

RESOLUTION NO. 19-0425-01

A RESOLUTION OF BRUSHY CREEK MUNICIPAL UTILITY DISTRICT APPROVING DROUGHT CONTINGENCY PLAN

WHEREAS, Brushy Creek Municipal Utility District (the "District") of Williamson County, Texas, is a conservation and reclamation district created and functioning under Article 16, Section 59 of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code;

WHEREAS, 30 TAC §288.30(50)(A) and (B) require retail public waters suppliers that provide water service to 3,300 or more connections to submit a drought contingency plan meeting the requirements of 30 TAC §288.20 to the Executive Administrator of the Texas Commission on Environmental Quality (TCEQ) by May 1, 2005, then by May 1, 2009 and every five years thereafter;

WHEREAS, pursuant to the foregoing requirements, the District previously adopted a Drought Contingency Plan and timely submitted such plan to TCEQ in accordance with the requirements of §288.30; and

WHEREAS, the Board of Directors of the District has reviewed and updated its Drought Contingency Plan; Now, Therefore,

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF BRUSHY CREEK MUNICIPAL UTILITY DISTRICT THAT:

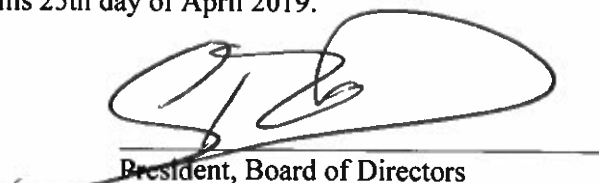
Section 1. The matters and facts stated in the preamble to this Resolution are hereby found to be true and correct and are incorporated as a part of this Resolution.

Section 2. The Board of Directors hereby adopts the updated Drought Contingency Plan in the form attached hereto.

Section 3. The District's General Manager is hereby authorized and directed to file the approved Drought Contingency Plan with TCEQ, the Region G Planning Group and to any other group or entity with relevant jurisdiction.

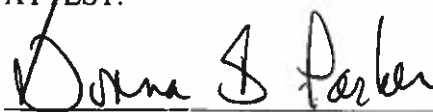
Section 4. The District's General Manager is hereby authorized take all other actions deemed necessary or convenient to the implementation of this Resolution.

PASSED AND APPROVED this 25th day of April 2019.



President, Board of Directors
Brushy Creek Municipal Utility District

ATTEST:



Asst. Secretary, Board of Directors
Brushy Creek Municipal Utility District

(SEAL)

**DROUGHT CONTINGENCY PLAN
FOR
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT**

Amended 5-24-01

Amended 11-9-06

Amended 04-23-09

Amended 02-25-10

Amended 01-12-12

Amended 04-24-14

Amended 04-25-19

Section I: Declaration of Policy, Purpose, and Intent

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, Brushy Creek Municipal Utility District (herein, the "District") hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this Drought Contingency Plan ("Plan") are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute unauthorized water service and a violation of the District's rules and regulations which subjects the offender(s) to enforcement action, including potential penalties, termination of service, or injunctive relief, in accordance with the provisions of this Plan.

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of this Plan was provided by the District by means of providing notice of, and conducting a public meeting, to accept input on the Plan. In addition, the District's Utility Infrastructure Advisory Committee, which is comprised of members of the input, reviewed and provided input regarding the Plan.

Section III: Public Education

The District's General Manager shall institute an educational program to provide the public and District employees with information about this Plan, including information regarding the conditions under which each Stage of this Plan will be initiated or terminated, and the drought response measures to be implemented in each Stage. Information will be provided by public meetings, press releases, utility bill inserts, the District's website and the District's marquees.

Section IV: Coordination with Regional Water Planning Groups

The service area of the District is located within the Region G Regional Water Planning Group. The District has provided a copy of this Plan to the Region G Regional Water Planning Group.

