

STATE OF LOUISIANA
OFFICE OF CONSERVATION
BATON ROUGE, LOUISIANA

ORDER NO. ENV 2009-GW001

February 26, 2009

Order concerning installation of drought relief wells
in compliance with LSA R.S. 38:3097.3.C(9)

Pursuant to power delegated under the laws of the State of Louisiana, and particularly LSA-R.S. 38:3097.1, et seq., the following Order is issued and promulgated by the Commissioner of Conservation as being reasonably necessary to assure the most advantageous use of the state's ground water resources consistent with their protection, conservation and replenishment. This order is issued pursuant to Act 49 of the 2003 Louisiana Legislature, as amended and using the intent and language provided therein.

DEFINITIONS

"Agricultural purpose" shall, in the context of water use, mean water from the well is used for irrigating cultivated plants, for watering stock, for crawfish and catfish farming or any other form of aquaculture, and for similar agricultural activities in the State. This purpose also includes water used for watering parks, golf courses, cemeteries and water used exclusively for watering lawns in urban areas.

"Commissioner" shall mean the commissioner of conservation.

"Drought relief wells" shall mean a well for temporary use in times of drought authorized by the *Commissioner* to assure the sustained production of agricultural products in the state and following a determination that sufficient water resources are otherwise not available, pursuant to the requirements of this order.

"Governor" shall mean the Governor of the State of Louisiana.

"Ground Water" shall mean water suitable for any beneficial use percolating below the earth's surface which contains less than 10,000 mg/l total dissolved solids, including water suitable for domestic use or supply for a domestic water system.

"National Drought Mitigation Center's U.S. Drought Monitor" shall mean the institute, which provides a synthesis of multiple drought indices and impacts, that represent a consensus of federal and academic scientists. The U.S. Drought Monitor may be contacted by mail, phone, fax or on the web at:

The Drought Monitor
National Drought Mitigation Center
P.O. Box 830749
Lincoln, NE 68583-0749
402-472-6707 - voice
402-472-6614 - fax
<http://drought.unl.edu/dm/monitor.html>

"State Climatologist" shall mean the director of the Louisiana Office of State Climatology. The Office of the State Climatologist may be reached by mail, phone, fax or on the web at:

Louisiana Office of State Climatology
Louisiana State University
Dept. of Geography & Anthropology
Baton Rouge, LA 70803
(225) 578-6780 - office
(225) 578-2912 - fax
<http://www.losc.lsu.edu>

FINDINGS

The commissioner finds that:

- In order to give the Office of Conservation the opportunity to evaluate proposed groundwater withdrawal, Act 49 of 2003 (enacted as LSA R.S. 38:3097.1, et seq.) created the requirement that water well owners must register with the Office of Conservation their intent to drill any water well in the State of Louisiana, at least sixty (60) days prior to the well being installed.
2. Exceptions to the requirement found in 1. were also created by Act 49 of 2003; exempted water wells did not need to be registered sixty (60) days prior to installation, but rather could be registered within sixty (60) days following installation. These exempted water wells include drought relief wells.
 - 3 LSA R.S. 38:3097.3.C(9) empowers the commissioner to “authorize the temporary use of drought relief wells for agriculture use in times of drought upon a determination that sufficient water resources are otherwise not available. The commissioner shall fix the allowable production, spacing, and depth for such wells in the issuance of an emergency order in such a way that combined production of groundwater from such wells will not have long-term effects on the aquifer.”
 4. Pursuant to the authority granted the Commissioner in LSA R.S. 38:3097.3.C(9), the rulemaking process was begun under Office of Conservation Docket No. ENV 2008-03 to set forth procedures for registering, reviewing and evaluating drought relief well notifications. Having received relevant comment clarifying the intent of the Commissioner’s drought relief order authority, the portion of the proposed rule concerning drought relief emergency orders was deleted and this order is hereby issued.
 5. This order shall set forth the conditions for installing and also allow, by subsequent order, for fixing the allowable production, spacing and depth for drought relief wells.
 6. Nothing in this order shall be interpreted to mean that the commissioner may not issue subsequent drought relief emergency orders for specific situations and areas of the State, at which time those orders may supersede this order.

ORDER

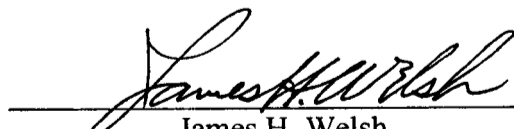
NOW, THEREFORE, IT IS ORDERED THAT:

- 1 The above Findings are hereby adopted and ordered.
2. The location of a drought relief well must be within an area determined or declared to be experiencing drought or a drought emergency by one of the following at the time of its installation and use:
 - a. the Governor;
 - b. the State Climatologist; or
 - c. the National Drought Mitigation Center’s U.S. Drought Monitor.
3. Ground water from drought relief wells may be used solely for agricultural purposes.
4. All drought relief wells shall only be installed if sufficient water resources are otherwise not available.
5. Drought relief wells are temporary and may not be used beyond the time of drought conditions within the area of its location as determined by any one of the three sources listed in item 2 above.

6. All drought relief wells shall be installed in a manner and produce ground water in a volume and manner that does not adversely affect water withdrawn from nearby water wells owned by another nor cause or threaten to cause damage to the sustainability of the aquifer.
7. Within sixty (60) days following installation of a drought relief well the owner of the well must submit a completed water well notification form (GWR 01) to the Office of Conservation.
8. Following the end of drought conditions, as determined by the authorities listed in item 2 above, owners of drought relief wells shall notify the Office of Conservation with an updated GWR-01 form, submitted and received at least thirty (30) days following the end of drought conditions. This updated notification shall include the well's intended purpose, even if that intended purpose is non-use. Water withdrawal information must be provided, including the pumping rate and the number of days of use per year. The Commissioner shall be given at least sixty (60) days to review and evaluate the updated notification and may place restrictions and request additional information consistent with the considerations outlined in LAC 43:VI.Chapter 7. If the updated notification indicates the intent of non-use following the end of drought conditions, Conservation will issue an order requiring submission of an updated form at least sixty (60) days prior to any subsequent withdrawal from the well.
9. All notifications submitted in accordance with items 7 and 8 above will be reviewed and evaluated by the Office of Conservation. The owner of a drought relief well installs such a well at his own risk. The Commissioner of Conservation, the Secretary of the Department of Natural Resources, and the State of Louisiana shall be held harmless from and indemnified for any and all liabilities arising out of the operation of any water well installed as or with the intent of being used as a drought relief well. Any determination by the Office of Conservation, following review and evaluation of a properly submitted GWR-01 form, that a water well meets all the requirements to classify as a drought relief well does not authorize any injury to private or public property, or any invasion of personal rights, or any infringement or suspension of Federal, State or local laws, regulations, or ordinances.
10. Failure to meet any of the requirements set forth in this order may lead to restrictions being placed on the drought relief well, including metering requirements and restricting withdrawals from the water well. Additionally, violations of this order, any applicable laws or rules, or any other applicable order may subject the well owner to enforcement action(s), including the imposition of civil penalties.

This Order shall be effective on February 20, 2009.

OFFICE OF CONSERVATION
OF THE STATE OF LOUISIANA



James H. Welsh
Commissioner of Conservation