



## PRAIRIELANDS GROUNDWATER CONSERVATION DISTRICT

205 S CADDO STREET/P.O. BOX 3128

CLEBURNE, TEXAS 76033

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### APPLICATION FOR COMPLIANCE ORDER

(Effective December 17, 2018)

*This form may be submitted in person, by mail or e-mail, or by fax.*

**This application for a Compliance Order must be accompanied by an application for an Operating Permit if the applicant does not already hold an Operating Permit and/or a Historic Use Permit for the same well.**

In accordance with District Rule 5.5, a Compliance Order is required if a person seeks to produce groundwater in an annual amount that exceeds the amount that can be authorized by permit(s) under the District Rules. The applicant must be (1) the holder of a Historic Use Permit and/or Operating Permit issued by the District; or (2) an applicant for an Operating Permit who currently does not hold any District permit for the operation an existing well or the drilling and operation of a new well. Groundwater production under compliance orders and their renewals is limited to a maximum of twenty (20) years to enable the permit holder sufficient time to secure an alternative water source. Payment of a disincentive fee is required for groundwater production authorized under a compliance order. To ensure an applicant understands the implications of a Compliance Order, **the District recommends applicants schedule a pre-application meeting with District staff prior to final submission of this application.**

**Application Date:** \_\_\_\_\_

**Please check all boxes that apply:**

- ☐ I have a current Operating Permit issued by the District.  
OP Number: \_\_\_\_\_
- ☐ I have a Historic Use Permit issued by the District, or I have timely applied for a Historic Use Permit and the application is still pending.  
HUP Number: \_\_\_\_\_
- ☐ I do not currently hold a permit issued by the District and do not have a pending Historic Use Permit application (an application for an Operating Permit must be submitted in conjunction with this Compliance Order Application if you check this box).
- ☐ This application for a Compliance Order is accompanied by an application for an Operating Permit or an amendment to an existing Operating Permit.

If you currently hold a Historic Use Permit and/or an Operating Permit, or have applied for a Historic Use Permit and/or an Operating Permit or an amendment to an Operating Permit and the application(s) are still pending (including if you are applying for an Operating Permit or amendment concurrently with this application), please indicate the annual amount of groundwater production authorized or applied for and still pending (gallons / year):

**Historic Use Permits (HUP):**

Approved HUP annual amount authorized: \_\_\_\_\_ gallons / year

HUP application pending approval: amount designated as Maximum Historic Use in your pending application: \_\_\_\_\_ gallons / year

**Operating Permits (OP):**

Approved OP annual amount authorized: \_\_\_\_\_ gallons / year

OP application or OP amendment application: amount applied for in pending application or application submitted concurrently with this compliance order application: \_\_\_\_\_ gallons / year

**TOTAL** Amount Authorized or Applied for under Permits and Permit Applications (add the amounts in the four lines above): \_\_\_\_\_ gallons / year

**NOTE:** You must apply for permits (HUPs and/or OPs) for all annual groundwater production for which you are eligible to produce by permit under the District Rules. Only the amount of groundwater production you seek that is over and above the amount you are eligible to produce under the Rules should be applied for in this application for a Compliance Order. District staff can assist you in calculating how much annual groundwater production you are eligible to produce by permit under the Rules, based on your historic use and/or the amount of contiguous surface acreage you own or lease for the right to produce groundwater at the well site, and you should seek the assistance of the District staff in determining this amount.

Annual amount of groundwater you are eligible to produce by permits under the District Rules: \_\_\_\_\_ gallons / year

Indicate below the amount of groundwater you are requesting to produce under a Compliance Order (over and above the TOTAL amount authorized or applied for under permits or permit applications above).