Section V: Authorization

The General Manager of the District is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety and welfare. The General Manager shall have the authority to initiate or terminate drought or other water supply emergency response measures and enforcement provisions as described in this Plan, subject to review by the Board of Directors of the District.

Section VI: Application

The provisions of this Plan shall apply to all persons, customers and property utilizing water provided by the District. The terms “person”, “user” and “customer” as used in the Plan include individuals, corporations, partnerships, associations and all other legal entities.

Section VII: Definitions

For the purposes of this Plan, the following definitions shall apply:

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools and water gardens.

Annual Raw Water Allotment: the annual supply of raw water that the District reserves from the Brazos River Authority for diversion from Lake Georgetown, and subsequent treatment and distribution within the District.

Board: Brushy Creek Municipal Utility District Board of Directors.

BRA: Brazos River Authority.

Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities.

Conservation: those practices, techniques and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer: any person, company or organization using water supplied by the District.

District: Brushy Creek Municipal Utility District.

Domestic water use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation; or for cleaning a residence, business, industry or institution.

Even-numbered address: street addresses ending in 0, 2, 4, 6, or 8 and locations without addresses.

General Manager: the person employed as the General Manager of the District or his/her designee.

Hand watering: outdoor water use utilizing a water hose that is held in the hand at all times.

Industrial water use: the use of water in processes designed to convert material of lower value into forms having greater usability and value.

Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, parks, rights-of-ways and medians.

Non-essential water use: water uses that are not essential or required for the protection of public, health, safety and welfare including:

- (a) Use of water to wash any motor vehicle, motorcycle, boat, trailer, airplane or other vehicle;
- (b) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts or other hard-surfaced areas;
- (c) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (d) Flushing gutters or permitting water to run or accumulate in any gutter or street;
- (e) Use of water to fill any indoor or outdoor swimming pools or jacuzzi-type pools;
- (f) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (g) Failure to repair a controllable leak(s) within three business days after having been given notice directing the repair of such leak(s); and
- (h) Use of water from hydrants for construction purposes or any other purposes other than fire fighting and flushing as required by the Texas Commission on Environmental Quality.

Odd-numbered address: street addresses ending in 1,3,5,7, or 9.

User: any person or entity that uses water supplied by the District.

Section VIII: Criteria for Initiation and Termination of Drought Response Stages

The General Manager or his/her designee shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified “triggers” are reached.

The triggering criteria described below are based on: (i) the District’s contract with its wholesale water supplier; and (ii) known capacity limits.

Utilization of alternative water sources and/or alternative delivery mechanisms:

Alternative water source(s) for the District include: (i) groundwater wells owned and operated by the District; and (ii) interconnects with the City of Round Rock’s water transmission system.

BRA Drought Contingency Plan Requirements

The District diverts raw water from Lake Georgetown pursuant to a water supply agreement with Brazos River Authority (BRA). The District will comply with and implement any applicable drought contingency requirements set forth in the District’s water supply contract with BRA, or that may be implemented pursuant to BRA’s Drought Contingency Plan.

Voluntary Conservation

At all times when mandatory conservation requirements are not in effect, Users are requested to voluntarily limit the use of water for non-essential purposes and to practice water conservation by limiting landscape irrigation use to not more than three times per week in accordance with the following voluntary watering schedule:

Property Address	Recommended Watering Days
Odd-Numbered Addresses	Tuesday, Thursday, Saturday
Even-Numbered Addresses	Wednesday, Friday, Sunday

In the event no address number exists for the outdoor water use location, Users are requested to voluntarily restrict water use to the same days as even-numbered addresses.

The goal of such voluntary measures is to increase public awareness of limited water resources and to voluntarily reduce water demands that would have occurred in the absence of any water conservation measures.

Conservation Conditions

A. Conservation Conditions – For purposes of this Plan, the District hereby adopts the Conservation Conditions set forth below. These Conservation Conditions are for the purpose of responding to, but not limited to, the following situations: (i) reduction of available water supplies; (ii) water production or distribution system limitations; (iii) supply source contamination; or (iv) water system outage due to the failure or damage of water system components. The General Manager shall monitor the water supply and demand conditions within the District for purposes of implementing the applicable Stage of this Plan.

