

ORDER ADOPTING AMENDED AND RESTATED DROUGHT CONTINGENCY  
PLAN; PROVIDING FOR IMPLEMENTATION AND ENFORCEMENT THEREOF;  
PROVIDING PENALTIES FOR VIOLATIONS; AND CONTAINING OTHER  
PROVISIONS RELATED TO THE SUBJECT

WHEREAS, the Board of Directors (the "Board") of West Harris County Regional Water Authority (the "Authority"), has carefully considered the current water conditions in the Authority and area-wide and has determined that the adoption of this Drought Contingency Plan (the "Plan") by the Authority is necessary to ensure that an adequate supply of water is maintained; and

WHEREAS, the Authority has in place a groundwater reduction plan pursuant to the Authority's Order Establishing Groundwater Reduction Plan and Related Rules, dated May 14, 2003, as amended, including all directives, determinations and requirements issued by the Authority (or by its engineer or operator, as provided for in the Authority's Amended Rate Order) pursuant to such order, as all of same may be amended from time to time (all of the foregoing being referred to herein collectively as the "GRP"); and

WHEREAS, the Board of the Authority also desires to provide in the Plan for the possibility of a natural disaster or equipment failure; and

WHEREAS, the Board of the Authority desires to evidence its approval of this Plan and to adopt such Plan as the official policy of the Authority and to replace any prior Plan that may have been in effect; NOW, THEREFORE,

BE IT ORDERED BY THE BOARD OF THE AUTHORITY THAT:

Section 1:      Approval of the Plan. The Board of the Authority hereby approves and adopts the Plan as set forth in this Order, and the provisions of such Plan shall be implemented immediately and enforced as a rule of the Authority, and shall supersede any previously adopted Drought Contingency Plan.

Section 2:      Public Involvement. The Authority has informed the public and wholesale water customers and affirmatively provided opportunity for input from the public and from wholesale water customers regarding the Plan. Such provision included notifying the public and wholesale water customers of the Authority's public meeting regarding the proposed Plan, notice of which was given pursuant to the Open Meetings Act and posted on the Authority's website prior to the Authority's public meeting where this Plan was adopted by the Board.

Section 3:      Education and Information. The Authority hereby institutes an educational program, to be implemented as soon as reasonably practicable, to promote

the Plan with the general public which may include direct distributions to Authority customers regarding water conservation.

Additional educational activities may include: (i) conducting an informational school program in a school attended by students within the Authority's service area, or (ii) conducting an educational program at a public place within or accessible to residents of the Authority, (iii) conducting or engaging in such other informational or educational activity designed to further water conservation measures as, in the discretion of the Board, may be consistent with the purposes and policies of this Plan, (iv) publication of articles in a newspaper or newsletter of general circulation in the Authority's service area, providing information regarding water conservation, or (v) any combination of the foregoing.

Section 4:      Coordination with Regional Water Planning Groups. The water service area of the Authority is located within the Region H Regional Water Planning Group and the Authority will file a copy of the Plan to the Region H Regional Water Planning Group.

Section 5:      The Drought Contingency Plan.

A.    Trigger Conditions. For the purpose of this Plan, the Authority hereby adopts the trigger conditions (the "Trigger Conditions") set forth below, which are based on an analysis of the vulnerability of water sources under drought of record conditions.

1.    Stage I - Mild Drought. This condition (herein, "Mild Drought Conditions") exists when (a) the Authority's receipt of water from the Authority's wholesale water supplier (the City of Houston (the "City")) is reduced by up to 10% for 5 consecutive days as a result of the implementation of drought response measures, or (b) the Authority has determined that it is necessary to trigger this condition to facilitate compliance with the Harris Galveston Subsidence District requirements. The Authority's operator will monitor the average daily supply of water being delivered by the City and monitor any notices given by the City regarding water delivery reductions or limitations.

2.    Stage II - Moderate Drought. This condition (herein, "Moderate Drought Conditions") exists when (a) the Authority's receipt of water from the City is reduced by more than 10% and less than 20% for 5 consecutive days as a result of the implementation of drought response measures, or (b) the Authority has determined that it is necessary to trigger this condition to facilitate compliance with the Harris Galveston Subsidence District requirements. The Authority's operator will monitor

the average daily supply of water being delivered by the City and monitor any notices given by the City regarding water delivery reductions or limitations.

3. Stage III - Severe Drought. This condition (herein, "Severe Drought Conditions") exists when (a) the Authority's receipt of water from the City is reduced by 20% or more for 5 consecutive days as a result of the implementation of drought response measures, or (b) the Authority has determined that it is necessary to trigger this condition to facilitate compliance with the Harris Galveston Subsidence District requirements. The Authority's operator will monitor the average daily supply of water being delivered by the City and monitor any notices given by the City regarding water delivery reductions or limitations.

