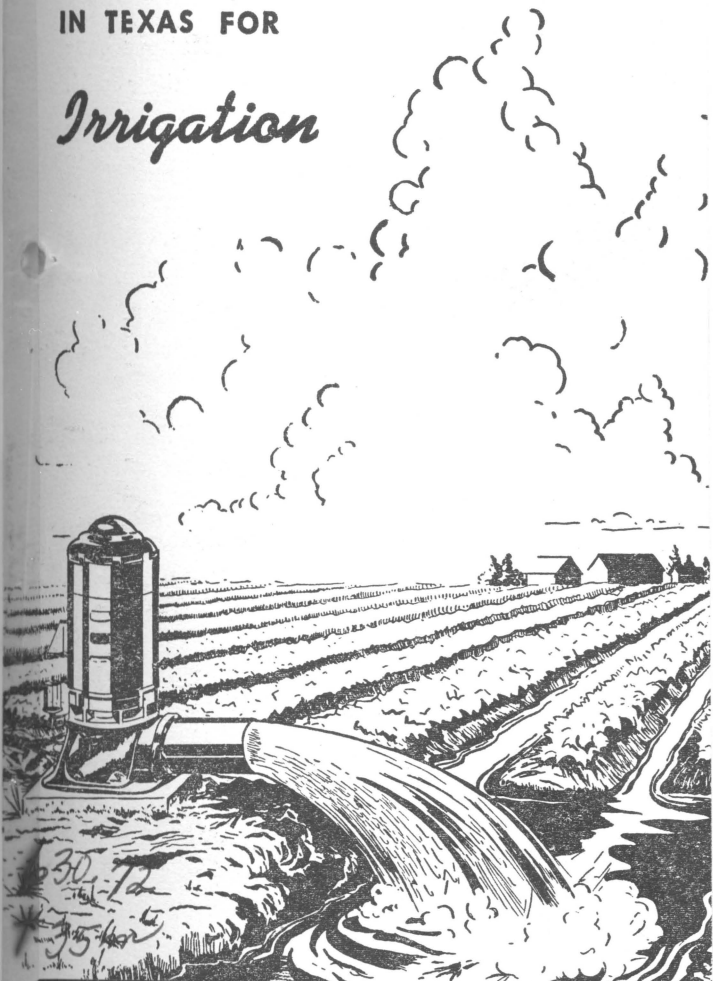
MP-214

QUESTIONS AND ANSWERS ON *Ground Water Laws* IN TEXAS FOR *Irrigation*



GRICULTURAL EXTENSION SERVICE
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ANSWERS to the following questions have been prepared by attorneys familiar with Texas water laws. Limited space in this publication does not permit a full discussion of each question. For further information the reader may consult his attorney, engineer or local water district officials if his land is located within a ground water district.

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Questions and Answers on
TEXAS GROUND WATER LAWS
For Irrigation

1. What is ground water?

As defined by law and for the purpose here, ground water is any water suitable for agricultural, domestic or stockraising purposes, percolating (permeating or filtering) below the surface of the earth. It does not include under ground streams or the underflow of rivers.

2. Who owns percolating ground water?

The owner of the surface, so long as the water may tarry under his land.

3. Is there any restriction which may prohibit drilling an irrigation well or limiting the amount of water that can be pumped from such a well?

Yes. Ground water must not be wasted nor pumped excessively to harm maliciously one's neighbor. Other than these, a landowner may pump at will and without restriction. However, restrictions may apply within the boundaries of underground water conservation districts.

4. How close can a well be drilled to a stream?

Only so close that the withdrawal of water will not take the underflow of such stream in unreasonable quantities. The water taken clearly must be percolating ground water before withdrawals can be made in unlimited amounts.

5. Can old, abandoned oil wells penetrating fresh water formations be used to develop fresh water for irrigation?

Yes, provided permission of the Railroad Commission of Texas is obtained to open a well which

has been plugged pursuant to orders of the Commission.

6. Is there a law which affects the development and use of ground water for irrigation?

Yes. This is the Uunderground Water Conservation District Law, codified as Article 7880-3c.

7. Does Article 7880-3c apply to all ground waters in Texas?

No. Only those percolating ground waters underlying land within the boundaries of such a district, duly created on a petition of and after a vote of the people within the district.

8. What is the purpose of the Underground Water Conservation District Law?

To prevent the waste of ground water, prolong the life of ground water reservoirs and conserve ground water for maximum beneficial use.

9. How can a ground water district be formed?

First, the boundaries of an underground water reservoir or subdivision thereof must be designated by the State Board of Water Engineers after notice and public hearing. Thereafter, residents within such boundaries petition the commissioners' court of the respective county, or the State Board if the territory includes land in more than one county, for authorization to create the district. If authorized, a confirmation election is held and the residents may by majority vote approve the creation.

