

**DROUGHT CONTINGENCY PLAN
FOR
HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 136
ADOPTED APRIL 2005**

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 reduce the adverse impacts of water supply shortage or other water supply emergency conditions, Harris County Municipal Utility District No. 136 (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 (the "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 a waste of water which subjects the offender(s) to penalties as defined in Section X of this Plan.

The District recognizes that implementation of any or all parts of this Plan may cause some level of inconvenience to one or more Customers and these inconveniences may be unequal among some of the district's Customers. The District is charged with conserving and protecting the District's water resources, supply, distribution, and sanitation systems, and will endeavor to act on behalf of all Customers of the District, to the extent practicable, while preserving the District's resources and services.

SECTION II: PUBLIC INVOLVEMENT

This Plan was presented for comment from District Customers as a duly scheduled agenda item at the May 12, 2005 regular public meeting of the District's Board of Directors (the "Board"). In addition, on or about May 9, 2005 notices were mailed to all Customers containing; i) a summary description of the Plan, ii) instructions on how and where to obtain a complete copy of the Plan, iii) how to provide comments regarding the Plan to the Board, and iv) the date and location of the April 13, 2005 Board meeting during which this Plan was adopted.

SECTION III: PUBLIC EDUCATION

The District will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of one or combination of the following:

- 1) Publications of articles in a newspaper or newsletter of general circulation in the District's service area, providing information regarding the Plan;
- 2) Direct distribution of a copy or summary description of the Plan, and/or any other educational and informational material regarding the Plan, to all Customers, by one or combination of;
 - a) Customer's Monthly Billing Statement;

- b) Mail or hand-delivery to each Customer;
- c) Posting of signs at the entrances to the District;
- d) Dissemination of press releases to the local news media;
- e) Electronic messaging, such as e-mail and/or posting on the District's Website.

SECTION IV: COORDINATION WITH REGIONAL WATER PLANNING GROUPS

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

SECTION V: AUTHORIZATION

The Operator for 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 Operator for the District shall have the authority to initiate or terminate Drought Response Stages and Drought Response Measures as described in this Plan, and will notify the Board as soon as possible (but in any event within 24 hours) after initiation or termination of such stages and/or measures.

SECTION VI: APPLICATION

The provisions of this Plan shall apply to all Customers of the District.

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.

Commercial And Institutional Water Use: water use that is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Compliance Cost: any expense incurred by a Customer of the District in an effort(s) to comply with the requirements of this Plan. This applies to any equipment, piping, landscaping, labor, etc. located on the customer's side of the District's water meter.

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, corporation, partnership, association, organization or other legal entity using water supplied by the 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.

Efficient Watering Systems: automated low-flow rate watering systems such as, but not limited to, drip-line systems or soaker hose systems. The District encourages installation and use of such systems for landscape irrigation and maintaining structural foundation moisture.

Even Numbered Address: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Industrial Water Use: the use of water in processes designed to convert materials 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, golf courses, parks, and rights-of-way and medians.

Non-essential Water Use: water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- a) Irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- c) Use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- d) Use of water to wash down buildings or structures for purposes other than immediate fire protection;
- e) Flushing gutters or permitting water to run or accumulate in any gutter or street;
- f) Use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi - type pools;
- g) Use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- h) Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- i) Use of water from hydrants for construction purposes or any other purposes other than fire fighting.

Normal Operating Submergence: the production-test water level in the District's Primary Production Well as determined by the Operator for the District during the month of April every year. The pump submergence as of the April testing date shall be the water level utilized for water resource evaluation of drought condition by the Operator.

Odd Numbered Address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Operator: Eco-Resources, Inc. or its successor(s).

Primary Production Well: the District's well designated as Well #1.

Plan Production Capacity: the total gallons of water capable of being produced per day by the Primary Production Well and the Secondary Production Well as determined by the Operator for the District during the month of April every year. The Plan Production Capacity as of the April

testing date shall be the production capacity utilized for water resource evaluation of drought condition by the Operator.

Secondary Production Well: the District's well designated as Well #2.

Website: <http://hcmud136.org/>, or such other website address as determined by the District.

