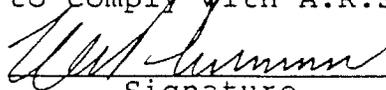


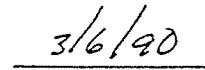
March 6, 1990

POLICY DIRECTIVES FOR OPEN WELL CAPPING PROGRAM

These policy directives for the Open Well Capping Program are intended to explain the responsibilities of the employees of the Department for executing the provisions of A.R.S. 45-594 and rule R12-15-822, Arizona Administrative Code. These directives will also form the basis for any procedures utilized by a division to comply with A.R.S. 45-594.

N.W. Plummer


 Signature


 Date

I. POLICY DIRECTIVE TO PREPARE DIVISIONAL PROCEDURES

- A. All division managers who have personnel who may discover open wells will prepare written procedures for their personnel consistent with these policy directives. The procedures will instruct all personnel of the division about their responsibilities and the proper reporting procedures.
- B. The Office of Water Management will prepare all forms, brochures, and other written material which are necessary to implement divisional procedures. ADEQ field staff should be supplied with reporting forms, trained on how to fill them out and on who to contact. The Office of Water Management will prepare all such literature in cooperation with the division managers.
- C. Wells located in areas with suspected water quality problems should be referred to the Environmental Program Manager of ADEQ for sampling prior to final capping (This has already been agreed to by the Agencies in the interagency Technical Committee).
- D. This Department's Compliance Manual will include procedures consistent with these policy directives for use by any division or AMA responsible for compliance.
- E. Divisional procedures may be more extensive than these policy directives. These policy directives set the minimum acceptable effort to cap open wells if workload priorities and funding permit such action.

II. INTRODUCTION

A. Authority

The director is required to adopt rules establishing construction standards for the capping of open wells pursuant to A.R.S. 45-594. A well owner is responsible to cap open wells pursuant to rules adopted by the director. The director has adopted rule R12-15-822 to describe appropriate capping procedures. Also pursuant to A.R.S. 45-594.C, if a well is dangerous to property or public health or safety and there is not sufficient time to issue and enforce an order relative to its capping, the director may take remedial measures necessary to render the well safe. The remedial measures may include taking full charge and control of the well site until rendered safe, temporarily securing the well or capping the well.

B. Magnitude of the Problem

The Department estimates that there are thousands of open wells across the State. Some wells pose a low level of danger or hazard to property and public safety due to their small diameter or remote location. These low hazard wells may pose a long term public health danger since they provide a direct conduit for potential pollutants to the aquifer. Other wells pose a moderate level of hazard to property or public health and safety. Many wells, however, pose a high hazard to public safety since they have openings large enough for children to enter and they are within close proximity to dwelling units or places of public use. A few of these wells pose immediate threats to human safety.

The Department has not discovered all the open wells in the State. However, an informed estimate of the number of the wells indicates that the problem is very large.

At least 1,500 medium or high hazard open wells are estimated to be in the AMA's. It is likely that the same number of open wells are present in the areas outside of AMA's. The most likely concentration of large diameter open wells is found in areas where farmland has been abandoned. The Harquahala and Douglas Irrigation Non-expansion Areas, San Pedro Valley, Wilcox subbasin, and Safford Valley probably have a high concentration of large diameter open wells. In addition to medium and high hazard wells, thousands of smaller diameter open wells which pose lower levels of hazard are present throughout the state.

C. Assignment of staff

The magnitude of the number of open wells is much larger than the staff resources which are available to enforce compliance with the code and rules. However, it is the policy of the Department to attempt to take whatever actions are feasible given constraints in budget, personnel, and workload, to protect public safety, public health, and property. Specific responsibilities are assigned to different divisions by these directives. Staff responsibilities and assignments are generally divided into discovery actions and compliance actions.

