

AMENDED AND RESTATED WATER CONSERVATION, DROUGHT AND  
EMERGENCY CONTINGENCY PLAN; PROVIDING FOR  
IMPLEMENTATION AND ENFORCEMENT THEREOF; PROVIDING  
PENALTIES FOR VIOLATIONS; AND CONTAINING OTHER PROVISIONS  
RELATED TO THE SUBJECT

WHEREAS, the Board of Directors (the "Board") of Fort Bend County Municipal Utility District No. 81, of Fort Bend County, Texas (the "District") by adoption of this Water Conservation, Drought and Emergency Contingency Plan (this "Plan") desires to provide that adequate supplies of water exist within the District;

NOW, THEREFORE, BE IT ORDERED BY BOARD THAT:

Section 1: Approval of the Plan. The Board hereby approves and adopts this Plan as set forth in this Order, and the provisions of such Plan shall be implemented immediately and enforced as a rule of the District.

Section 2: Definitions. The following terms used in this Order have the meanings assigned to them in this Section:

*"Board of Directors"* means the Board of Directors of the District.

*"Commercial Use"* means necessary use in connection with trade or traffic in business, but shall not include landscape maintenance in connection with commercial facilities which shall be under the same restrictions as other outdoor use.

*"District"* means Fort Bend County Municipal Utility District No. 1.

*"Drought Response Measures"* has the meaning assigned to such term in Section 5C of this Order.

*"Mild Drought Conditions"* has the meaning assigned to such term in Section 5A of this Order.

*"Moderate Drought Conditions"* has the meaning assigned to such term in Section 5A of this Order.

*"Plan"* means this Water Conservation, Drought and Emergency Contingency Plan.

*"Severe Drought Conditions"* has the meaning assigned to such term in Section 5A of this Order.

*"System"* means the District's freshwater supply system.

*"Trigger Conditions"* has the meaning assigned to such term in Section 5A of this Order.

*"Users"* means District residents and other users of water within the District or from the District's System.

Section 3: Coordination with Region H. The service area of the District is located within the Region H regional water planning area and the District will provide a copy of the Plan to the Region H regional planning group.

Section 4: Education Program.

A. Education and Information. The District hereby institutes an educational program, to be implemented immediately, to promote water conservation by the general public which may include any of the following:

1. Publications of articles in a newspaper or newsletter of general circulation in the District's service area, providing information regarding water conservation;

2. Direct distributions to all District residents and other Users explaining the Plan;

3. Direct distributions to Users of educational and informational material regarding water conservation; and

4. Educational activities consisting of (i) publishing an article or articles in a local newspaper or newsletter of general circulation in the District's service area, providing tips or information on water saving techniques, or (ii) conducting an informational school program in a school attended by students within the District's service area, or (iii) conducting an educational program for Users at a public place within or accessible to residents of the District, or (iv) conducting or engaging in such other informational or educational activity designed to further water conservation, as, in the discretion of the Board of Directors, may be consistent with the purposes and policies of this Plan, or (v) any combination of the foregoing.

B. Retrofit Educational Program. The District shall make information regarding water conservation available to Users to use when purchasing and installing various plumbing fixtures, lawn watering equipment, and other water-using appliances.

Section 5: The Drought Contingency Plan.

A. Trigger Conditions. For the purpose of this Plan, the District hereby adopts the trigger conditions (the "Trigger Conditions") set forth below:

1. Mild Drought. This condition (herein, "Mild Drought Conditions") exists when demand on the District's water supply facilities requires a well run time for each operable well then in service a well-run time of at least 18 hours for three consecutive days, as determined by the District's operator.

2. Moderate Drought. This condition (herein, "Moderate Drought Conditions") exists when demand on the District's water supply facilities requires

a well run time for each operable well then in service a well-run time of at least 20 hours for three consecutive days, as determined by the District's operator.

3. Severe Drought. This condition (herein, "Severe Drought Conditions") exists when demand on the District's water supply facilities requires a well run time for each operable well then in service a well-run time of at least 22 hours in one 24 hour period, as determined by the District's operator.

B. Notice.

1. Notice to Users. Once one of the above Trigger Conditions has occurred, Users will be notified that such Trigger Condition has occurred and of the Drought Response Measures (as defined below) to be taken. The process for notifying Users may include any of the following:

- a. Mailing, at least 48 hours prior to the commencement of the required Drought Response Measures, a written notice to each User;
- b. Posting of signs at the entrances to the District;
- c. Posting of notices at public places in the District; and
- d. Dissemination of press releases to the local news media.