10. Is a ground water district similar to a state soil conservation district?

Yes, in the sense that both are governed by an elected five-man board of directors and are locally controlled.

11. If a ground water district is formed, does it affect the ownership of water under a certain piece of land?

No, it does not affect the ownership, although the landowner is made subject to reasonable rules governing spacing of wells, prevention of waste, etc.

12. In a ground water district, who manages its affairs?

A five-man, elected board of directors.

13. How are ground water districts financed?

If the voters approve, the directors may levy an ad valorem tax of not to exceed 50 cents on the $100 valuation.

14. Once a ground water district is organized and the directors elected, what can it do?

(1) GENERAL POWERS: The district is given the general power of doing what is necessary for conserving, preserving, protecting and recharging the underground water in the reservoir over which it has jurisdiction.

(2) PREVENTING WASTE: Water users in an area where water is short sometimes waste this valuable resource. Water experts realize, however, that many times the waste results from not knowing how to prevent it rather than deliberately throwing away useful water. A district can use its power to prevent waste by requiring that artesian wells, for example, not be allowed to flow unrestricted when the water is not being put to a useful purpose. The law itself describes four kinds of waste, which are listed in the next section.

(3) PERMITS: The district can require that each person obtain a permit from the district before drilling a well. The permit can be conditioned on the compliance with certain specifi-

cations as to the drilling, equipping and completion of the well so as to prevent waste. One kind of waste is the withdrawal of so much water from a reservoir that other water unsuitable for use—such as salt water—would come into the reservoir. Another kind of waste is allowing water to flow when it is not being used (as in artesian wells). A third kind is letting water escape from an underground reservoir into a reservoir not containing underground water (such as a subterranean river or the underflow of a river). A fourth kind of waste is the pollution of the water by salt water or some other material damaging to its use.

(4) SPACING WELLS: The district can require that wells be drilled a certain distance apart, depending on conditions of the reservoir. Water experts state that in the principal underground water areas of Texas, the main reason for the decline in water levels and water pressures is the drilling of wells too close together. Proper spacing, they say, will help keep the water level up. If two wells are placed too close together, they weaken one another. Sometimes the well that starts pumping first will get all the water until it is shut down. Then the other well can get water. The spacing required will vary from area to area; therefore, the law sets no exact spacing, leaving that up to the districts.

One limitation on this spacing power, however, is a provision that no landowner, his heirs, assigns and lessees, can be denied a permit to drill a well on his land as long as he complies with the rules against waste. That means that the owner of a small tract has the right to drill a well, even though it might be closer to his neighbor's well than good usage would demand.

(5) REPORTS: The district can require records to be kept and reports made of the drilling work and well construction.

(6) RECHARGING: In addition to its general power to recharge reservoirs, the district is granted the specific power to acquire land

for dam construction and drainage and to install pumps and other equipment necessary to recharge the reservoir. Recharging simply means putting more water under the ground and into the reservoir. Recharging helps keep the water level up, thus avoiding the cost of drilling deeper and the danger of having less water available to use.

On the South Plains, for example, there are thousands of wet weather lakes on the surface. Some have tight bottoms so that the water running into them remains there until it evaporates. By disturbing the bottoms of such lakes it may be possible to drain their water into underground sands and put it to beneficial use. In other areas, creeks can be dammed and the water spread out so that more will go underground instead of evaporating or running off. In many cases, recharging of reservoirs may be all that is necessary to keep the water level high, and other regulations can be avoided.

(7) SURVEYS: The district can hire registered professional engineers to make surveys of the water in the reservoir and of the facilities for using the water. On the basis of those surveys, the district then can decide what needs to be done to improve the water supply or keep it constant.

(8) PLANS: The district can take the information it gets from engineers, research projects and other sources and make plans for the best use of the water.

(9) COURTS: The district can go to court and get an injunction, mandamus or other legal remedies to enforce its rules and regulations.

15. How will a landowner benefit by being in a ground water conservation district?

In some cases, it may be his only chance of insuring his supply of water. In areas where the water level is dropping, it may be necessary to use conservation measures, such as spacing of wells, if the irrigation wells are to continue to produce.

16. Where can more detailed information be obtained pertaining to the Underground Water Conservation Law?

Copies of the law may be obtained from the State Board of Water Engineers, 1410 Lavaca Street, Austin, Texas. Information concerning the operations of such districts also may be obtained from the High Plains Underground Water Conservation District No. 1, 1628-B Fifteenth Street, Lubbock, Texas.

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