1. Discovery

Many different investigative activities are assigned to different divisions within the Department pursuant to specific budgetary authority. Examples of specific budget authority include the basic hydrologic data collection program; safety of dams inspection and plans review; and recharge, storage and recovery permit administration. The budgets for these programs were specifically authorized by the legislature for exclusive use on these programs. No specific budgetary authority has been given to the Department for exclusive use on the open well compliance program. Therefore, no investigation team of the Department has a primary, full time responsibility to search for and discover open wells. The Department will attempt to perform investigation and compliance on open wells as time and staff levels permit within the current budgetary authority. Types of investigative teams which may discover open wells include:

<u>Investigation Team</u>	<u>Number of Persons</u>	<u>Responsibilities</u>
1. Basic Data	15	Scientific, hydrologic data collection
2. Watershed Investigation Teams, Adjudi- cation Division	18	Investigation of water right claims
3. Safety of Dams Section, Flood Control Section, Engineering Division	9	Inspection of Dams, Flood Control studies

4. AMA Compliance Investigation Teams, Office of Water Management 7.25 All water management investigations, including open wells
 5. Other Departmental Personnel Variable As assigned
2. Compliance Action

Compliance actions will be done only by compliance personnel assigned to the Office of Water Management. No other personnel in the Department are trained or have the responsibility to perform compliance actions. All discoveries of open wells will be referred to the appropriate responsible division which is listed below.

The responsibility of each division is as follows:

Area of Responsibility	Division	FTEs* Assigned
1. Outside of AMA's	Operations	1
2. Phoenix AMA, Harquahala and Joseph City INAs	Phoenix AMA	3
3. Pinal AMA	Pinal AMA	1
4. Tucson AMA, Douglas INA	Tucson AMA	2
5. Prescott AMA	Prescott AMA	0.25

* Full Time Equivalent - equates to one person-year. However, these FTEs are assigned many compliance activities other than open wells, therefore only a small portion of the time of compliance employees may be spent on open well compliance activities.

D. Priority of Activities

The Department will attempt to take compliance action on open wells in the following priority, subject to staffing and budgetary limitations.

1. Wells which pose immediate danger to public safety will be given emergency priority by the Department. The Department will attempt to take any necessary action to secure such wells to render them safe to the public within 48 hours or less.
2. All other open wells will be evaluated and given a hazard priority. High hazard wells will be given

top priority and scheduled for action as part of the normal compliance workload. Medium hazard wells will be scheduled as time and staff allow. Low hazard wells will be catalogued, but action will be deferred until specific budgetary authority allows appropriate action to take place. Any potential public health threat caused by an open well which allows pollutants to enter the aquifers will be referred through the Water Quality Division to the Department of Environmental Quality for appropriate action under their statutes and rules. The Department will not pursue remedial action for environmental hazards unless the Director determines that an immediate health hazard exists and that he has the authority to take action to remedy the hazard.

3. In all cases, the owner or operator of a well has primary legal duties, obligations and liabilities arising from operation or ownership of an open well whether or not the Department has taken legal action to force compliance.

III. POLICY DIRECTIVES REGARDING DISCOVERY

- A. An open well may come to the attention of the Department if:
 1. Any employee of the Department is notified of the existence of an open well. The information may come from the public or other governmental agencies.
 2. Any employee of the Department discovers an open well.
- B. Any employee of the Department who is notified of or discovers an open well will complete a discovery report and send the information to the proper division responsible for compliance which is listed in paragraph II.C.2 of this memo. The report will contain the following information:
 1. Name of employee making the report
 2. Date and time of discovery
 3. Exact location of the well
 - a. Legal description
 - b. Distance to any area frequented by people. (The area can be a school, park, road, footpath, residential or commercial area)

4. Physical description of the well
 - a. Diameter
 - b. Accessibility of well site
 - c. Casing information - height above ground, condition, type, whether or not the well can be capped.
5. Level of hazard; emergency hazard, high hazard, medium hazard and low hazard.
6. Name and address of owner, if available

Any employee of the Department who discovers an open well must report the information in items 1 through 5 above.

- C. Except for an EMERGENCY HAZARD and except for compliance personnel within the Office of Water Management, employees of the Department are only responsible for completion of a discovery report and for forwarding the report to a division responsible for compliance listed in paragraph II.C.2 of this memo.

