense include the future as well as the present. Words used in the masculine gender include the feminine and neuter. The singular number includes the plural, and the plural the singular.

1.2.7 SECTION HEADINGS

when contained in this ordinance, shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any section.

2 PERMITS

2.1 PERMIT APPLICATIONS:

2.1.1 WHEN REQUIRED:

No person shall dig, bore, drill, deepen, modify, repair, or destroy a water well, cathodic protection well, observation well, monitoring well or any other excavation that may intersect ground water without first applying for and receiving a permit as provided in this ordinance unless exempted by law.

2.1.2 PENALTY FOR FAILURE TO OBTAIN PERMIT:

Any person who shall commence any work for which a permit is required by this ordinance without having obtained a permit shall be required, if subsequently granted a permit for this work, to pay double the standard permit fee.

2.1.3 EMERGENCY WORK:

The above provisions shall not apply to emergency work required on short notice to maintain drinking water or agricultural supply systems. In such cases, the person responsible for the emergency work shall:

- 2.1.3.1 TIME LIMIT: Apply for a permit within three working days after commencement of emergency work.
- 2.1.3.2 URGENCY: Satisfy the enforcement agency that such work was urgently necessary.
- 2.1.3.3 CONFORMANCE WITH STANDARDS: Demonstrate that all work performed was in conformance with the technical standards as designated in Article 3.

2.2 APPLICATION PROCEDURE:

Applications for permits shall be made to the enforcement agency on forms approved by the agency and shall contain all such information the enforcement agency requires to accomplish the purposes of this ordinance. The application shall be accompanied by the required filing fee. If the enforcement agency finds the application contains all necessary information, it shall issue to the applicant a comprehensive permit containing such conditions as are necessary to fulfill the purposes of this ordinance.

2.3 FILING FEES:

Filing fees may be set by the Board from time to time by ordinance.

2.4 PERMIT CONDITIONS:

2.4.1 LIMITATIONS:

When the enforcement agency issues a permit pursuant to this ordinance, it may condition the permit in any manner necessary to carry out the purposes of this ordinance. Conditions may include but are not limited to such quantity and quality testing methods as the enforcement agency finds necessary.

2.4.2 PERFORMANCE BOND:

The enforcement agency may require a performance bond as a condition to the permit.

2.4.3 PERSONS PERMITTED TO WORK ON WELLS:

All construction, reconstruction, or destruction work on wells shall be performed by a person who possesses an active C-57 contractor's license in accordance with the provisions of the California Business and Professions Code, Section 7000, et. seq. and Water Code Section 13750.5.

2.4.4 PROPER DISPOSAL OF DRILLING FLUIDS:

The permit shall contain a clause requiring the safe and appropriate handling and disposal of drilling fluids and other drilling materials used in connections with the permitted work.

2.4.5 ABANDONED WELLS:

As a condition of a construction or reconstruction permit, any abandoned wells on the property shall be destroyed in accordance with standards provided in this ordinance.

2.4.6 POSTING OF PERMIT:

It shall be the responsibility of the permittee to maintain a copy of this permit on the drilling site during all stages of construction or destruction.

2.5 PERMIT - DENIAL:

The enforcement agency shall deny an application for a permit if, in its judgement, issuance of a permit is not in the public interest.

2.6 PERMIT - EXPIRATION:

The permittee shall complete the work authorized by the permit within the time and before the date set out in the permit. If there have been exceptional circumstances, the enforcement agency may grant the applicant an extension. Upon the expiration of the permit, no further work shall be done unless and until the applicant has received an extension or a new permit.

2.7 PERMIT - SUSPENSION AND REVOCATION:

2.7.1 CIRCUMSTANCES FOR SUCH ACTION:

The enforcement agency may suspend or revoke any permit issued pursuant to this ordinance, whenever it finds that the permittee has violated any of the provisions of this ordinance, or has misrepresented any material fact in his application, or any supporting documents, for such a permit. Prior to ordering any such suspension or revocation, the enforcement agency shall give the permittee an opportunity for a hearing thereon, after reasonable notice. The hearing shall be before the enforcement agency head or his designated representative. An appeal may be made as set forth below.

2.7.2 CONSEQUENCES:

No person whose permit has been suspended or revoked shall continue to perform the work for which the permit was granted until, in the case of suspension, such permit has been reinstated by the enforcement agency.

2.7.3 ORDERED ADDITIONAL WORK:

Upon suspending or revoking any permit, the enforcement agency may order the permittee to perform any work reasonably necessary to protect the under- ground waters from pollution or contamination, if any work already done by the permit- tee has left a well in such condition as to constitute a hazard to the quality of the underground waters. No permittee or person who has held any permit issued pursuant to the ordinance shall fail to comply with any such order.

3 WELL STANDARDS:

Except as otherwise specified, the standards for the construction, repair, reconstruction, or destruction of wells shall be as set forth in:

3.1 DEPARTMENT OF WATER RESOURCES BULLETIN 74-81:

The California Department of Water Resources Bulletin 74-81 "Water Well Standards, State of California" except as modified by subsequent revisions.