- (a) Stage 1 Conservation Condition – This condition exists when any of the following criteria are met:
 - (i) The water table level overlying any of the District’s groundwater production well facilities drops below twenty feet (20’) above the pump while operating

at sixty percent (60%) or greater capacity for more than five (5) consecutive days;

- (ii) The District's total raw water diversion for District use has exceeded twenty percent (20%) of its Annual Raw Water Allotment by April 30 or sixty percent (60%) of its Annual Raw Water Allotment by August 31;
 - (iii) The demand on the District's water supply facilities reaches or exceeds eighty percent (80%) of the production or transmission capacity of such facilities for five (5) consecutive days, as determined by the District's General Manager; or
 - (iv) When the General Manager or Board of Directors of the District otherwise determines that Stage 1 Conservation Conditions should be implemented.
- (b) Stage 2 Conservation Condition– This condition exists when any of the following criteria are met:
- (i) The water table level overlying any of the District's groundwater production well facilities drops below fifteen feet (15') above the pump while operating at sixty percent (60%) or greater capacity for more than five (5) consecutive days;
 - (ii) The District's total raw water diversion for District use has exceeded twenty-five percent (25%) of its Annual Raw Water Allotment by April 30 or seventy percent (70%) of its Annual Raw Water Allotment by August 31;
 - (iii) The demand on the District's water supply facilities reaches or exceeds ninety percent (90%) of the production or transmission capacity of such facilities for five (5) consecutive days, as determined by the District's General Manager;
 - (iv) BRA declares a Stage II Drought Condition; or
 - (v) When the General Manager or Board of Directors of the District otherwise determines that Stage 2 Conservation Conditions should be implemented.
- (c) Stage 3 Conservation Condition– This condition exists when any of the following criteria are met:
- (i) The District's groundwater production well facilities are unable to produce the necessary supply of groundwater for five (5) consecutive days due to aquifer levels, as determined by the General Manager;

- (ii) The District's total raw water diversion for District use has exceeded thirty percent (30%) of its Annual Raw Water Allotment by April 30 or seventy-five percent (75%) of its Annual Raw Water Allotment by August 31;
 - (iii) The demand on the District's water supply facilities reaches or exceeds ninety-five percent (95%) of the production or transmission capacity of such facilities for three (3) consecutive days, as determined by the District's General Manager;
 - (iv) BRA declares a Stage III Drought Condition; or
 - (v) When the General Manager or Board of Directors of the District otherwise determines that Stage 3 Conservation Conditions should be implemented.
- (d) Stage 4 Conservation Condition – Emergency Water Shortage Condition – This condition exists in the event of a fire, flood, hurricane, lightning, tornado, windstorm; or any other act of God, riot, terrorist act, loss of power, or any other occurrence that results in the inability of the District to provide an adequate supply of water to Users for essential uses or a likelihood thereof, as determined by the General Manager or Board of Directors of the District.

B. Notice of Commencement of Response Measures – Once one of the above Conservation Conditions has occurred, Users will be notified that such Conservation Condition has occurred and of the Response Measures (as defined below) to be taken. The process for notifying Users may include any of the following, as determined by the General Manager or Board of Directors of the District:

- (a) Notification to the press;
- (b) Posting of notice on the District's website;
- (c) Posting notice on the District's marquees;
- (d) Posting signs within the District;
- (e) Mailing, at least 48 hours (except during Stage 4 Conservation Conditions) prior to commencement of the required Response Measures, a written notice to each User;
- (f) Where appropriate, emailing a notice to the various Home Owners Associations for mass email to their association residents; and
- (g) For wholesale water customer (if any), the District General Manager shall contact wholesale water customers by written notice, and/or other means, prior to commencement of the required Response Measure.

