



LOWER BRUSHY CREEK WCID BOARD APPROVED POLICY

STRUCTURE AREA EASEMENT POLICY REGARDING DISTRICT FENCING AND GRAZING

The purpose of this policy is to identify procedures to be utilized by Lower Brushy Creek WCID (the "District") staff and officials in connection with fencing and grazing within the District held *Structure Area Easements* of its flood control structures and earthen dams.

At the time of the original construction of the District dams and auxiliary spillways, landowners entered into permanent easements allowing the District to construct, operate, maintain, repair or rehabilitate the structures. Those easements were filed with the County Clerk and can be found in the Official Public Records of the County. If requested, the District will make a reasonable effort to assist with obtaining a copy of that easement for the current landowner.

The *Structure Area Easement* includes that portion of the original tract of land encompassing the earthen dam, Auxiliary Spillway (to the outlet channel), and Principal Spillway, including inlet and outlet works, as defined in the *District's Encroachment Policy*.

Ownership and Repairs of District Fencing

- As part of the original construction of the earthen dams and Auxiliary Spillways, the District installed fencing around each Structure Area along with the necessary gates and/or gaps (the "District Fence"). That fence was and remains the sole property of the District.
 - The District is responsible for the repair and/or replacement of the District Fence as it deems necessary.
 - The landowner should notify the District if any fencing repairs are needed.
 - If the District Fence is cut or animals damage the fence, the District will repair as required.
 - If the District determines that the landowner or his lessee has removed, cut or otherwise damaged the District Fence the landowner shall be responsible for the cost to repair or replace the fencing.
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Access to the Structure Easement

- The original permanent easement includes the District's right of ingress and egress to the Structure Area Easement over the landowner's property. The District will make every effort to work with the landowner to locate such access over a route satisfactory to the both the District and the landowner.

Grazing within the Structure Easement

- The original easements generally include language that the landowner shall not graze within the Structure Easement without written permission from the District.
- Landowners shall avoid overgrazing the dam and/or auxiliary spillway.
- Landowner shall remove animals from dam and/or auxiliary spillway following significant rainfall events to avoid creating animal trails resulting in damage to the dam and/or the auxiliary spillway.
- The General Manager of the District may issue an Order to the Landowner to remove animals from the dam and/or auxiliary spillway to allow for the restoration of the grass cover, repair erosion or animal trails, structural repair, construction, etc. Such an Order may be delivered by hand, electronically or by certified mail.
- If the Landowner objects to the Order, he/she may appeal in writing to the District's Board of Directors.
- The Landowner may request the release of the Order by the General Manager. The District will inspect the structure and auxiliary spillway and to determine that release.

Effective Date

This policy will become effective upon adoption by the Board of Directors.

APPROVED AND ADOPTED on this 2 day of June, 2025.

By: Edmond S. Komandosky
Edmond S. Komandosky
Board President

ATTEST:

By: Monica P. Masters
Monica P. Masters
Board Secretary

APPROVED AS TO FORM:

By: Mark J. Schroeder
Mark J. Schroeder
Board Attorney