

DROUGHT CONTINGENCY PLAN



New Caney Municipal Utility District
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March 2019

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EXHIBIT A Resolution for Adoption of a Drought Contingency Plan



INTRODUCTION

Section I. Description of District

New Caney Municipal Utility District (MUD) was established in June 1, 1978, pursuant to Article 16, Section 59, of the Texas Constitution and Chapter 54 of the Texas Water Code. The District currently is comprised of 9,413 acres (14.71 sq. miles).

Section II. Population

New Caney MUD has maintained a steady rate of growth from 1940 through the early 1990's. Although the population growth rate leveled off during the 1985 to 1990 period, the District has shared in the renewed growth of the greater Houston area during the 90's. The District has reported a 2018 population of 15,207 and a population projection by TWDB shows an estimated (arithmetic progressive) population of 17,712 for 2020.

Section III. Boundaries and Political Jurisdictions

The New Caney Municipal Utility District is located approximately 25 miles northeast of downtown area of the City of Houston along the growth-oriented East-Tex Freeway corridor (U.S. 59). The District lies just north of Porter and the City of Houston's Kingwood planned community. The District generally is bounded by White Oak Creek on the south, Peach Creek on the east, New Caney Creek/Roman Forest on the north and an irregular boundary on the west, roughly parallel to the East-Tex Freeway about two miles west.

Section IV. Water Supply

The New Caney Municipal Utility District has three (3) ground water plants with a water well, booster pumps, ground storage tank, twin pressure tanks (hydro-pneumatic tanks) and chlorination facilities at each location. Total capacity of the three (3) water wells is approximately 3,725 gpm (5.4 mgd). The well water is obtained from the Evangeline aquifer, and the wells are permitted by the Texas Commission on Environmental Quality (TCEQ).

The District also has three water wells that are available for peaking and for drought conditions. The water well no. 1 has a capacity of 1,075 gpm, water well no. 2 has a capacity of 1,450 gpm, and water well no. 3 has a capacity of 1,200 gpm for a combined well capacity of 3,725 gpm (5.364 mgd). The water well site no. 1 also has four 600 gpm booster pump, water well site no. 2 has four 500 gpm pumps, and the water well site no. 3 has four 1,050 gpm pumps for a combined capacity of 8,600 gpm (12.384 mgd). The water wells are permitted by the San Jacinto River Authority, and the District is allocated up to 485 million gallons of well water annually.

The District has a 0.750 mg elevated storage tank, a ground storage tank at 0.667 mg and, and an additional ground storage tank at 0.429 mg for a total storage capacity of 1.76 mg.



Section V. Mission Statement

The primary mission of the District is as follows:

- Provide adequate water volume and pressure for fire fighting
- Provide potable water for public consumption, public safety and welfare
- Provide quality service

Section VI. Critical Customers

The District has no dominant “critical” customers with the exceptions of the school system and day care facilities. There are no hospitals, nursing centers or major commercial or industrial installations. The District does not know of any customer who is water dependent for life support or medical reasons that live within the District.

Section VII. Goal

The intent of the New Caney Municipal Utility District’s Drought Contingency Plan will be to reduce unnecessary consumption of water by implementing permanent efficient water use practices. Currently the District has no shortage of water. However, the District recognizes the benefits of water conservation and has prepared a plan should a drought occur.

The goal of the New Caney Municipal Utility District’s Drought Contingency Plan will be to provide temporary procedures for mandatory and voluntary action which will reduce demand on the water supply system during a water shortage situation. The Plan will include various conservation measures, as well as the mechanism for prohibiting certain other uses during the shortage emergency.



DROUGHT CONTINGENCY PLAN

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, the New Caney MUD 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.

Section II. Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by New Caney MUD by means of postings at the water office.

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:

- Utility bill inserts
- Direct mailing
- Sponsor school programs to promote Water Conservation Education
- Newspaper advertisement/school function directories (i.e., football programs, ads-yearbook, ads-FFA and 4-H programs)
- Distribute and have available brochures on water conservation

Section IV. Coordination with Regional Water Planning Groups

The service area of the New Caney MUD is located within the Houston Region (H), Regional Water Planning Group that is headed by Mr. Mark Evans with North Harris County Regional Water Authority (281) 440-3924. A copy of the Drought Contingency Plan will be provided to Region (H) as required by the TCEQ, as well as the Harris-Galveston Subsidence District.