SECTION VIII: TRIGGERING CRITERIA FOR INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES

1) Trigger Conditions – For the purpose of this Plan, the District hereby adopts the trigger conditions ("Trigger Conditions") set forth below. When a Trigger Condition occurs, the District shall enforce the Drought Response Measures applicable to such Trigger Condition for a minimum of three (3) days and continue as long as Trigger Conditions are met for a particular Drought Condition. The District shall enforce the applicable Drought Response Measures for each stage of Drought Conditions for a minimum of three (3) days. After such three (3) day minimum period, the Drought Response Measures prescribed may, in the good judgment of the District, be continued for an additional five (5) day period even though no Trigger Condition has been met.

Trigger Conditions are for the purpose of responding to, but not limited to, the following situations; (a) reduction of available water supply; (b) water production, pump submergence or distribution system limitations; (c) supply source contamination; or (d) water system outage due to the failure or damage of major water system components (e.g. pumps).

a) Stage 1 - Mild Drought Conditions – This condition (herein, "Mild Drought Conditions") exists when:

- i) Customer demand reaches or exceeds seventy-five percent (75%) of the Plan Production Capacity for three (3) consecutive days; OR
- ii) Pump submergence decreases by sixty percent (60%) from Normal Operating Submergence for either the District's Primary Production Well or Secondary Production Well; OR
- iii) Upon evaluation of other water resource or delivery system criteria such conditions are deemed prudent by the District or its Operator.

b) Stage 2 – Moderate Drought Conditions – This condition (herein, "Moderate Drought Conditions") exists when:

- i) Customer demand reaches or exceeds eighty-five percent (85%) of the Plan Production Capacity for three (3) consecutive days; OR
- ii) Pump submergence decreases by seventy percent (70%) from Normal Operating Submergence for either the District's Primary Production Well or Secondary Production Well; OR
- iii) Upon evaluation of other water resource or delivery system criteria such conditions are deemed prudent by the District.

c) Stage 3 – Severe Drought Conditions – This condition (herein, "Severe Drought Conditions") exists when:

- i) Customer demand reaches or exceeds ninety-five percent (95%) of the Plan Production Capacity for two (2) consecutive days; OR
 - ii) Pump submergence decreases by eighty percent (80%) from Normal Operating Submergence for either the District's Primary Production Well or Secondary Production Well; OR
 - iii) Upon evaluation of other water resource or delivery system criteria such conditions are deemed prudent by the District or its Operator.
- d) Emergency Water Shortage Condition – This condition (herein, "Emergency Water Shortage Condition") exists in the event of a fire, flood, hurricane, lightning, tornado, windstorm, or any other act of God, riot, terrorist act, or any other civil disobedience, widespread or localized utility outage, unanticipated infrastructure failure, or any other similar occurrence which results in the inability of the District to provide potable water to Customers (or the likelihood thereof).
- 2) Rationale - The rationale for the above-described Trigger Conditions is based on, but not limited to, the following assumptions:
- a) The Primary Production Well is the primary water supply well for the District. The Secondary Production Well has insufficient capacity to meet all the District's demands during high water-use periods, and will be used to supplement production from the Primary Production Well, as necessary.
 - b) Pump submergence is critical to the production capacity because production generally decreases as pump submergence decreases. Pump submergence is regionally and seasonally impacted by District and extraterritorial water usage;
 - c) Operation of pumps with insufficient submergence will damage pumps and consequently jeopardize well production during peak-demand periods. Because of the significant cost to the District for pump replacement/repair, which is subsequently borne by the District's Customers, pump submergence and production is of paramount importance to the District.;
 - d) The Operator and the District cannot predict every possible situation(s) or event(s) which could or might jeopardize the production and/or delivery of water to Customers. Therefore, in the event that Customer demand and/or Normal Operating Submergence triggers are not effective or applicable to the then prevailing circumstances, the District and/or Operator must be able to utilize prudent judgement in order to implement Drought Response Measures.
- 3) Notice – Once one of the above Trigger Conditions has occurred, the Operator will notify Customers of the Drought Response Measures (as defined below) to be taken.
- a) The process for notifying Customers may include any of the following:
 - i) Customer's Monthly Billing Statement;
 - ii) Mail or hand-delivery written notice to each Customer;
 - iii) Posting of signs at the entrances to the District;
 - iv) Posting of notices at public places in the District;
 - v) Dissemination of press releases to the local news media; or
 - vi) Electronic messaging, such as e-mail and posting on the District's Website

