

**BANDERA COUNTY RIVER
AUTHORITY AND
GROUNDWATER DISTRICT
WATER QUALITY PROTECTION**

**DISTRICT RULES AUTHORIZED BY TEXAS
WATER CODE CHAPTER 51**

JANUARY 9, 2014

Whereas, In 1971 the 62nd Legislature of the State of Texas, under authority of Section 59, Article XVI of the Texas Constitution, enabled the creation of the Bandera County River Authority

Whereas, In 1989 the 71st Legislature of the State of Texas, under authority of Section 59, Article XVI of the Texas Constitution, enabled the creation of the Springhill Water Management District.

Whereas, the Texas Commission on Environmental Quality (TCEQ) ordered, on April 10, 2003, that the District's name be changed from Springhills Water Management District to Bandera County River Authority and Groundwater District; and

Whereas, the District is empowered with the authority of a Water Control and Improvement District/ River Authority and a Groundwater Conservation District by the general laws of the State and Chapters 36, 49 and 51 of the Texas Water Code.

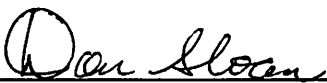
Whereas, the District is charged with conserving and protecting groundwater and surface water, and the natural resources in the District; and as a dual-powers District is charged and empowered by Article XVI, Section 59 of the Texas Constitution.

Whereas, the District is directed by the Texas Water Code to establish rules for the District; and

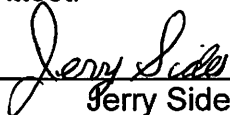
Whereas, the District recognizes the wide range of variables involved in protecting the water quality and natural resources in the County, and understands the complexity of the interconnectivity of the surface and groundwater systems.

NOW, THEREFORE, BE IT RESOLVED:

The Board of Directors of the Bandera County River Authority and Groundwater District hereby approves the amendment and adoption of the following rules for the District to become effective on this the 9th day of January, 2014.



Don Sloan
President

Attest:


Jerry Sides
Secretary

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Preamble:

Bandera County River Authority

In 1971, the 62nd Texas Legislature created the Bandera County River Authority under House Bill 988. It was created as a conservation and reclamation district under and pursuant to Article XVI, Section 59, of the Texas Constitution. As defined by Article 8280-526, Vernon's Texas Civil Statutes, the River Authority encompassed all of the territory contained in Bandera County except the territory included in the Bandera County Fresh Water Supply District No.1 (Pebble Beach) and the Bandera County Water Control and Improvement District No.1 (City of Bandera).

According to the provisions of the legislation, the Bandera County River Authority "shall have and exercise, and is hereby vested with, all of the rights, powers, privileges, authority and duties conferred and imposed by the general laws of this state now in force or hereafter enacted, applicable to water control and improvement districts created under authority of Article XVI, Section 59 of the Texas Constitution; but to the extent that the Provisions of any such general laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail. All such general laws are hereby adopted and incorporated by reference with the same effect as if incorporated in full in this Act."

Springhills Water Management District

The Bandera County River Authority was a springboard for the creation of the joint surface and groundwater district. Beginning with the reorganization of the River Authority Board of Directors in 1985, the Directors began working with State and local officials, and concerned citizens to determine the most advantageous method to manage groundwater in Bandera County. After numerous public meetings the decision was made to pursue legislation creating a joint surface and groundwater district in Bandera County. The result was the creation and confirmation of the Springhills Water Management District.

Springhills Water Management District was created under Senate Bill 1636. The District's enabling legislation, appearing as Act of June 17, 1989, Ch. 654, 1989, Tex. Gen. Laws 2155 (Vernon), granted the District the rights, powers, privileges, authority, functions, and duties provided by Chapters 50 and 52; and the rights, powers, purposes, authority, and functions of the Bandera County River Authority. The legislation defines the District's boundaries as all of the territory contained within Bandera County. The legislation further stipulates that the Board of Directors will be composed of nine (9) directors. The directors will be elected from commissioner precincts with one director at large.

The Springhills Water Management District continued all of the programs and activities initiated by the River Authority, and implemented the programs required of a groundwater conservation district.