B. Notice. Once one of the above Trigger Conditions has occurred, the affected Authority customers (including entities whose wells are included in the Authority's GRP (via contract or otherwise) and wholesale water customers that receive surface water from the Authority) (collectively, the "Users"), will be notified that such Trigger Condition has occurred and of the Drought Response Measures (as defined below) to be taken. The process for notifying Users may include any of the following:

1. Faxing, delivering, mail or transmitting by electronic mail, at least 48 hours prior to the commencement of the required Drought Response Measures, a written notice to each affected User;
2. Posting of notices at public places in the Authority or on the Authority's internet website; and
3. Dissemination of press releases to the local news media.

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

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

1. Mild Drought. In the event of Mild Drought Conditions, the Authority's targeted reduction in daily water delivery shall be 10% as of the date of the Trigger Condition, and one or both (as determined by the Authority's operator, engineer, and/or President or Vice-President) of the following Drought Response Measures shall be taken:

a. The Authority may request Users to voluntarily reduce their water usage.

b. The Authority may require the reduction or suspension (as determined by the Authority's operator, engineer, and/or President or Vice-President) of water supply service to any Users receiving water from the Authority that are not contractually entitled to receive water from the Authority.

2. Moderate Drought. In the event of Moderate Drought Conditions, the Authority's targeted reduction in daily water delivery shall be 15% as of the date of the Trigger Condition, and the following Drought Response Measures shall be taken:

a. The Drought Response Measure(s) established for Mild Drought Conditions shall continue to be implemented.

b. The Authority's operator or engineer will initiate weekly contact with Users contractually entitled to receive water from the Authority to discuss water supply and/or demand conditions and the possibility of pro rata curtailment of water supplies if drought conditions worsen. Such Users may also be encouraged to utilize alternate water supplies (e.g. groundwater wells and interconnects with other Users).

c. The Authority may encourage all Users to implement one or more drought response measures in their respective drought contingency plans.

3. Severe Drought. In the event of Severe Drought Conditions, the Authority's targeted reduction in daily water delivery shall be 20% as of the date of the Trigger Condition, and the following Drought Response Measures shall be taken:

a. The Drought Response Measure(s) established for Mild Drought Conditions and the Drought Response Measures

established for Moderate Drought Conditions shall continue to be implemented.

b. All Users will be required to implement one or more drought response measures in their respective drought contingency plans.

c. The Board of the Authority may utilize alternative water sources and/or alternative delivery mechanisms to deliver water, with the prior approval of the executive director of the Texas Commission on Environmental Quality, as appropriate (e.g., interconnection of the Authority's system with another water system, temporary use of a non-municipal water supply, use of reclaimed water for non-potable purposes, etc.).

d. The Authority is authorized to initiate allocation of water supplies to its Users contractually entitled to receive water from the Authority on a pro rata basis, in accordance with Texas Water Code, Section 11.039.

4. Surcharge for Mild, Moderate or Severe Droughts. In addition to any other fees imposed by the Authority, the Authority may impose a surcharge in an amount then determined by the Authority (the "Surcharge") on any User (whether or not the User receives surface water from the Authority) if the User fails to reduce its water production by the Reduction Amount (defined below). The Surcharge may only be imposed by the Authority on water produced or delivered by a User in excess of the Reduction Amount. For purposes of the preceding two sentences, the Reduction Amount means the average number of gallons per month of water produced or delivered by the User over the three-month period immediately preceding the Authority's implementation of the Surcharge (the "Average GPM") multiplied by the targeted reduction in daily water delivery specified herein for the applicable Drought Response Measures. For example, if the Authority has notified affected Users that Mild Drought Conditions have occurred, the targeted reduction in daily water delivery will be 10% and an affected User who has an Average GPM of 10 million gallons would be subject to the Surcharge for any water produced or delivered in excess of 9 million gallons per month. Prior to implementing the Surcharge, the Authority will determine the exact amount of the Surcharge and will notify affected Users at least 7 calendar days prior to implementation via any of the methods of notice set forth in Section 5.B. above. The Authority may require affected Users to perform the calculations required under this Section 5.C.4., and provide same to

the Authority. The Authority may use the Surcharge only to pay for, or reimburse itself for, disincentive fees paid to the Harris-Galveston Subsidence District or the Fort Bend Subsidence District, water conservation efforts, groundwater credits, or enforcement costs related to the Plan.

D. Termination of Trigger Conditions Notification. When a Trigger Condition occurs, the Authority shall enforce the Drought Response Measures applicable to such Trigger Condition. The Authority's President, Vice-President, or operator or engineer (after consultation with the President or Vice-President) may terminate the Drought Response Measures when the Trigger Condition(s) are no longer met, and the Authority shall then cease implementation and enforcement of such Drought Response Measures. The Authority will notify affected Users of the termination of the particular Drought Response Measures and may utilize the same manner of notification used to inform affected Users of the occurrence of the Trigger Condition and implementation of the Drought Response Measures.