Section V. Authorization

The District's General Manager, or his/her designee 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 District's General Manager or his/her designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

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" 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.

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.

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.

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 number 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 firefighting.

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

Water Source: These regulations apply to water use supplied by the District.

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

The District's 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 known system capacity limits.

Stage 1 Triggers – MILD Water Shortage Conditions

Requirements for Initiation: Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section VII-Definitions, when one or more of the following occur:

1. The District has a water well out of production for maintenance and production is curtailed or if the distribution system is compromised.
2. Average daily water consumption reaches 85% of production capacity for three (3) days.
3. The static level of the water wells begin to fall below normal operating conditions.



4. Weather conditions are to be considered in drought classification determinations. Predicted long cold or dry periods and conditions are to be considered in impact analysis.

Requirements for Termination: Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.

Stage 2 Triggers - MODERATE Water Shortage Conditions

Requirements for Initiation: Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan when one or more of the following occur:

1. The District has a water well out of production for maintenance and production is curtailed or if the distribution system is compromised.
2. The static water level in the wells continues to decline.
3. Average daily water consumption reaches 90% of rated production capacity for a three-day period.
4. Failure of a large distribution water line.
5. Storage capacity (water level) is not being maintained during period of 100% rated production period.
6. Weather conditions indicate that a mild drought will exist for several days.

Requirements for Termination: Stage 2 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

Stage 3 Triggers – SEVERE Water Shortage Conditions

Requirements for Initiation: Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this Plan when one or more of the following occur:

1. The Baytown Area Water Authority's Surface Water Treatment Plant curtails production and/or delivery.
2. The average daily water consumption exceeds the capacity of the system.
3. The average daily water consumption will not enable storage levels to be maintained.
4. Failure of a large distribution water line that severely interrupt the supply of water.
5. The water system is contaminated either accidentally or intentionally.



6. Water system fails from “acts of God” (tornados, hurricanes) or man. The severe condition is reached immediately upon detection.

Requirements for Termination: Stage 3 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

Stage 4 Triggers – CRITICAL Water Shortage Conditions

Requirements for Initiation: Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 4 of this Plan when one or more of the following occur:

1. The Baytown Area Water Authority’s Surface Water Treatment Plant continues to curtail production and/or delivery.
2. A major water well is down for repairs.
3. The District is unable to maintain adequate levels in the ground storage tanks and elevated tank.
4. Major water main break or system failures occur, which causes unprecedented loss of capability to provide adequate water service.
5. Water System is contaminated either accidentally or intentionally (biologically or chemically).

Requirements for Termination: Stage 4 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

Stage 5 Triggers – EMERGENCY Water Shortage Conditions

Requirements for Initiation: Customers shall be required to comply with the requirements and restrictions for Stage 5 of this Plan when the General Manager, or his/her designee, determines that a water supply emergency exists based on one or more of the following occur:

1. Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service.
2. Natural or man-made contamination of the water supply source(s).

Requirements for Termination: Stage 5 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.



Stage 6 Triggers – WATER Allocation

Requirements for Initiation: Customers shall be required to comply with the water allocation plan prescribed in Section IX of this Plan and comply with the requirements and restrictions for Stage 5 of this Plan when one or more of the following occur:

1. The Baytown Area Water Authority's Surface Water Treatment Plant is only able to operate at 50% capacity.
2. District's water wells unable to operate at peak capacity due to acts of God.
3. Average daily demand exceeds system capacity.
4. Weather predictions are for continued dry weather with no letup in sight.

Requirements for Termination: Water allocation may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.

Section IX. Drought Response Stages

The District's General Manager, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of this Plan, shall determine that a mild, moderate, severe, critical, emergency or water shortage condition exists and shall implement the following notification procedures:

Notification

Notification of the Public: The District's General Manager or his/her designee shall notify the public by means of:

- Publication in a newspaper of general circulation
- Direct mail to each customer
- Public service announcements
- Signs posted in public places
- TV and/or radio

Additional Notification: The District's General Manager or his/her designee shall notify directly, or cause to be notified directly, the following individuals and entities based upon the respective drought stages:

- Members of the Utility Board
- Fire Chief(s) and local law enforcement.
- TCEQ (required when mandatory restrictions are imposed)
- Major water users
- Critical water users, i.e., hospitals and schools
- Parks/street superintendents and public facilities managers



Stage 1 Response – MILD Water Shortage Conditions

Target: Achieve a voluntary 10% reduction in total water use.