Bandera County River Authority and Groundwater District

On April 10, 2003, the TCEQ authorized changing the District's name to Bandera County River Authority and Groundwater District. The BCragd continues all the programs and activities of Springhills Water Management. The District has all of the rights, powers, privileges, authority, functions, and duties provided by Chapters 36, 49, and 51 of the Texas Water Code.

Authority to Promulgate Rules

- A.** The Bandera County River Authority and Ground Water District is a dual powers political subdivision of the State of Texas. In 1971, the 62nd Texas Legislature created the Bandera County River Authority under House Bill 988. It was created as a conservation and reclamation district under and pursuant to Article XVI, Section 59, of the Texas Constitution. The groundwater conservation district was merged with the original Bandera County River Authority and created as the Springhills Water Management District Act, 62nd Legislature, Regular Session, 1989. The name of the District was changed from Springhills Water Management District to Bandera County River Authority and Ground Water District by TCEQ order on April 10, 2003.
- B.** As a duly created water control and improvement district and groundwater conservation district, the District may exercise any and all statutory authority or power conferred by its enabling legislation, Section 59 article 16 of the Texas Constitution, Chapters 36, 49 and 51 of the Texas Water Codes.
- C.** The District is located within the boundaries of Bandera County and within the Groundwater Management Area 9. The District is part of Region J Regional Planning Group and located within the Hill Country Priority Groundwater Management Area.

Purpose of These Rules

These Rules are promulgated to make and enforce rules to provide for the protection and preservation of the water quality and the preservation and conservation of natural resources within the District under the authority given by Chapter 51.121 and 51.127 of the Texas Water Code.

Regulatory Compliance

These rules shall be enforced for the benefit of the health, safety, and welfare of the general public, not for the benefit of any particular person or class of persons.

Amending of Rules

The Board may, following the procedures of notice and hearing, amend these rules or any part of these rules or adopt new rules from time to time, as the Board deems necessary.

Savings Clause

If any section, sentence, paragraph, clause, or part of these rules and regulations should be held or declared invalid for any reason by a final judgment of the courts of this state or of the United States, such decision or holding shall not affect the validity of the remaining portions of these rules; and the Board of Directors does hereby declare that it would have adopted and promulgated such remaining portions of such rules irrespective of the fact that any other sentence, section, paragraph, clause, or part thereof may be declared invalid.

Rule 1 - Definitions.

The following words, terms and phrases, when used in these rules, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural waste means waterborne liquid, gaseous, or solid substances that arise from the agricultural industry and agricultural activities, including without limitation agricultural animal feeding pens and lots, structures for housing and feeding agricultural animals, and processing facilities for agricultural products. The term "agricultural waste" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farmland.

Hazardous Waste means any substances or materials in a quantity or form which, in the determination of the District or an authorized representative, poses an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, and shall include, but not be limited to, such substance as explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiologic (biologic) agents, flammables and corrosives.

Industrial waste means waterborne liquid, gaseous, or solid substances that result from any process of industry, manufacturing, trade, or business.

Other waste means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste.

Person means an individual, association, partnership, corporation, municipality, state or federal agency, or an agent or employee thereof.

Recreational waste means waterborne liquid, gaseous, or solid substances that emanate from any public or private park, beach, or recreational area.

Sewage means waterborne human waste and waste from domestic activities, such as washing, bathing, and food preparation.

To discharge means to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

Waste means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as defined in this section.

Water and water in the state mean groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or unnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

Water pollution means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Rule 2 – Prohibited Activities

2.1 - Unauthorized Discharge.

A. A person commits an offense if the person discharges or allows the discharge of any waste or pollutant into any surface or groundwater, any natural water course, or aquifer recharge zone in the County that causes or threatens to cause water pollution unless the waste or pollutant is discharged in strict compliance with all required permits or with a valid and currently effective order issued or rule adopted by the appropriate regulatory agency.

B. Such prohibited conduct and the result thereof is a nuisance.

2.2 - Responsibility for Spill of Hazardous Materials.

Any party(ies) who accidentally, negligently or intentionally causes or is responsible for a spill of hazardous material(s) affecting or potentially affecting water quality within the District shall be liable for the payment of all costs incurred by the District, or the other departments and agencies that assist it, to abate such an event. The remedy provided by this section shall be in addition to any other remedies provided by law.