3.2 ALL SUBSEQUENT SUPPLEMENTS AND REVISIONS:

All subsequent Bulletin 74-81 supplements or revisions issued by the Department of Water Resources, once the revised standards have been reviewed at appropriate public hearings.

4 VARIANCES:

The enforcement agency shall have the power under the following specified conditions to grant a variance from any provision of the standards referenced above and to prescribe alternative requirements in their place.

4.1 SPECIAL CIRCUMSTANCES:

There must be, in a specific case, a special circumstance where practical difficulties or unnecessary hardship would result from the strict interpretation and enforcement of any standard.

4.2 INTENT OF ORDINANCE NOT COMPROMISED:

The granting of such a variance is consistent with the purposes of this ordinance.

5 SPECIAL GROUND WATER PROTECTION:

The enforcement agency may designate areas where ground water quality problems are known to exist and where a well will penetrate more than one aquifer. The enforcement agency may require in these designated areas special well seal(s) to prevent mixing of water from several aquifers. Where an applicant proposes well construction, reconstruction, or destruction work in such an area, the enforcement agency may require the applicant to provide a report prepared by a Registered Geologist

or Registered Civil Engineer (California Business and Professions Code Sections 7850 and 6762 respectively) that identifies all strata containing poor quality water and recommends the location and specifications of the seal or seals needed to prevent the entrance of poor-quality water or its migration into other aquifers.

6 INSPECTIONS:

The enforcement agency shall make an inspection of the annular seal construction work. It may make an initial inspection of each proposed drilling site, an inspection at the completion of the work, and inspections at such other times as it deems appropriate.

6.1 INITIAL INSPECTION:

Upon receipt of an application, the enforcement agency may make an inspection of the drilling site prior to the issuance of a well permit. The purpose of this inspection is to determine whether there are any site conditions such that the enforcement agency shall do the following:

6.1.1 RELOCATION OF DRILLING SITE:

Require relocation of the drilling site should the location shown on the permit application be too close to potential sources of pollution.

6.1.2 ADDITIONAL CONDITIONS:

Set additional conditions if needed to remediate any previously unknown ground water quality protection problems.

6.2 INSPECTION OF WELL SEAL:

The enforcement agency shall inspect the annular space grout depth prior to the sealing.

6.2.1 REQUIRED NOTICE:

The enforcement agency shall be notified by the well driller a minimum of twenty-four hours prior to sealing the annular space. Drillers who anticipate completing a well in less than one day shall notify the enforcement agency twenty-four hours prior to commencement of drilling and provide the anticipated time to commence the sealing of the annular space.

6.2.2 SHOULD ENFORCEMENT AGENCY FAIL TO BE PRESENT:

If the enforcement agency wishes to allow a seal to be tremied or placed without inspection, the driller shall seal the well in accordance with the standards of this ordinance and any permit conditions. No seal shall be tremied or placed until permission to proceed is given.

6.3 FINAL INSPECTION:

If requested by the enforcement agency, the driller shall notify the enforcement agency within seven days of the completion of their work at each drilling site. The enforcement agency may make a final inspection after completion of the work to determine whether the well was completed in accordance with this ordinance.

6.4 WAIVER OF INSPECTIONS:

The enforcement agency may waive inspections should any of the following conditions exist:

6.4.1 WELL INSPECTED BY OTHER AGENCIES:

Inspections may be waived where the work will be inspected by the staff of the California Regional Water Quality Control Board or the California Department of Health Services if these designated agencies will inspect and report to the enforcement agency on all drilling features required by the Standards.

6.4.2 MONITORING WELLS UNDER SPECIFIED CONDITIONS:

Inspections may be waived for monitoring wells that will penetrate only aquifers containing degraded waters or will penetrate only formations that normally contain no water.

6.4.3 DRILLING SITES KNOWN TO HAVE NO THREATS TO GROUND WATER QUALITY:

Initial inspections may be waived when the drilling site is well known to the enforcement agency staff and it is known that no significant threats to ground water quality exist in the area.

7 COMPLETION REPORTS:

The driller shall provide the enforcement agency a completion report within 30 days of the completion of any well construction, reconstruction, or destruction job.

7.1 SUBMITTAL OF STATE "REPORT OF COMPLETION":

A copy of the "Report of Completion" (Water Well Drillers Report, Department of Water Resources Form 188) required by California Water Code Section 13751 shall be submitted by the permittee to the enforcement agency within thirty days of construction, alteration, or destruction of any well. This report shall document that the work was completed in accordance with the standards and all additional permit conditions.

This section shall not be deemed to release any person from the requirement to file said report with the state Department of Water Resources.

7.2 CONFIDENTIALITY OF REPORT:

In accordance with California Water Code Section 13752, reports shall be kept confidential. Reports shall be made available to any person who obtains written authorization from the owner of the well.

7.3 OTHER AGENCY'S REQUIREMENTS:

Nothing in this ordinance shall be deemed to excuse any person from compliance with the provisions of California Water Code Sections 13750 through 13755 relating to notices and reports of completion or any other Federal, State, or Local reporting regulations.

