

RAYFORD ROAD MUNICIPAL UTILITY DISTRICT

Resolution for Adoption of Order
Amending Drought Contingency Plan and
Establishing Penalties for Violations Thereof

The board of directors (“Board”) of Rayford Road Municipal Utility District (“District”) met at the Board’s regular meeting place on July 21, 2009, with a quorum of directors present, as follows:

Jon Vallery, President
Frank Moore, Vice President
Michael Smith, Assistant Secretary
Danny E. Agans, Director

and the following absent:

Charles Saxe, Secretary

when the following business was transacted:

The order set out below was introduced for consideration of the Board. It was duly moved and seconded that said order be adopted; and, after due discussion, said motion carried by the following vote:

Ayes: All directors present.

Noes: None.

The order thus adopted is as follows:

Any order and amendments thereto, heretofore adopted by the board of directors, providing for a drought contingency plan for customers within the District, is hereby revoked upon the effective date of this order.

The order hereinafter set forth shall become effective on July 22, 2009.

ORDER AMENDING DROUGHT CONTINGENCY PLAN AND ESTABLISHING PENALTIES FOR VIOLATIONS THEREOF

WHEREAS, the Board of Directors of Rayford Road Municipal Utility District owns a water and sewer system designed to serve present and future inhabitants within the District and recognizes that the amount of water available to the District and its water utility customers may be limited and subject to depletion during periods of extended drought or emergencies that reduce water supply; and,

WHEREAS, the Board recognizes that natural limitations due to drought conditions and other acts of God occur, and the District cannot guarantee an uninterrupted water supply for all purposes; and,

WHEREAS, Section 11.1272 of the Texas Water Code, as amended, and applicable rules of the Texas Commission on Environmental Quality require all public water supply systems in Texas, such as the District, to prepare a drought contingency plan; and,

WHEREAS, as authorized under law, and in the best interests of the customers of the District, the Board of Directors of the District deems it expedient and necessary to establish certain rules and policies for the orderly and efficient management of limited water supplies during drought and other water supply emergencies; therefore,

BE IT ORDERED BY THE BOARD OF DIRECTORS OF RAYFORD ROAD MUNICIPAL UTILITY DISTRICT THAT:

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 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 a waste of water which subjects the offender(s) to penalties as defined in Section XI of this Plan.

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the District by means of scheduling and providing public notice of a public meeting to accept input on the Plan.

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, signs posted in the subdivision, or other methods reasonably calculated to provide notice to District customers.

Section IV: Coordination with Regional Water Planning Groups

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

Section V: Authorization

The Board of Directors of the District or its 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 Board of Directors of the District or its designee shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan. The Board of Directors or its designees will be responsible for enforcement of the Plan. The District may engage peace officers pursuant to Texas Water Code §49.216 to enforce the 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, scenic or decorative purposes such as fountains, reflecting pools, ponds and water gardens.

Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, schools, churches 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 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, common areas, parks, athletic fields and rights-of-way, esplanades 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) landscape irrigation use, 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) aesthetic water use, 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.

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

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

The Board of Directors of the District or its designee shall monitor water supply and/or demand conditions on a regular basis and shall determine when conditions warrant initiation or termination of each stage of the Plan. Public notification of the initiation or termination of drought response stages shall be by means of signs posted in public places, door-hangers, direct mail to each customer, publication in a newspaper of general circulation, or other methods reasonably calculated to notify the public of the Plan.

The triggering criteria described below are based on the District's anticipated ability to provide water to its customers based the District's historical experience of operations in drought conditions.

The Board of Directors of the District or its designee may, at any time, provide public notification that initiation of drought response measures may be imminent and request that Customers of the District voluntarily reduce their water use. Such public notification may be by any means reasonably calculated to notify the public of the circumstances.

(a) Stage 1 - Mild Drought Conditions

This condition (herein "Mild Drought Condition") exists when demand on the District's water supply reaches or exceeds 80% of the production capacity of such facilities for five (5) consecutive days, as determined by the District's operator

(b) Stage 2 - Moderate Drought Conditions

This condition (herein "Moderate Drought Condition") exists when demand on the District's water supply reaches or exceeds 90% of the production capacity of such facilities for five (5) consecutive days, as determined by the District's operator.

(c) Stage 3 - Severe Drought Conditions

This condition (herein "Severe Drought Condition") exists when demand on the District's water supply reaches or exceeds 100% of the production capacity of such facilities for five (5) consecutive days, as determined by the District's operator.

(d) Notice

Once one of the Trigger Conditions has occurred, Customers 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 Customers may include any or all of the following:

1. Posting of signs at the entrances to the District;
2. Placing door-hangers at all residences and places of commercial water use
3. Mailing, at least 48 hours prior to the commencement of the required Drought Response Measures, a written notice to each Customer;

4. Posting of notices at public places in the District; and
5. 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.

Section IX: Drought Response Stages

The Board of Directors of the District or its designee shall monitor water supply and/or demand conditions on a regular basis and, in accordance with the triggering criteria set forth in Section VIII of the Plan, shall determine that a mild, moderate, severe, critical, or emergency condition exists and shall implement the following actions upon prior notification to District customers:

A. Stage 1 - Mild Drought Conditions

Target: Achieve a 5% reduction in well run time.