2.3 – Other Evidence of Water Pollution.

A violation of any regulation or order of the Texas Railroad Commission or the Texas Commission of Environmental Quality or successor agencies regarding discharge shall be prima facie evidence of water pollution.

Rule 3 - Investigations

3.1 Right to Enter Land

A. The employees of the district may go on any land to inspect, make surveys, conduct investigations, or perform tests to determine the condition, value, and usability of the property, with reference to any proposed location of works, improvements, plants, facilities, equipment, or appliances.

B. District employees and agents are entitled to enter any public or private property within the boundaries of the District or adjacent to any reservoir or other property owned by the District at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water or any natural resources in the state or the compliance with any rule, regulation, permit, policy, or other order of the District. District employees or agents acting under this authority who enter private property shall notify when possible any occupant or management of their presence; and shall exhibit proper credentials.

3.2 Conduct of Investigation

Investigations or inspections that require entrance upon property must be conducted at reasonable times, and must try to be consistent with the property owner's and the District's rules and regulations concerning safety, internal security, and fire protection. The persons conducting such investigations must identify themselves when possible to the owner, lessee, operator, or person in charge of the well or property.

Rule 4 - Enforcement

The Bandera County River Authority and Groundwater District's General Manager is hereby authorized to designate qualified District personnel or agents to serve notices of violations of these rules and take all necessary enforcement actions.

Rule 5 - Appeal to the Board, Hearings on Enforcement Actions

A. If the District receives a written request for a hearing within 10 days from a respondent who has received a notice of violation from the District, the District shall decide at which board meeting the enforcement action will be considered. The board meeting at which the enforcement action is considered under this rule shall be considered the public hearing on the matter and fulfills the requirement, if any, for a public hearing.

B. Notice required by the Open Meetings Law shall be provided for the meeting.

C. Notice of the hearing on the enforcement action shall be mailed to the respondent by certified mail, return receipt requested, at least ten days prior to the scheduled hearing date.

D. Anyone attending the meeting on the enforcement action may make oral comments at the time designated for comments.

E. The Board, at its sole discretion, may administer an oath to any person providing comments or evidence at the hearing.

F. The board, at its sole discretion, may appoint a Hearings Officer or committee of the Board as a Hearing Body to conduct the hearing on the enforcement action. Any hearing conducted by a Hearing Body, shall be conducted in the same manner as provided in this rule. At the close of the hearing, the Presiding Officer of the Hearing Body shall make a written recommendation to the Board. The recommendation shall become part of the record. The board is not required to approve the recommendation of the Hearing Body.

G. The decision by the Board at an enforcement hearing is final. If the Board determines the enforcement action is warranted, the violation will be referred to the appropriate agency or office for any appropriate continued enforcement actions.

Rule 6 - Penalties

A. Rules and regulations adopted by the District under Texas Water Code Section 51.127 shall be recognized by the courts as if they were penal ordinances of a city. A person who violates a rule or order of the District commits a Class C misdemeanor.

B. A conviction for violation of this division shall constitute a class C misdemeanor. A person convicted of a violation of this division shall be fined a minimum amount of not less than two hundred dollars (\$200.00) per violation and a maximum amount of not more than two thousand dollars (\$2,000.00) per violation. Each violation of a particular section of this division shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this division. Conviction of a violation of these rules does not require proof of the culpable mental state of the defendant. Persons prosecuted for violating these rules shall be subject to any additional federal, state, and local laws and penal codes.

C. A civil penalty in an amount not to exceed one thousand dollars (\$1,000.00) per violation of these rules may be imposed. However, a civil penalty in an amount not to exceed five thousand dollars (\$5,000.00) per violation may be imposed for violations that cause pollution of waters flowing into a channel, stream, or other conveyance that drains into or is a part of the Medina or Sabinal Rivers. Each violation of a particular section of this division shall constitute a separate offense, and each day such an

offense continues shall be considered a new violation for purposes of assessing civil penalties and enforcement.

D. In addition to any other remedies or penalties provided in these rules, the District may file any appropriate civil actions including, without limitation, application for a temporary restraining order, a temporary injunction, a permanent injunction or an action for damages against any person violating these rules.