

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE TEXAS DEPARTMENT OF LICENSING AND REGULATION
AND
THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

ARTICLE I. RECITALS

Pursuant to Senate Bill 279 (78th Legislature, 2003), Section 19.015, which created Section 1901.257(b), Texas Occupations Code, the Texas Department of Licensing and Regulation (TDLR) and the Texas Commission on Environmental Quality (TCEQ) shall enter into a Memorandum of Understanding (MOU) to coordinate the efforts of the TDLR, the field offices of the TCEQ, and groundwater conservation districts (GCDs), relating to investigative procedures for referrals of complaints regarding abandoned and/or deteriorated wells.

Pursuant to Senate Bill 279 (78th Legislature, 2003), Section 19.015, which created Section 1901.257(c), Texas Occupations Code, GCDs in which an abandoned and/or deteriorated well is located shall join the Memorandum of Understanding adopted under Section 1901.257(b). In addition, GCDs may enforce compliance with Texas Occupations Code Section 1901.255 related to abandoned and/or deteriorated wells located in the boundaries of the district.

Therefore, pursuant to the above referenced sections of Texas Occupations Code Chapter 1901 and in compliance with authority granted by the Interagency Cooperation Act, TEX. GOVT. CODE ANN. § 771.003, the TDLR and TCEQ enter into this MOU to coordinate efforts related to investigative procedures for referrals of complaints regarding abandoned and/or deteriorated wells. Each GCD in which an abandoned and/or deteriorated well is located is required by Texas Occupations Code, Section 1901.257(c) to join this MOU. Such joinder is established by submission to the TDLR at P.O. Box 12157, Austin, TX 78711, of a copy of appropriate GCD Board action indicating that the GCD has joined this MOU and understands its responsibilities under the MOU and Chapter 1901 of the Texas Occupations Code.

ARTICLE II. TDLR RESPONSIBILITIES

- A. 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.
- B. Enforce compliance with Section 1901.255 related to persons possessing abandoned and/or deteriorated wells.
- C. Coordinate investigation and enforcement efforts with appropriate GCD for any complaints regarding wells located within the boundaries of a GCD.
- D. 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 Section 1901.255 related to persons possessing abandoned and/or deteriorated wells.

E. 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 Section 1901.255 related to persons possessing abandoned and/or deteriorated wells.

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

G. 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.

ARTICLE III. TCEQ RESPONSIBILITIES

A. 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.

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

ARTICLE IV. GCD RESPONSIBILITIES

A. 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.

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

1. Investigate the complaint of an abandoned and/or deteriorated well within the boundaries of the GCD; and

2. Enforce compliance with Texas Occupations Code, Section 1901.255 related to landowners that have an abandoned and/or deteriorated well located on their property.

C. 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.

D. Any GCD enforcement under Texas Occupations Code, Sections 1901.255 and 1901.256, may be coordinated with the TDLR.

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

ARTICLE V. REFERRAL AND INVESTIGATION REQUIREMENTS

A. For the purposes of this MOU, a "referral" shall constitute information gathered, compiled, and forwarded to the TDLR. Written referrals via email or letter shall utilize the appropriate form, provided by TDLR, and document information on the abandoned and/or deteriorated well, which may include:

- (1) the name of landowner possessing the abandoned and/or deteriorated well,
- (2) the physical address of said landowner,
- (3) the latitude and longitude of the abandoned and/or deteriorated well, and
- (4) if possible, a photograph of the well.

B. Following the receipt of a referral from TCEQ, the TDLR will begin landowner notification procedures or follow up investigation or, if the well is inside the boundaries of a GCD, provide a referral to the General Manager of the corresponding GCD for investigation and possible enforcement action to assure compliance with Section 1901.255 related to persons possessing abandoned and/or deteriorated wells.

C. Referrals to TDLR should be sent to:

Water Well Driller/Pump Installer Section
Compliance Division
TDLR
Phone: 512/463-7880
Fax: 512/463-8616
Email: water.well@license.state.tx.us

ARTICLE VI. TERM

The term of this MOU shall be from the date both the TDLR and TCEQ adopt the MOU by rule. The TCEQ or TDLR may for any reason terminate this MOU upon thirty days notice to the other agency.

ARTICLE VII. SEVERABILITY

Should any provision of this MOU be held to be null, void, or for any reason without force or effect, such provision shall be construed as severable from the remainder of this document and shall not affect the validity of all other provisions, which shall remain in full force and effect.

ARTICLE VIII. AMENDMENT

This MOU may be amended through rulemaking proposal and adoption at any time by mutual consent of the TCEQ and the TDLR.

TEXAS DEPARTMENT OF LICENSING AND REGULATION

Signature: William H. Kuntz Jr

Printed Name and Title: William H. Kuntz Jr Executive Director

Date: 3/2/05

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Signature: [Signature]

Printed Name and Title: Executive Director TCEQ

Date: March 10, 2005