Amount of annual groundwater production requested under compliance order: \_\_\_\_\_ gallons / year

**PGCD Well Registration Number(s) Associated with this Compliance Order Application:**

Registration Number: \_\_\_\_\_ gallons / year

Registration Number: \_\_\_\_\_ gallons / year

Registration Number: \_\_\_\_\_ gallons / year

Registration Number: \_\_\_\_\_ gallons / year

*If additional wells are included, please provide as an attachment.*

## I. APPLICANT INFORMATION

Applicant Name: \_\_\_\_\_ E-mail: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Contact Person (if different than above): \_\_\_\_\_

Mailing address:

\_\_\_\_\_  
Street Name and Number

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

## II. ALTERNATIVE WATER SOURCES

Under District Rule 5.5(b), the District's Board of Directors may issue a Compliance Order if it determines that:

- (a) no economically feasible\* alternative water sources are available to the Applicant; and
- (b) the purchase or lease of additional contiguous controlled acreage that would provide Applicant with the necessary acreage under Rules 5.2 or 5.3 to meet the Applicant's water need is not feasible within a reasonable time.

\* *For purposes of these requirements, an alternative water source is considered feasible if it can be delivered to the user for no more than twenty-five (25) times the District's water use fee rate then in effect.*

**Indicate below whether your need is for:**

- ☐ Raw (untreated) water
- ☐ Treated/potable water

**Please certify that the above conditions apply to your situation:**

- ☐ I certify that the purchase or lease of additional contiguous controlled acreage is not feasible within a reasonable time and that no other economically feasible alternative water source is available to meet my water need within a reasonable time.

\_\_\_\_\_  
Applicant's signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's printed name

## III. GENERAL TERMS AND CONDITIONS OF COMPLIANCE ORDERS

- (a) The terms and conditions of a Compliance Order issued by the District shall be established in the sole discretion of the District Board of Directors. However, such terms and conditions shall generally:
  - 1. require the Applicant to timely pay a disincentive fee for all groundwater production authorized under the Compliance Order;
  - 2. require the Applicant to exercise due diligence in the pursuit of alternative water sources or the purchase or lease of additional contiguous controlled acreage during the term of the Compliance Order; and
  - 3. provide for expiration of the Compliance Order to coincide with expiration of the underlying Operating Permit and/or Historic Use Permit. The Board may extend the terms of any associated permit to have the permit expire on the same date as the Compliance Order.
- (b) Any groundwater production authorized under a Compliance Order shall not be authorized by or included in the production amount recognized in the associated Operating Permit and/or Historic Use Permit for the well. However, the groundwater must be produced from a well recognized in an associated Operating Permit and/or Historic Use Permit.
- (c) The District may issue subsequent Compliance Orders to an Applicant who has already been issued a Compliance Order.
- (d) A Compliance Order is eligible, but not guaranteed, for renewal every five (5) years, contingent upon compliance with the requirements for renewal under District Rules Appendix 1-Enforcement Policy and Penalty Schedule, Section III. A Compliance Order may be renewed up to a maximum of twenty (20) years. The applicant assumes the risk, including all economic risk and potential damages, that the Compliance Order may not be renewed by the District in the future.

#### **IV. FEES & WATER USE REFUND**

- (a) Compliance Order Application Fee – In accordance with District Rule 5.5(c), the Applicant shall pay a non-refundable Compliance Order application fee in the amount of 1) five (5) percent of the total amount of groundwater the Applicant seeks authorization to produce under the Compliance Order; or 2) two-hundred fifty dollars (\$250.00), whichever is greater.
- (b) Water Use Fees – Upon issuance of a Compliance Order, the Permittee shall pay water use fees to the District in accordance with Section 7 of the District’s Permanent Rules (no delay of implementation until 2021). Water use fees shall be based on the combined total amount of groundwater authorized to be produced under the Compliance Order **and** the Permittee’s Operating Permit and/or Historic Use Permit. If the amount of groundwater actually produced is less than the combined total amount authorized under the Compliance Order and the Operating Permit and/or Historic Use Permit, the Permittee may receive a partial refund of water use fees paid in advance (*See* (d) below).
- (c) Disincentive Fee – The holder of a Compliance Order shall pay the disincentive fee required under District Rule 5.5 in conjunction with the option chosen for submission of water use fee payments under District Rule 7.3. The disincentive fee for the first five (5) years of a Compliance Order is an amount equal to ten (10) times the amount of the water use fee for all excess groundwater production under the Compliance Order. This fee increases with every five-year renewal of the Compliance Order.