1. Water Customers will be required to reduce water use, and will be informed of specific steps that can be taken to reduce water use.
2. All non-essential water use shall be limited to even-numbered days for Customers having even-numbered addresses, and odd-numbered days for water Customers having odd numbered addresses, and outdoor water use shall be allowed only between the hours of 9:00 p.m. and 10:00 a.m. In the event no street address exists, only Customers living on the north and west side of a street may use water outdoors on even-numbered days and only Customers on the south and east side of a street may use water outdoors on odd-numbered days.
3. Landscape irrigation use in common areas, parks, athletic fields, esplanades and medians shall be limited to Mondays and Thursdays between the hours of 9:00 p.m. and 10:00 a.m.

B. Stage 2 - Moderate Drought Conditions

Target: Achieve a 10% reduction in well run time.

1. The Drought Response Measures established for Mild Drought Conditions shall continue to be implemented.
2. All non-essential water use shall be limited to even-numbered days for Customers having even-numbered addresses, and odd-numbered days for water Customers having odd numbered addresses, and outdoor water use shall be allowed only between the hours of 9:00 p.m. and 10:00 a.m. In the event no street address exists, only Customers living on the north and west side of a street may use water outdoors on even-numbered days and only Customers on the south and east side of a street may

use water outdoors on odd-numbered days.

All non-essential outdoor water use must be conducted with a hand-held hose with a manual on-off nozzle.

3. Landscape irrigation use in common areas, parks, athletic fields, esplanades and medians shall be limited to Thursdays between the hours of 9:00 p.m. and 10:00 a.m.
4. The following public water uses not essential for public health and safety shall be prohibited:
 - (a) Street washing;
 - (b) Fire hydrant flushing; and
 - (c) Filling of swimming pools.

C. Stage 3 - Severe Drought Conditions

Target: Achieve a 15% reduction in well run time.

1. All outdoor water use shall be prohibited.
2. The District shall immediately read all customer water meters, and any Customer that uses more than 8,000 gallons in the thirty (30) days following the special meter reading or in a thirty (30) day period after any subsequent special meter reading shall be subject to a surcharge equal to 200% of the applicable rate for all water used in excess of 8,000 gallons per month, and the Board of Directors may take additional enforcement measures as provided in Section XI of this Plan.
4. The Board of Directors may prohibit water use by certain industrial or commercial or interconnect Customers which water uses are not essential to the health and safety of the community so that remaining water is available for essential health and safety related uses.

D. Termination of Trigger Conditions Notification.

When a Trigger Condition occurs, the District shall enforce the Drought Response Measures applicable to such Trigger Condition for a minimum of seven (7) days after the last day the demand on the District's water supply facilities reaches or exceeds the limits of such Trigger Condition. After such seven (7) day period, the Drought Response Measures prescribed may, in the discretion of the Board, be continued for an additional seven (7) day period. After the expiration of ten (10) days, and assuming no other Trigger Conditions have occurred, the Drought Response Measures prescribed shall terminate and the District shall cease implementation and enforcement of such measures. The District will notify Customers of the termination of the particular Drought Response Measures and may utilize the same manner of notification used to inform Customers of the occurrence of the Trigger Condition and implementation of the Drought Response Measures.

Section X: Emergency Contingency Plan

In the event of a fire, flood, hurricane, lightning strike, tornado, windstorm, or any other act of God, riot, terrorist act, or any other act of civil disobedience, or any other similar occurrence which results in the inability (or the likelihood thereof) of the District to provide potable water to Customers, the Board, in its discretion, may, without prior notice, invoke any or all of the Drought Response Measures set forth in this Plan as “Emergency Response Measures.” The Board may impose any of the penalties set forth in Section XI for violations of the Emergency Response Measures.

Section XI: Enforcement

The following penalties shall apply to any person or entity violating the terms of this Plan or the Drought Response Measures or Emergency Response Measures adopted pursuant hereto:

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

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

 2. **Monetary Penalties for Noncompliance.** If any person or entity violates any provision of this Plan more than one time (which subsequent violation shall constitute an unauthorized use of District services and/or facilities), then, in addition to or as an alternative to, disconnection as provided in Subsection B.1. of this Section, the Board of the District, after providing required notice, may impose a penalty of up to \$5,000.00 for each violation of this Plan. Each day that a breach of any provision of this Plan continues shall be considered a separate violation. This penalty shall be in addition to any other legal rights and remedies of the District as may be allowed by law.

Section XII: Variances

The Board of Directors or its designee may, in writing, grant a 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, or
- (b) 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 Plan shall file a petition for variance with the District within a reasonable time after the Plan or a particular Drought Response Measure has been invoked. All petitions for variances shall be reviewed by the Board of Directors or its designee immediately. Petitions for variances 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 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.

Variances granted by the Board of Directors shall be subject to the following conditions, unless waived or modified by the Board of Directors:

- (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.

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

Section XIII: Severability

It is hereby declared to be the intention of the Board of Directors that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the Board of Directors without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.

The President or Vice President is authorized to execute and the Secretary or Assistant Secretary is authorized to attest this Order on behalf of the Board of Directors of the District.

Jon Vallery
President

ATTEST:

Michael Smith
Assistant Secretary