Any mailed notice shall contain: (i) the date the Response Measures will begin, (ii) the date the Response Measures will terminate, if known, (iii) a list of Response Measures to be implemented

and (iv) an explanation of potential penalties and enforcement for violations of such Response Measures.

Upon the termination of a Conservation Condition, the General Manager will provide notice thereof to Users through one or more of the methods set forth above.

C. **Response Measures** – The District hereby establishes and adopts the following Demand Management Response Measures for the respective Conservation Conditions. The Demand Management Response Measures related to each Conservation Condition shall automatically become effective and shall be implemented by the District when such Conservation Condition occurs.

1. **Stage 1 Conservation Conditions.** In the event of Stage 1 Conservation Conditions, the following voluntary Response Measures shall be implemented in an effort to achieve a ten percent (10%) reduction in daily water demand:

The public shall be asked to voluntarily limit all non-essential water use as defined in this document, as follows:

- (a) Users are subject to the following voluntary watering schedule:

Property Address	Recommended Watering Days
Odd-Numbered Addresses	Tuesday, Thursday, Saturday
Even-Numbered Addresses	Wednesday, Friday, Sunday

In the event no address number exists for the outdoor water use location, Users are requested to voluntarily restrict water use to even-numbered days only.

- (b) Automatic sprinkler systems should be operated only between 12:01 a.m. and 7:00 a.m. on the recommended watering days.
 - (c) Hose-end sprinklers should be operated only before 10:00 am or after 7:00 pm on the recommended watering days.
 - (d) Hand watering is permissible at any time.
2. **Stage 2 Conservation Conditions.** In the event of Stage 2 Conservation Conditions, the following mandatory Demand Management Response Measures shall be taken in an effort to achieve an additional ten percent (10%) reduction in daily water demand:
 - (a) Residential Users shall limit landscape irrigation use to not more than two times per week in accordance with the following mandatory watering schedule:

Residential Street Address	Authorized Watering Days
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Odd-Numbered Addresses	Tuesday & Saturday only
Even-Numbered Addresses	Wednesday & Sunday only

NOTES:

1. Automated sprinkler systems shall be operated only between 12:01 a.m. and 7:00 a.m. on the authorized watering days.
 2. Hose-end sprinklers shall be operated only before 10:00 a.m. and after 7:00 p.m. on the authorized watering days.
 3. Hand watering is permissible before 10:00 a.m. or after 7:00 p.m. on any day.
- (b) Commercial, municipal and all other non-residential Users are subject to the following mandatory landscape irrigation use watering schedule:
- Tuesday and/or Friday only, and only between 12:01 a.m. and 7:00 a.m. on such days.
- (c) Non-essential water uses shall be curtailed as follows:
1. The installation of new landscaping plants and turf grass is discouraged;
 2. Use of water from hydrants for construction purposes or any other purposes other than fire fighting and flushing as required by the Texas Commission on Environmental Quality is prohibited;
 3. Use of water to fill NEW indoor or outdoor swimming pools or jacuzzi-type pools is prohibited;
 4. Flushing gutters or permitting water to run or accumulate in any gutter or street is prohibited; and
 5. Use of water in a fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life.
- (d) The General Manager will initiate contact as appropriate with wholesale water customers, to discuss water supply and/or demand conditions and the possibility or implementation of pro rata curtailment of water supplies.

Supply Management Measures –

1. The District will enforce all water use restrictions prescribed for Stage 2 Conservation Conditions.
2. The District will target reductions in water loss.

3. The District will pull data logs on the top one-half percent (½%) of residential water users and evaluate compliance with Stage 2 restrictions.