- (d) Water Use Refund – The holder of a Compliance Order and an Operating and/or Historic Use Permit, if otherwise eligible, may receive a partial refund for overpayment of water use fees in accordance with District Rule 7.5. The amount of any refund shall be based on the combined total amount of groundwater authorized to be produced under the Compliance Order **and** the Permittee’s Operating and/or Historic Use Permit. Refunds will be given in accordance with the requirements of Rule 7.3.

**Please indicate that you have attached to this application a non-refundable application fee in the amount of (check one):**

- ☐ Five (5) percent of the total amount of groundwater I seek to produce under the Compliance Order (calculated based on the District’s water use fee rate in effect at time of application); or
- ☐ Two-hundred and fifty dollars (\$250.00), whichever is greater

## **V. VIOLATIONS OF COMPLIANCE ORDERS**

The District Rules contain numerous provisions related to violations of Compliance Orders and the fees and penalties associated with such violations. **Please read carefully the following requirements from the District Rules and sign the certification that follows.**

- (a) A person who in any year produces groundwater in excess of the combined total amounts authorized by permit(s) **and** a Compliance Order is subject to enforcement for an additional major violation of these rules. (*See* District Rule 5.5(f)).
- (b) Any violation during the term of the Compliance Order shall be included in the determination of the level of the violation, but violations that occurred during a previous Compliance Order shall not be included in the determination of the level of a violation during the current Compliance Order. (*See* District Rules Appendix 1- Enforcement Policy and Penalty Schedule, Section II).
- (c) Any production of groundwater over the amount authorized in the permit during the period of the Compliance Order is subject to the applicable disincentive fee payment, even if the holder of the Compliance Order does not produce groundwater in excess of the amount authorized in the permit in some years during the period of the Compliance Order. (*See* District Rules Appendix 1- Enforcement Policy and Penalty Schedule, Section III).
- (d) If a person has ever entered into a Compliance Order with the District and enters into another Compliance Order through renewal or otherwise, the provisions of any subsequent Compliance Order shall be those provisions applicable for the next higher five (5) year level of fees and penalties as set forth in the “Fee and Penalty Schedule for Excessive Groundwater Pumping” from the previous Compliance Order, regardless of any intermittent years of pumping within the terms of the permit or permits held by the person. (*See* District Rules Appendix 1- Enforcement Policy and Penalty Schedule, Section III).
- (e) If a person produces groundwater in excess of the combined total amount authorized by the Compliance Order and by permit(s), the person is subject to the additional fees and penalties as set forth in “Fee and Penalty Schedule for Excessive Groundwater Pumping” for Compliance Order Violation, in addition to the disincentive fee required in the Compliance Order.

**By my signature, I certify that I have read and understand the above provisions regarding violations of a Compliance Order and that I have reviewed the Fee and Penalty Schedule for Excessive Groundwater Pumping in District Rules Appendix 1 – Enforcement Policy and Penalty Schedule.**

\_\_\_\_\_  
Applicant's signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's printed name

## **VI. CERTIFICATION**

I hereby certify that the information provided herein and given herewith is true and accurate to the best of my knowledge and belief. I further certify that all water produced from the well that is the subject of this Compliance Order will at all times be put to beneficial use. I further certify that I will comply with the District's Management Plan and rules.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

### **DISTRICT STAFF TO COMPLETE THIS SECTION**

- Does the Applicant indicate that they intend to use treated/potable water? \_\_\_\_\_ If so, is the well that is the subject of this application located in a retail CCN? \_\_\_\_\_
- Did District Staff confirm that an alternative water source is not economically feasible and is unavailable to Applicant within a reasonable time? \_\_\_\_\_
- Associated Permit Number: \_\_\_\_\_
- ☐ Compliance Order application fee received      Date: \_\_\_\_\_  
Method/Check No. \_\_\_\_\_

Annual amount of groundwater applicant is eligible to produce by permits under the District Rules as of the application date as determined by District staff: \_\_\_\_\_ g/yr

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

Board Action on Application:

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