- b) Any notice issued shall contain:
 - i) The date the Drought Response Measures will begin;
 - ii) A list of Drought Response Measures to be implemented; and
 - iii) An explanation of penalties for violations of such Drought Response Measures or reference where such penalties are further explained.
- 4) Drought 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 become effective after Customers have been notified as described in the preceding section.
 - a) Mild Drought – Voluntary Compliance: In the event of Mild Drought Conditions, the following Drought Response Measures shall be taken in an effort to achieve a fifteen percent reduction in daily water demand:
 - i) Customers will be asked to voluntarily reduce water use. Efficient Watering Systems, as defined by this Plan, may continue to operate.
 - ii) All Non-essential Water Use, including, but not limited to, lawn and garden watering, car washing, and window washing, shall be voluntarily limited as follows:
 - iii) Customers within the District with Even Numbered Addresses may use water outdoors on even-numbered days and only Customers with Odd Numbered Addresses may use water outdoors on odd-numbered days.
 - iv) In the event no address exists, Customers on the north and west side of a street may use water outdoors on even-numbered days and Customers on the south and east side of a street may use water outdoors on odd-numbered days.
 - v) Outdoor water use shall be prohibited between the hours of 12:00 p.m. (noon) and 6:00 p.m.
 - vi) Lawn and landscape irrigation systems, including Efficient Watering Systems that automatically operate on mechanical or electrical timers must be reset to comply with the Mild Drought Response Measures within two (2) days of Drought Condition notification.
 - b) Moderate Drought – Mandatory Compliance: In the event of Moderate Drought Conditions, the following mandatory Drought Response Measures shall be taken in an effort to achieve a twenty-five percent reduction in daily water demand:
 - i) The Drought Response Measures established for Mild Drought Conditions shall become mandatory and continue to be implemented.
 - ii) All Non-essential Water Use, including, but not limited to, lawn and garden watering, car washing, and window washing, must be conducted with a hand-held hose with a manual on-off nozzle.
 - iii) Use of lawn and landscape irrigation systems, including Efficient Watering Systems, are restricted to one day per week of use and are prohibited between the hours of 12:00 p.m. (noon) and 6:00 p.m.
 - iv) Lawn and landscape irrigation systems, including Efficient Watering Systems that automatically operate on mechanical or electrical timers must be reset to comply with the Moderate Drought Response Measures within two (2) days of Drought Condition

notification. Failure to reset said timing devices will result in a violation of the Plan and will be subject to the penalties described herein.

- v) Customers with Even Numbered Addresses may utilize automated watering systems on Tuesdays. Customers with odd-numbered addresses may utilize automated systems on Thursdays. vi) In the event no address exists, Customers on the north and west side of a street may utilize the above-referenced systems on even-numbered days and Customers on the south and east side of a street may utilize the above-referenced systems on odd-numbered days.
- vii) Use of lawn and landscape irrigation systems are prohibited on Saturdays, Sundays, Mondays, Wednesdays, and Fridays.
- viii) The District shall require that the following public water uses by any of its Customers deemed not essential for public health and safety be curtailed:
 - (1) Street washing
 - (2) Fire hydrant flushing, and
 - (3) Filling of swimming pools.
- c) Severe Drought – Mandatory Compliance: In the event of Severe Drought Conditions, the following mandatory Drought Response Measures shall be implemented in an effort to achieve a thirty-five percent reduction in daily water demand:
 - i) The Drought Response Measures established for Moderate Drought Conditions shall continue to be implemented.
 - ii) All Non-essential Water Use, including but not limited to lawn and garden watering, car washing, and window washing shall be prohibited.
 - iii) Lawn and landscape irrigation systems, including efficient watering systems, that automatically operate on mechanical or electrical timers must be reset to not operate and to comply with the Moderate Drought Response Measures within two (2) days of Severe Drought Condition notification. Failure to reset said timing devices will result in a violation of the Plan and will be subject to the penalties described herein.
 - iv) A surcharge equal to 200% of the applicable rate for all water used in excess of 10,000 gallons/month, may be imposed on all Customers of water within the District, but will not be imposed on wholesale Customers, if any.
 - v) The District may prohibit water use by certain industrial or commercial Customers 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 issues.
 - vi) The District may utilize alternative water sources and/or alternative delivery mechanisms with the prior approval of the executive director of the Texas Commission on Environmental Quality as appropriate (e.g. interconnection with another water system, temporary use of a non-municipal water supply, use of reclaimed water for non-potable purposes, etc.).
 - vii) The District is authorized to ration water to Customers 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, Section 11.039.