IV. POLICY DIRECTIVES FOR DETERMINATION OF OPEN WELL HAZARD

- A. All open wells will be placed in a hazard category by the employee of the Department who discovers the open well, subject to revision by the division responsible for compliance listed in paragraph II.C.2.
- B. The following criteria will be used as a guide to determine the appropriate hazard category. All the criteria need not be met, and employees of the Department may use other criteria if in their professional judgment other circumstances warrant consideration for making a particular determination of a hazard.
 1. Emergency Hazard -
 - a. Opening is greater than eight inches in diameter
 - b. Within 100 feet of an area frequented by people (The area can be a school, park, road, footpath, residential or commercial area)
 - c. Readily accessible - the well is not surrounded by a fence or entry is not restricted in any meaningful way

- d. The open well poses an immediate threat to human safety
2. High Hazard
 - a. Opening is greater than eight inches in diameter
 - b. Within 660 feet (1/8 mile) of an area frequented by people
 - c. Readily accessible
 - d. A threat to human safety
 3. Medium Hazard
 - a. Opening is greater than eight inches in diameter
 - b. Greater than 660 feet (1/8 mile) from an area frequented by people
 - c. Readily accessible
 - d. A limited threat to human safety
 4. Low Hazard
 - a. All other open wells.
- V. POLICY DIRECTIVES FOR APPROPRIATE COMPLIANCE ACTION TO ENFORCE CAPPING OF WELLS
- A. If the open well is an EMERGENCY hazard well:
 1. Call the division responsible for compliance (listed in paragraph II.C.2) within eight working hours and make a discovery report. If the employee of the Department determines that danger to human life is imminent, then that person, after making a reasonable attempt to secure approval by a division manager may take action to secure the well site which can include:
 - a. Contacting local public safety authorities to assist with securing of the well.
 - b. Securing the well with a temporary security device approved by Hydrology Division procedures;
 - c. Contact a licensed well driller to cap the well with a water tight seal;

- d. If the open well is uncased, any temporary method to restrict access which is appropriate for situation and consistent with Hydrology Division procedures.
2. An employee from a division with compliance responsibility will investigate the well within eight working hours after receiving a discovery report. The investigation procedure is to be included in the Compliance Manual. The compliance person will attempt to contact the owner by telephone.
 3. If the owner is contacted, the owner will be asked to agree to have the well capped per R18-15-822 or abandoned per R18-15-816 within 24 hours, and to report to the Department when the well is capped.
 4. If the owner is not contacted, or the owner does not agree to cap or abandon the well within 24 hours of verbal notice, or the owner does not report that the well has been capped or abandoned within 24 hours, the Department will take remedial measures to secure the well within 24 hours of the time from failure to contact or agree or failure to report.
 5. Remedial measures to secure the well by the Department will not necessarily constitute proper capping pursuant to R12-15-822 or proper abandonment pursuant to R12-15-816. The actions by the Department are intended only to reasonably prevent personal injury.
 6. Any modifications to the well made by the Department to secure it will be without liability to the well owner.
- B. If the well is a HIGH HAZARD, MEDIUM HAZARD or LOW HAZARD well:
1. A discovery report will be sent to the appropriate division responsible for compliance listed in paragraph II.C.2 within five working days.
 2. The division responsible for compliance will send a letter to the well owner requesting compliance. The well owner will be required to return to the Department written notification that the well was capped. The letters will be mailed out in the order of priority which is established by the level of hazard as follows:
 - a. Letters for HIGH HAZARD wells will be mailed out within 10 working days of receiving a

report of discovery unless the division responsible for compliance receives more than 10 in a two week period. If more than this amount are received the division will complete the mailing at a rate of five per week.

- b. For MEDIUM or LOW HAZARD wells, other compliance activities may be given a higher priority in the overall work schedule of the Department. Due to the high number of compliance activities and the limited number of employees which are assigned to compliance, it is probable that action by the Department on some MEDIUM and LOW HAZARD wells will be delayed indefinitely.
 - c. The well owner will be required to cap the well within 15 days of receipt of the letter. The owner will be required to notify the Department on a form approved by the Director that the well was abandoned or capped within five days of completion pursuant to R12-15-822.
3. If the well owner does not notify the Department that the well has been abandoned or capped by the date set in the Department's letter, a second letter will be sent requiring response within five days. This letter will explain that if the owner does not abandon or cap the well and notify the Department within five days, then the Department will notify the respondent of the date for an administrative enforcement hearing.
 4. The Department generally will not verify by field investigation that reportedly capped wells were in fact capped unless a complaint is received.
 5. The Department will not temporarily secure MEDIUM or LOW HAZARD open wells.
 6. The Department will not temporarily secure HIGH HAZARD wells as a general practice. However, field personnel may temporarily secure HIGH HAZARD wells to protect human life if the Department determines such action is warranted and if materials or equipment is readily available to do so.