2. Public Notification. If notice is given as the result of occurrence of Trigger Conditions under subparagraph (1), the District or its designee shall also notify directly, or cause to be notified directly the following individuals and entities:

Fire chief(s) within the service area  
Fort Bend County Emergency Management Coordinator  
Fort Bend County Judge and Commissioners Court  
Texas Natural Resource Commission  
Texas Water Development Board

3. Contents of Notice. Any notice issued shall contain (i) the date the Drought Response Measures will begin, (ii) the date the Drought Response Measures will terminate, if known, (iii) a list of Drought Response Measures to be implemented, and (iv) an explanation of penalties for violations of such Drought Response Measures.

C. Emergency Management Program. The District hereby establishes and adopts the following measures ("Drought Response Measures") for the respective Trigger Conditions. The Drought Response Measures related to each Trigger Condition shall automatically become effective and shall be implemented by the District when such Trigger Condition occurs.

1. Mild Drought. In the event of Mild Drought Conditions, the following Drought Response Measures shall be taken:

a. Users, including Users engaged in Commercial Use, will be asked to voluntarily reduce water use (except that the restrictions on outdoor use provided in paragraph b shall be mandatory and not voluntary), and will be informed of specific steps that can be taken to reduce water use.

b. All outdoor water usage, including, but not limited to, lawn and garden watering, car washing (other than in Commercial Use), and window washing, shall be limited as follows:

(1) Only Users with even-numbered addresses may use water outdoors on Mondays and Wednesdays and only Users with odd numbered addresses may use water outdoors on Tuesdays and Thursdays. In the event no street address exists, only Users living on the north and west side of a street may use water outdoors on Mondays and Wednesdays and only Users on the south and east side of a street may use water outdoors on Tuesdays and Thursdays.

(2) Outdoor water use shall be prohibited between the hours of 6:00 a.m. and 10:00 a.m. and between the hours of 6:00 p.m. and 12:00 a.m (midnight).

c. Operator will reduce system pressure at each water plant to 55 pounds per square inch ("p.s.i.").

2. Moderate Drought. In the event of Moderate Drought Conditions, the following Drought Response Measures shall be taken:

a. The Drought Response Measures established for Mild Drought Conditions shall continue to be implemented.

b. Only users with even numbered addresses may use water outdoors on Mondays and Wednesdays and only users with odd numbered addresses may use water outdoors on Tuesdays and Thursdays. In the event no street address exists, only users living on the north and west side of a street may use water outdoors on Mondays and Wednesdays and only users on the south and east side of a street may use water outdoors on Tuesdays and Thursdays.

c. The District shall recommend that the following public water uses not essential for public health and safety be curtailed:

- (1) Street washing;
- (2) Fire hydrant flushing; and
- (3) Filling of swimming pools.

d. Users engaged in Commercial Use, will be asked to voluntarily reduce water use (except that the restrictions on outdoor use provided in paragraphs a and b other than commercial car washes shall be mandatory and not voluntary), and will be informed of specific steps that can be taken to reduce water use.

3. Severe Drought. In the event of Severe Drought Conditions, the following Drought Response Measures shall be taken:

a. The Drought Response Measures established for Mild Drought Conditions and Moderate Drought Conditions shall continue to be implemented.

b. All outdoor use of water, including but not limited to lawn and garden watering, car washing, and window washing shall be prohibited.

c. For the period of the Severe Drought Condition, as estimated by the District's Operator, a surcharge over and above the applicable rate equal to 200% of the applicable rate for all water used in excess of 15,000 gallons/month, shall be imposed on all Users, including Users engaged in Commercial Use.

d. On a non-discriminatory basis, the Board of the District may prohibit water use by certain industrial or commercial Users which uses are not essential to the health and safety of the community so that remaining water is available for essential health and safety related uses.

e. Operator will reduce system pressure at each water plant to 45 pounds per square inch ("p.s.i.").

4. Exception for Newly Installed Landscape. Except during severe drought conditions, Users who have made major landscape installations or renovations involving significant new plantings may, for the day following installation of any such plantings, water on days and by methods otherwise prohibited under Subsection C of this Section.

D. Water Conservation Target. The District hereby establishes and adopts the following targets ("Water Conservation Targets") for the respective Trigger Conditions. The Water Conservation Targets related to each Trigger Condition shall automatically become effective and shall be implemented by the District when such Trigger Condition occurs.

1. Mild Drought. In the event of Mild Drought Conditions, the District will attempt to achieve a voluntary five percent (5%) reduction of the run time for each operable well then in service.

2. Moderate Drought. In the event of Moderate Drought Conditions, the District will attempt to achieve a voluntary 10 percent (10%) reduction of the run time for each operable well then in service.

3. Severe Drought. In the event of Severe Drought Conditions, the District will attempt to achieve a voluntary nine percent (9%) reduction of the run time for each operable well then in service.