Best Management Practices for Supply Management:

1. Develop an information center and designate an information person.
2. Advise public of condition and publicize availability of information from center.
3. Encourage voluntary reduction of water use.
4. Contact commercial and industrial users and explain necessity for initiation of strict conservation methods.
5. Implementation of system oversight and make adjustments as required to meet changing conditions.
6. Discontinue flushing of water mains.

Voluntary Water Use Restrictions:

1. Water customers are requested to voluntarily limit the irrigations of landscaped areas to Sundays and Thursdays for customers with an even number address, and Saturdays and Wednesdays for customers with an odd number address, and to irrigate landscapes only between the hours of midnight and 10:00 A.M. and 8:00 P.M. to midnight on designated watering days.
2. All operations of the District shall adhere to water use restrictions prescribed in Stage 2 of the Plan.
3. Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes. Water conservation information is available at the District Office.

Stage 2 Response – MODERATE Water Shortage Conditions

Target: Achieve a 15% reduction in total water use.

Best Management Practices for Supply Management:

1. District will reduce or discontinue flushing water mains.
2. Reduce or discontinue irrigation of landscape areas.
3. During winter months, request that customers insulate pipes rather than running their water to prevent freezing.

Water Use Restrictions for Demand Reduction:

Under threat of penalty for violation, the following water use restrictions shall apply to all persons:



1. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with an even number street address, and Saturdays and Wednesdays for customers with an odd number street address, and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 A.M. and between 8:00 P. M. and 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted at any time if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.
2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 A.M. and between 8:00 P.M. and 12:00 midnight. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
3. Use of water to fill, refill or add to any indoor or outdoor swimming pools, wading pools or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 A.M. and between 8:00 P.M. and 12:00 midnight.
4. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
5. Use of water from hydrants shall be limited to firefighting, related activities or other activities necessary to maintain public health, safety and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the District.
6. The following uses of water are defined as non-essential and are prohibited:
 - a. Wash down of any sidewalks, driveways, parking lots, tennis courts, or other hard-surfaced areas.
 - b. Use of water to wash down buildings or structures for purposes other than immediate fire protection.
 - c. Use of water for dust control.
 - d. Flushing gutters or permitting water to run or accumulate in any gutter or street.
 - e. Failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).



Stage 3 Response – SEVERE Water Shortage Conditions

Target: Achieve a 25% reduction in total daily consumption.

Best Management Practices for Supply Management:

1. The District will reduce or discontinue flushing water mains.
2. Reduce or discontinue irrigation of landscape areas.
3. During winter months, request that customers insulate pipes rather than running their water to prevent freezing.

Water Use Restrictions for Demand Reduction: All requirements of Stage 2 shall remain in effect during Stage 3 except:

1. Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 A.M. and between 8:00 P.M. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times.
2. The filling, refilling or adding of water to swimming pools, wading pools and Jacuzzi-type pools is prohibited.
3. The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

Stage 4 Response – CRITICAL Water Shortage Conditions

Target: Achieve a 35% reduction in total water use.

Best Management Practices for Supply Management:

1. District will reduce or discontinue flushing water mains.
2. Reduce or discontinue irrigation of landscape areas.
3. During winter months, request that customers insulate pipes rather than running their water to prevent freezing.

Water Use Restrictions for Reducing Demand; All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:

1. Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic



sprinkler systems are prohibited at all times.

2. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial car wash and commercial service stations and not in the immediate interest or public health, safety and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10:00 p.m.
3. The filling, refilling or adding of water to swimming pools, wading pools and Jacuzzi-type pools is prohibited.
4. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such foundations or ponds are equipped with a recirculation system.
5. No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher-numbers stage shall be in effect.

Stage 5 Response – EMERGENCY Water Shortage Conditions

Target: Achieve a 50% reduction in total water consumption.