8 APPEALS.

8.1 RIGHT OF HEARING:

Any person whose application for a permit has been denied, or granted conditionally, or whose permit has been suspended or revoked, or whose variance request has been denied, may appeal to the Board, in writing, within ten days after any such denial, conditional granting, suspension, or revocation. Such appeal shall specify the grounds upon which it is taken and shall be accompanied by a filing fee as set forth herein. The clerk of the Board shall set such appeal for hearing at the earliest practicable time, and shall notify the appellant and the enforcement agency, in writing, of the time so set at least five days prior to the hearing.

8.2 ACTION BY THE BOARD:

After such hearing; the Board may reverse, wholly or partly, or may modify the order or determination appealed from.

9 RIGHT OF ENTRY AND INSPECTION:

Representatives of the enforcement agency shall have the right to enter upon any premises at all reasonable times to make inspections and tests for the purpose of such enforcement and administration. If any such premises are occupied, he shall first present proper credentials and demand entry. If the same is unoccupied, he shall first make a reasonable effort to locate the owner or other person having charge or control of same and demand entry. If such entry is refused, he shall have recourse to such remedies as are provided by law to secure entry.

10 ABATEMENT OF ABANDONED WELLS:

All persons owning an abandoned well as defined in the well standards shall destroy it before December 31, 1991 except those excluded by California Health and Safety Code Section 24440.

11 CRIMINAL AND CIVIL ENFORCEMENT:

11.1 VIOLATION A MISDEMEANOR:

Any person who violates any of the provisions of this ordinance is guilty of a misdemeanor, and upon conviction thereof is punishable by such penalties as the Board shall from time to time set by ordinance.

11.2 CIVIL ENFORCEMENT - NOTICE OF VIOLATION:

11.2.1 NOTICE OF VIOLATION RECORDATION:

Whenever the enforcement agency determines that a well (a) has not been completed in accordance with a well permit or the plans and specification relating thereto, (b) has been constructed without the required permit, or (c) an abandoned well has not been destroyed in accordance with the standards, the enforcement agency may record a notice of violation with the office of the county recorder. The owner(s) of the property as revealed by the assessment roll, on which the violation is situated and any other person responsible for the violation shall be notified of the recordation, if their address is available.

If the property owner(s) or authorized agent disagree with the determination, he may submit evidence to the enforcement agency indicating that there is no violation and then shall have a right to appeal an adverse decision of the enforcement agency to the Board in accordance with the provisions of the following Section.

11.2.2 APPEAL - ACTION BY THE BOARD:

11.2.2.1 DATE OF HEARING: Upon receipt of the notice of appeal, the Board shall, within fifteen days following the filing of the appeal, set a date for public hearing thereon.

11.2.2.2 EVIDENCE: The evidence before the Board shall consist of the records in the enforcement agency's files and any other relevant evidence which, in the judgement of the Board, should be considered to effectuate and implement the policies of this ordinance.

11.2.2.3 DECISION BY BOARD: The Board may reverse or affirm, wholly or in part, or modify the decision or the notice of violation and may make such order as should be made. Such action shall be final.

11.2.3 REMOVAL OF VIOLATION NOTICE:

The enforcement agency shall submit a removal of notice of violation to the county recorder when (a) it is determined by the enforcement agency or the Board, after review, that no violation of this ordinance exists; or (b) all required and corrective work has been completed and approved by the enforcement agency;

11.3 CIVIL ENFORCEMENT - NUISANCE:

Violations of this ordinance may also be redressed in the manner hereinafter set forth by civil action. In addition to being subject to prosecution, any person who violates any of the provisions of this ordinance may be made the subject of a civil action. Appropriate civil action includes, but is not limited to, injunctive relief and cost recovery.

11.4 REMEDIES CUMULATIVE:

The remedies available to the Board to enforce this ordinance are in addition to any other remedies available under ordinance or statute, and do not replace or supplant any other remedy but are cumulative thereto.

12 REPORTS TO THE REGIONAL BOARD:

Pursuant to California Water Code Section 13225 (c), the enforcement agency shall submit a report, not less than annually, to the California Regional Water Quality Control Board(s) having jurisdiction in their area. This report shall contain the following data, unless the Regional Board determines a lesser amount of information is necessary:

12.1 WELLS CONSTRUCTED OR DESTROYED:

The number of wells constructed or destroyed.

12.2 ABATEMENT ACTIONS:

Descriptions of all well destructions -undertaken by the enforcement agency using its regulatory authority under nuisance abatement powers.

12.3 VARIANCES GRANTED:

A description of each specific case where variances were granted and the circumstances that made a variance necessary.

12.4 INSPECTION WAIVERS GRANTED:

A description of each specific case where an inspection was waived and the circumstances that made the waiver necessary.

13 SEVERABILITY:

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, or unconstitutional by a decision of a court of competent jurisdiction, it shall not affect the remaining portions of this ordinance, including any other section, subsection, sentence, clause, or phrase therein.