D. Termination of Trigger Conditions Notification. When a Trigger Condition occurs, the District shall enforce the Drought Response Measures applicable to such Trigger Condition for a minimum of seven days after the last day the demand on the District's water supply facilitates reaches or exceeds the limits of such Trigger Condition. After such seven day period, the Drought Response Measures prescribed may, in the discretion of the Board, be continued for an additional five day period. After the expiration of ten days, and assuming no other Trigger Conditions have occurred, the Drought Response Measures prescribed shall terminate and the District shall cease implementation and enforcement of such measures. The District will notify Users of the termination of the particular Drought Response Measures and may utilize the same manner of notification used to inform Users of the occurrence of the Trigger Condition and implementation of the Drought Response Measures.

Section 6: Emergency Contingency Plan. In the event of a fire flood, hurricane, lightning strike, tornado, windstorm, or any other act of God, riot, terrorist act, or any other act of civil disobedience, or in the event of water production or distribution system limitations, supply source contamination, system outages due to the failure or damage of major water system components (e.g., pumps), or any other similar occurrence which results in the inability of the District to provide potable water to Users (or the likelihood thereof), the Board, in its discretion, may, without prior notice, invoke all or any of the Drought Response Measures set forth in this Plan as "Drought Response Measures." The Board may establish any of the penalties set forth in Section 8 for violations of the Drought Response Measures invoked pursuant to this Section.

Section 7: Implementation. Without limitation to specific actions stated in this Plan to be taken by the Districts operator, the District's operator will administer and enforce this Plan, and will oversee and be responsible for the execution and implementation of all elements of this Plan (or, if the District employs its own peace officers pursuant to Texas Water Code §49.216, such peace officers will be responsible for enforcement of this Plan). The operator shall keep adequate records for plan verification. The District's operator shall report to the Board of the District, at meetings of the Board, regarding actions taken and which need to be taken under this Plan. Without limiting the foregoing, the District's operator shall advise the President of the Board (or if the President is unavailable to receive notification, another member of the Board) as soon as reasonably practicable when a particular Trigger Condition has been reached under this Plan and when a particular drought condition no longer exists.

Section 8: Grants of Variance.

A. Conditions for Variance. The District or its designee may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting and if one or more of the following conditions are met:

1. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect, or

2. Alternative methods can be implemented which will achieve the same level of reduction in water use.

B. Application for Variance. Persons requesting an exemption from the provisions of this Order shall file a petition for variance with the District within ten days after notice is given that Drought Response Measures are to be taken. All petitions are to be reviewed by the District or its designee, may be in any written form, and will include (1) the name and address of the petitioner; (2) the purpose of the water use; (3) a statement as to the provisions of the Plan adversely affecting the petitioner and the damage or harm which will occur to the petitioner or others if the petitioner complies with the ordinance; (4) a description of the relief requested; (5) the period of time for which the variance is sought; (6) alternative water use restrictions or other methods the petitioner is taking or proposes to take to meet the intent of this Plan; and (7) other pertinent information.

C. Variations Granted. Variations granted by the District are subject to the following conditions, unless waived or modified by the District or its designee:

1. Variations granted will include a timetable for compliance; and

2. Variations granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

No variance will be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

Section 9: Penalties. The following penalties shall apply to anyone violating the terms of this Plan or the Drought Response Measures or emergency Response Measures adopted pursuant hereto:

A. First Violation. Any person or entity who violates this Plan shall receive written notification of such violation, which notice shall set forth (i) the date of the violation, (ii) the nature of the violation, (iii) the Drought Response Measures then in effect, and (iv) the penalties applicable for any further violations of this Plan, provided, however, that if such person or entity has ever previously violated this Plan, the penalties set forth in Subsection B below, may, in the discretion of the Board, be imposed.

B. Subsequent Violations.

1. Disconnection for Noncompliance. If any person or entity violates any provision of this Plan more than one time (which violation shall constitute an unauthorized use of District services and/or facilities), then in addition to any other remedies, penalties, sanctions and enforcement procedures provided for herein, the District shall have the right to terminate water service to such person or entity after notice and any other procedural requirements in the District's rate order are satisfied.

2. Monetary Penalties for Noncompliance. If any person or entity violates any provision of this Plan more than one time (which violation shall constitute an unauthorized use of District services and/or facilities), then, in addition to disconnection as provided in Subsection (a) of this Section, the Board of the District, after providing required notice, may impose a penalty of up to \$500.00 for each violation of this Plan. Each day that a breach of any provision of this Plan continues shall be considered a separate violation. This penalty shall be in addition to any other legal rights and remedies of the District as may be allowed by law.

Section 10: Remedies Cumulative. All rights remedies, sanctions, penalties and enforcement procedures provided for in this Order are cumulative. In addition, the District shall have and may exercise and enforce any and all rights and remedies provided by law or in equity.