Best Management Practices for Supply Management:

1. The District will discontinue the flushing of all water mains.
2. Reduce the irrigation of all public landscaped areas.
3. Use non-potable re-claimed water such as from the bathtub, sink and/or washing machine for outside watering.

Water Use Restrictions for Reducing Demands: All requirements of Stage 2, 3 and 4 shall remain in effect during Stage 5 except:

1. Irrigation of landscaped areas is absolutely prohibited.
2. Use of water to wash any motor vehicle, motorbike, trailer airplane or other vehicle is absolutely prohibited.
3. All restaurants are prohibited from serving water to patrons except upon request.



4. The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

Stage 6 Response – WATER Allocations

In the event that water shortage conditions threaten public health, safety and welfare, the General Manager or his/her designee is hereby authorized to allocate water according to the following water allocation plan.

Single Family Residential Customers

The allocation to residential water customers residing in a single-family dwelling shall be as follows:

<u>Persons per Household</u>	<u>Gallons per Month</u>
1 or 2	6,000
3 or 4	7,000
5 or 6	8,000
7 or 8	9,000
9 or 10	10,000
11 or more	12,000

“Household means the residential premises served by the customer’s meter. “Persons per Household” includes only those persons currently physically residing at the premises and expected to reside there for the entire billing period. It shall be assumed that a particular customer’s household is comprised of two (2) persons unless the customer notifies the District of a greater number of persons per household on a form prescribed by the General Manager and or his/her designee. The General Manager or his/her designee shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every residential customer. If, however, a customer does not receive such a form, it shall be the customer’s responsibility to go to the District offices to complete and sign the form claiming more than two (2) persons per household. New customers may claim more persons per household at the time applying for water service on the form prescribed by the General Manager or his/her designee. When the number of persons per household increases so as to place the customer in a different allocation category, the customer may notify the District on such form and the change will be implemented in the next practicable billing period. If the number of persons in a household is reduced, the customer shall notify the District on such form and the change will be implemented in the next practicable billing period. If the number of persons in a household is reduced, the customer shall notify the District in writing within two (2) days. In prescribing the method for claiming more than two (2) persons per household, the General Manager or his/her designee shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of persons in a household or fails to timely notify the District of a reduction in the number of persons in the household shall be fined not less than \$200.00 and not more than \$500.00.



Residential water customers shall pay the following surcharges if monthly allocation is exceeded:

- \$10 for the first 1,000 gallons over allocation
- \$20 for the second 1,000 gallons over allocation
- \$30 for the third 1,000 gallons over allocation
- \$40 for each additional 1,000 gallons over allocation

Surcharges shall be cumulative

Commercial Customers

A monthly water allocation shall be established by the Board President or his/her designee, for each non-residential commercial customer other than an industrial customer who uses water for processing purposes. The non-residential customer's allocation shall be approximately 75% of the customer's usage for corresponding month's billing period for the previous 12 months. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists.

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Customer whose monthly usage is less than 6,000 gallons shall be allocated 6,000 gallons. The Board President or his/her designee shall give his/her best effort to see that notice of each non-residential customer's allocation is mailed to such customer.

If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the District to determine the allocation. Upon request of the customer or at the initiative of the Board President or his/her designee the allocation may be reduced or increased if, 1) the designated period does not accurately reflect the customer's normal water usage, or 2) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the Board President and/or his/her designee. Non-residential commercial customers shall pay the following surcharges for exceeding their monthly allocation:

Customers whose allocation is 6,000 gallon through 10,000 gallons per month:

- \$25 per 1,000 gallons for the first 1,000 gallons over allocation
- \$50 per 1,000 gallons for the second 1,000 gallons over allocation
- \$75 per 1,000 gallons for the third 1,000 gallons over allocation
- \$100 per 1,000gallons for each additional 1,000 gallons over allocation

Customers whose allocation is 10,001 gallons per month or more:

- 3 times the block rate for each 1,000 gallons in excess of the allocation up through 5% above allocation.
- 6 times the block rate for each 1,000 gallons from 5% through 10% above allocation
- 8 times the block rate for each 1,000 gallons from 10% through 15% above allocation
- 12 times the block rate for each 1,000 gallons more than 15% above allocation



The surcharges shall be cumulative. As used herein, "block rate" means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer's allocation.