E. Drought Contingency Plans for GRP Participants Receiving Surface Water. Each participant in the GRP that receives surface water supplied by the Authority shall adopt a drought contingency plan that includes the minimum requirements set forth in Title 30, Texas Administrative Code, Chapter 288, Subchapter B. The triggering criteria included in a drought contingency plan shall be based upon total daily water production capacity (and not water well run time or any other method).

Section 6: Emergency Contingency Plan. In the event of a fire, flood, hurricane, lightning strike, tornado, windstorm, significant water supply interruption, or any other act of God, riot, terrorist act, or any other act of civil disobedience, or any other similar occurrence which results in the inability of the Authority to provide potable water (or the likelihood thereof), the Authority's operator, engineer, and/or President or Vice-President, may, without prior notice, invoke all or any of the Drought Response Measures set forth in this Plan.

Section 7: Wholesale Customer Contracts. If the Authority 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 by the Authority among those entities that are contractually entitled to receive water from the Authority shall be divided in accordance with Texas Water Code, Section 11.039.

Section 8: Variances. The Authority's operator, engineer and/or President or Vice-President may, in writing, grant a temporary variance to pro rata water allocation



policies adopted pursuant to this Plan, or a temporary variance to a provision in the Plan, if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the public health, welfare, or safety 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 delivery.

Users requesting an exemption from the provisions of this Plan shall file a petition for a variance with the Authority. All petitions for variances shall be reviewed by the Authority's operator, engineer and/or President or Vice-President and shall include the following:

- (a) Name and address of the petitioner(s).
- (b) A detailed statement with supporting data and information as to how the pro rata allocation of water under the policies and procedures established in the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Plan.
- (c) Description of the relief requested.
- (d) Period of time for which the variance is sought.
- (e) Alternative measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- (f) Other pertinent information.

Variances granted by the Authority's operator, engineer and/or President or Vice-President shall be subject to the following conditions unless waived or modified by the Authority's operator, engineer and/or President or Vice-President:

- (a) Variances granted shall include a timetable for compliance.
- (b) Variances granted shall expire when the Plan is no longer in effect (or earlier if so determined by the Authority's operator, engineer and/or President or Vice-President), unless the petitioner has failed to meet specified requirements.

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

Section 9: Implementation. Without limitation to specific actions stated in this Plan to be taken by the Authority's operator, the Authority's operator will administer and enforce this Plan, and will oversee and be responsible for the execution

and implementation of all elements of this Plan. The operator shall keep adequate records for Plan verification. The Authority's operator shall report to the Board of the Authority, at meetings of the Board, regarding actions taken and which need to be taken under this Plan. Without limiting the foregoing, the Authority's operator shall advise the President of the Board (or if the President is unavailable to receive notification, another member of the Board) as soon as reasonably practicable when a particular Trigger Condition has been reached under this Plan and when a particular drought condition no longer exists.

Section 10: Penalties. Any User 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 Drought Response Measures then in effect, and (iv) the applicable penalty. All violations of the mandatory provisions of this Plan shall constitute an unauthorized use of Authority services and/or facilities. The Board of the Authority, after providing required notice, may impose a penalty of up to \$5,000.00 for each violation of the mandatory provisions 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 Authority as may be allowed by law.

Section 11: Receiving Water from Wholesale Public Water Supplier. The Authority shall consult with its water supplier in order to respond appropriately to the water supplier's drought contingency plan for reductions in water supply. Also in such case, if the other water supplier implements drought response stages pursuant to its drought contingency plan, the Authority 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 12: Notice to Texas Commission on Environmental Quality. The Authority's operator shall notify the executive director of the Texas Commission on Environmental Quality within five (5) business days of the implementation of any mandatory provisions of this Plan.

Section 13: Remedies Cumulative. All rights, remedies, sanctions, penalties and enforcement procedures provided for in this Order are cumulative. In addition, the Authority shall have and may exercise and enforce any and all rights and remedies provided by law or in equity.

Section 14: Five-Year Review. The Board of Directors of the Authority shall review and update, as appropriate, the Plan at least every five (5) years based on new or updated information.



Section 15:     Authority Rules and Orders. All requirements set forth herein are adopted as rules of the Authority. All requirements and rules set forth in any part of this Order shall be considered orders of the Authority.

Section 16:     Prior Plan and Amendments. This Plan replaces any and all Plans previously in effect for the Authority. The Authority may amend the Plan from time to time.

PASSED AND APPROVED this 10th day of April, 2019.

*VAE* \_\_\_\_\_  
President, Board of Directors

ATTEST:

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Secretary, Board of Directors

(SEAL)