3. Stage 3 Conservation Conditions. In the event of Stage 3 Conservation Conditions, the following mandatory Demand Management Response Measures shall be taken in an effort to achieve an additional ten percent (10%) reduction in daily water demand:

- (a) The Demand Management Response Measures established for Stage 2 Conservation Conditions shall continue to be implemented except as modified or extended below.
- (b) Residential Users shall limit landscape irrigation use to not more than one time per week in accordance with the following mandatory watering schedule:

Last numerical digit of residential street address	Authorized watering day
0, 9	Monday
1, 8	Tuesday
2, 7	Wednesday
3, 6	Thursday
4, 5	Friday

Watering on Saturday or Sunday is prohibited.

- (c) Commercial, municipal and all other non-residential Users may use irrigation on Tuesdays only and only during authorized hours.
- (d) Median irrigation is authorized on Thursdays only and only during authorized hours.
- (e) All non-essential water use shall be prohibited except hand watering with a hand held hose shall be permitted between 5:00 a.m. and 10:00 a.m. and between 7:00 p.m. and 10 p.m. on any day.
- (f) All water use for construction, dust control and/or compaction is prohibited except where reclaimed or raw water is used.
- (g) Use of water to wash any motor vehicle, motorcycle, boat, trailer, airplane, or other vehicle except where reclaimed or raw water is used.
- (h) 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 purposes.

- (i) The installation of new landscaping plants and turf grass is prohibited.

Supply Management Measures –

1. The District will enforce all water use restrictions prescribed for Stage 3.
 2. The District will target additional reductions in water loss.
 3. The District will pull data logs on the top one (1%) of residential water users and available data logs on all retail water users and evaluate compliance with Stage 3 restrictions.
 4. The Board of the District may utilize alternative water sources and/or alternative delivery mechanisms with prior approval of the Executive Director of the Texas Commission on Environmental Quality as applicable (e.g. interconnection with another water system, temporary use of a non-municipal water supply, use of reclaimed water for non-potable purposes, etc.).
 5. The District is authorized to ration water to District residents and other Users of water within the District on a pro rata basis, and to initiate allocation of water supplies to its wholesale water customers, if any, on a pro rata basis, in accordance with Texas Water Code.
4. Stage 4 Emergency Water Conservation Condition. In the event of Stage 4 Conservation Conditions, the General Manager or Board, in their respective discretion, may without prior notice, invoke all or any of the Demand Management Response Measures set forth in this Plan as “Emergency Response Measures” to achieve a reduction in water use that results in a daily demand equivalent to sixty percent (60%) of the production capacity of the available supply facilities. The General Manager or the Board may also prohibit all outdoor water use.

Supply Management Measures –

1. The District will enforce all water use restrictions prescribed for Stage 4.
2. The District will target additional reductions in water loss.

3. The District will actively communicate drought related issues with all customers and hand deliver drought restrictions to retail customers.
4. The District will pull data logs on the top two (2%) of residential water users and available data logs on all retail water users and evaluate compliance with Stage 4 restrictions.

D. Termination of Conservation Conditions Notification – When a Conservation Condition occurs, the District shall enforce the Response Measures applicable to such Conservation Condition for a minimum of five (5) days after the condition that triggers the applicable Conservation Condition ceases. After such five (5) day period, the Response Measures prescribed may, in the discretion of the General Manager or Board, be continued for an additional five (5) day period. After the expiration of ten (10) days, and assuming no other Conservation Conditions have occurred, the Response Measures prescribed shall terminate and the District shall cease implementation and enforcement of such measures for the applicable conservation condition. The District will notify Users of the termination of the particular Demand Management Response Measures and may utilize the same manner of notification used to inform Users of the occurrence of the Conservation Condition and implementation of the Demand Management Response Measures.

Section IX: Enforcement

A. Without limitation to specific actions stated in this Plan to be taken by the General Manager, the General Manager will administer and enforce the Plan, and will oversee and be responsible for the execution and implementation of all elements of this Plan. The General Manager shall keep adequate records for plan verification. The District's General Manager shall report to the Board of the District regarding actions taken and which need to be taken under this Plan. Without limiting the foregoing, the District's General Manager shall advise the Board as soon as reasonably practicable when a particular Conservation Condition has been reached under this Plan and when a particular Conservation Condition no longer exists.