Industrial Customers

A monthly water allocation shall be established by the Board President or his/her designee, for each industrial customer, which uses water for processing purposes. The industrial customer's allocation shall be approximately 90% of the customer's water usage baseline. Ninety (90) days after the initial imposition of the allocation for industrial customers, the industrial customer's allocation shall be further reduced to 85% of the customer's water usage baseline. The industrial customer's water use baseline will be computed on the average water use for the 12 month period ending prior to the date of implementation of Stage 2 of the Plan. If the industrial water customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists. The Board President or his/her designee shall give his/her best effort to see that notice of each industrial customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the District to determine the allocation. Upon request of the customer or at the initiative of the Board President or his/her designee the allocation may be reduced or increased, 1) if the designated period does not accurately reflect the customer's normal water use because the customer had shutdown a major processing unit for repair or overhaul during the period, 2) the customer has added or is in the process of adding significant additional processing capacity, 3) the customer has previously implemented significant permanent water conservation measures such that the ability to further reduce water use is limited, or 4) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the Board President and/or his/her designee. Industrial customers shall pay the following surcharges:

Customers whose allocation is 6,000 gallons through 10,000 gallons per month:

- \$30 per 1,000 gallons for the first 1,000 over allocation
- \$60 per 1,000 gallons for the second 1,000 gallons over allocation
- \$90 per 1,000 gallons for the third 1,000 gallons over allocation
- \$120 per 1,000 gallons for each additional 1,000 gallons over allocation

Customers whose allocation is 10,001 gallons per month or more:

- 5 times the block rate for each 1,000 gallon in excess of the allocation up through 5% above allocation
- 10 times the block rate for each 1,000 gallons from 5% through 10% above allocation
- 15 times the block rate for each 1,000 gallons from 10% through 15% above allocation
- 20 times the block rate for each 1,000 gallons more than 15% above allocation

The surcharges shall be cumulative. As used herein, "block rate" means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer's allocation.



Section X. Enforcement and Penalties

1. No person shall allow the use of water from the District for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any 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 District's General Manager, or his/her designee, in accordance with provisions of this Plan.
2. Any person, including a person classified as a water customer of the District, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.
3. The District shall have full authority and means, pursuant to the Texas Water Code, in particular Section 51.122 and Section 51.127 thereof, to implement and enforce the provisions of the Plan. Enforcement shall be provided by local police, special employees hired by the District to enforce this Plan and/or District Personnel. All violations of the provisions of this Plan shall be punishable by a fine not to exceed the maximum allowed by law. Each day's violation shall be and constitute a separate offense. Continued violations of these provisions may result in termination of water service for the violator.
4. The following penalties shall apply to anyone violating the terms of this Plan or the Drought Response Measures adopted pursuant thereto;
 - A. First Violation. Any person or entity 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 Drought Response Measures then in effect, and (iv) the penalties applicable for any further violations of the Plan; provided, however, that if such person or entity has ever previously violated the Plan, the penalties set forth in Subsection 4.B.2 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 the 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 is provided and any other applicable procedural requirements in the District's



Rate Order are satisfied.

2. Monetary Penalties for Noncompliance. If any person or entity violates any provision of the 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 4.B.1 of this Section, the Board of the District, after providing required notice, may impose a penalty of up to \$10,000.00 for each violation of the Plan. Each day that a breach of any provision of the 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 XI. Variances

The District's General Manager or his/her designee may, in writing, grant temporary variance for existing water uses otherwise prohibited under the 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:

1. Compliance with the Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
2. Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the District within five (5) days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the District's General Manager or his/her designee and shall include the following:

1. Name and address of the petitioner(s).
2. Purpose of water use.
3. Specific provision(s) of the Plan from which the petitioner is requesting relief.
4. 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.
5. Description of the relief requested.
6. Period of time for which the variance is sought.
7. Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of the Plan and the compliance date.
8. Other pertinent information.



Variations granted by the District shall be subject to the following conditions, unless waived or modified by the District's General Manager or his/her designee.

1. Variations granted shall include a timetable for compliance.
2. Variations granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

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



EXHIBIT A

RESOLUTION FOR ADOPTION OF A DROUGHT CONTINGENCY AND PLAN