- d) Emergency Water Shortage Condition – Mandatory Compliance: In the event of an Emergency Water Shortage Condition, the District, in its good judgment, may, without prior notice, invoke all or any of the Drought 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 of the current production capacity of the available supply facilities. The District may establish any of the penalties set forth in Section X for violations of the Emergency Response Measures.
- 5) Termination of Trigger Conditions Notification – After the expiration of the three (3) day minimum(s) and the five (5) additional days (at the good judgment of the District) of Drought Response Measures, and assuming no other Trigger Conditions have occurred, the Drought Response Measures prescribed shall terminate and the Operator shall cease implementation and enforcement of such measures. The District may reduce the severity of Drought Response Stages in effect or terminate all Drought Response Measures at any time during its five (5) additional days of Drought Response Measures. The Operator will notify Customers of the termination of the particular Drought Response Measures and may utilize the same manner of notification used to inform Customers of the implementation of the Drought Response Measures.

SECTION IX: ENFORCEMENT

Without limitation to specific actions stated in this Plan to be taken by the District's Operator, the District's Operator will administer and enforce the Plan, and will oversee and be responsible for the execution and implementation of this Plan. The Operator shall keep adequate records for plan verification. The District's Operator shall report to the Board, at meetings of the Board and as necessary between scheduled meetings, regarding actions taken and which need to be taken under this Plan.

SECTION X: 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:

- 1) First Violation – Any Customer who violates the 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 mandatory 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 previously violated this Plan during the calendar year of the implementation of the Drought Condition in effect, the penalties set forth in (B) below, may, in the good judgment of the District, be imposed.
- 2) Subsequent Violations
 - a) Monetary Penalties for Noncompliance: If any Customer violates any provision of this Plan more than once during the calendar year (which violation shall constitute an unauthorized use of District services and/or facilities), then, in addition to disconnection as provided in Subsection 2 of this Section, the District, after providing required notice, may impose a penalty of up to \$5,000 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. .

- b) **Disconnection for Noncompliance:** If any Customer violates any provisions of this Plan more than twice during a calendar year (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.
- 3) **Violation Occurrences** - The Operator will be responsible for documenting violations and providing notification to Customers as indicated in herein. In addition, any Board member shall have the authority to document violations and notify the Operator so appropriate notification or other such actions as specified herein can be taken.

SECTION XI: VARIANCES

- 1) The Operator for the District 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 such variance and if one or more of the following conditions are met:
 - a) 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.
 - b) Alternative methods can be implemented which will achieve the same level of reduction in water use.
- 2) Persons requesting an exemption from the provisions of this Plan shall file a request for variance with the District's Operator in writing within 5 days after a particular Drought Response Condition has been invoked. Plan Compliance Costs are the responsibility of the Customers and will not be considered as part of the request for variance. All requests for variances shall be reviewed by the Operator for the District 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 Ordinance.
 - e) Description of the relief 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.
- 3) Variances granted by the District shall be subject to the following conditions, unless waived or modified by the Operator for the District or his/her designee:

- a) Variances granted shall include a timetable for compliance.
 - b) Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.
- 4) No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.
 - 5) The Operator for the District shall provide written response to any petition for variance that complies with this Plan within seven (7) business days of receipt of the initial petition for variance. Modifications to any request for variance, or previously granted variance, shall be reviewed by the Operator as a new petition for variance.

SECTION XII: RECEIVING WATER FROM WHOLESALE PUBLIC WATER SUPPLIER

In case the District receives water from another water supplier, then the District shall consult with that water supplier in order to respond appropriately to the water supplier's drought contingency plan for reduction in water supply. Also in such case, if the other water supplier implements drought response stages pursuant to its drought contingency plan, the District will evaluate implementing its drought response stages and evaluate the need to discourage excessive use of water in an effort to reduce the use of water.

SECTION XIII: 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.

SECTION XIV: NOTICE TO TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

The District's Operator shall notify the executive director of the Texas Commission on Environmental Quality within five (5) days of the implementation of any mandatory provision of the Plan.

SECTION XV: WHOLESALE CUSTOMER CONTRACTS

If the District enters into or renews any wholesale water contracts after adoption of the Plan, said contracts shall include a provision that in case of a shortage of water resulting from drought, the water to be distributed shall be in accordance with Texas Water Code, Section 11.039.