B. All notices of violations of this Plan shall be delivered or sent to the billing address.

Section X: Penalties

A. No person shall knowingly or intentionally allow the use of water from the District for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any mandatory provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by General Manager, or his/her designee, in accordance with provisions of this Plan. Each day that a breach of any mandatory provision of this Plan continues shall be considered a separate and subsequent violation.

B. Pursuant to and in accordance with the authority set forth at Sections 49.004, 49.212 and 54.205 of the Texas Water Code, the following penalties shall apply to anyone violating the mandatory provisions of this Plan or the Demand Management Response Measures implemented pursuant hereto, including the water waste prohibitions set forth in Section XII: The penalties

shall not be applicable to any voluntary provisions of this Plan (Stage 1 Conservation Conditions). In addition to being a civil penalty for the breach of the District's rules, the payments set forth below shall be considered surcharges adopted pursuant to the District's ratemaking authority. Each day that the requirements of this Plan are violated shall constitute a separation violation of this Plan.

- A. **First Violation** – Any persons or entity who violates the mandatory provisions of 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 Demand Management Response Measures then in effect; (iv) the penalties applicable for any additional violations of this Plan; and (v) action required to correct the violation including a time period required to correct the violation; provided, however, that if such person or entity has previously violated this Plan during the same conservation cycle (i.e., Stages 2 through 4), the penalties set forth below may be imposed. The District's Staff will document the date and time of the violation, and photograph the offense, if practicable.
- B. **Second Violation** – Any person or entity who violates a mandatory requirement of the Plan a second time (which violation shall constitute unauthorized water service) during the same conservation cycle (i.e., Stages 2 through 4) shall receive a door hanger, US Mail, and when available an email notification of such violation, which notice shall set forth: (i) the date of the violation; (ii) the nature of the violation; (iii) the water conservation measures then in effect under the application Conservation Condition Stage; (iv) the penalty associated with violation of the Plan (specified below); and (v) that the person or entity shall have the right to appeal the penalty to the Board of Directors of the District. Any person or entity that violates the Plan a second time shall be subject to a penalty of \$200.00. The penalty shall be in addition to any other legal rights and remedies of the District as may be allowed by law. District personnel will document and photograph in the same manner as set forth above for first violations.
- C. **Third Violation** – Any person or entity who violates a mandatory requirement of the Plan a third time (which violation shall constitute unauthorized water service) during the same conservation cycle (i.e., Stages 2 through 4) shall receive a door hanger, US Mail, and when available, and email notification of such violation, which notice shall set forth: (i) the date of the violation; (ii) the nature of the violation; (iii) the water conservation measures then in effect under the application Conservation Condition Stage; (iv) the penalty associated with violation of the Plan (specified below); and (v) that the person or entity shall have the right to appeal the penalty to the Board of Directors of the District. Any person or entity that violates the Plan a third time shall be subject to a penalty of \$500.00. The penalty shall be in addition to any other legal rights and remedies of the District as may be allowed by law. District personnel will document and photograph in the same manner as set forth above for first and second violations.
- D. **Subsequent Violations** –
 - 1. **Disconnection for Noncompliance.** If any person or entity violates any provisions of this Plan more than three (3) times (which violation shall constitute an unauthorized use of District services and/or facilities) during the same conservation

cycle (i.e., Stages 2 through 4), then in addition to any other remedies, penalties, sanctions and enforcement procedures provided for herein or by applicable law, the District shall have the right to terminate water service to such person or entity after written notice. All reconnection fees and charges shall be paid as a condition of restoration of water service. District personnel will document and photograph such violations in the same manner as set forth above for prior violations.

2. Monetary Penalties for Noncompliance. If any person or entity violates any provision of this Plan more than three (3) times during the same drought declaration cycle then, in addition to (or in lieu of) the disconnection as provided in Subsection 1 above, the General Manager of the District, after providing required notice, may impose a penalty of up to \$750 for each violation of this Plan. Each day that a breach of any provision of this Plan continues shall be considered a separate and subsequent violation. This penalty shall be in addition to any other legal rights and remedies of the District as may be allowed by law.
- E. Appeals – Appeals of any penalty or other provision of this plan must be submitted to the Board of Directors in writing.
- F. Enforcement Discretion - The General Manager and Board of Directors of the District shall exercise their respective discretion in connection with exercising their enforcement authority under this Plan, but shall do so in a fair, impartial and non-discriminatory manner.
- G. Injunctive Relief: In addition to any other enforcement mechanism set forth herein, the District may enforce compliance with this plan through injunctive relief in a court of law.

Section XI: Testing and Maintenance

Irrigation system testing and maintenance shall be permitted during a drought restriction stage when watering is otherwise prohibited only for legitimate testing and maintenance purposes, and provided further that a sprinkler head or irrigation zone is not operated more than five (5) minutes.

Section XII: Water Waste Prohibitions

- A. A person who obtains water from the District shall comply with this subsection at all times of the year, regardless of whether a Conservation Condition is in effect.
- B. The following acts constitute a waste of water and are prohibited:
 1. Failing to repair a leaking fixture including a broken sprinkler head, a leaking valve, leaking or broken pipes or a leaking faucet within three (3) business days; or
 2. Operating a permanently installed or hose ended irrigation system with:
 - (a) A broken head after notification;
 - (b) A head that is out of adjustment where the arc of the spray head is over a street or parking lot causing run off; or

- (c) During irrigation, allowing water to run off property such that there is a stream of water that is running in the street for a distance of fifty feet (50') or greater from the lot or location of the sprinkler system, or allowing water to pond in the street or parking lot to a depth greater than one-fourth (1/4) of an inch.

C. Any violation of the requirements or prohibitions set forth in this Section XII shall be subject to the enforcement provisions of this Plan, including penalties, termination of service and injunctive relief.

Section XIII: Variances

The General Manager for the District, or his/her designee, may, in writing, grant variance for existing water uses otherwise prohibited under this Plan under any or all of the following conditions: (i) 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 such variance; (ii) 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; (iii) alternative methods can be implemented which will achieve an equivalent reduction in water use; (iv) an undue financial burden; or (v) during Stage II Conservation Conditions, the General Manager may grant a variance for the installation of landscaping at new residences and/or for filling swimming pools, provided he or she determines that there is an adequate water supply for such purposes.

- A. Persons requesting an exemption from the provisions of this Plan shall file a petition for variance with the District. All petitions for variances shall be reviewed by the General Manager, and shall include the following:
 - (a) Name and address of the petitioner(s).
 - (b) Purpose of water use.
 - (c) Specific provision(s) of the Plan from which the petitioner is requesting relief.
 - (d) Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Plan.
 - (e) Description of the variance requested.
 - (f) Period of time for which the variance is sought.
 - (g) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
 - (h) Other pertinent information.

- B. Variances granted by the District shall be subject to the following conditions, unless waived or modified by the General Manager:
- (a) Variances granted shall include a timetable for compliance.
 - (b) Variances granted shall state under which stages of this plan they shall apply.
 - (c) Variances may be revoked if petitioner has failed to meet specific requirements.
 - (d) Any variance may be revoked by the Board or General Manager at any time in their sole and absolute discretion as may be deemed necessary to protect or preserve the District's water supply for essential uses.
- C. No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

Section XIV: Remedies Cumulative

All rights, remedies, sanctions, penalties and enforcement procedures provided for in this Plan 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.

Section XV: Notice to Texas Commission on Environmental Quality

The District's General Manager shall notify the executive director of the Texas Commission on Environmental Quality within five (5) days of the implementation of any mandatory provisions of the Plan and any subsequent termination of said implementation.