

**DROUGHT
CONTINGENCY
AND WATER
EMERGENCY
RESPONSE PLAN**

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- Texas Administrative Code Title 30, Part 1, Chapter 288, Subchapter B, Rule §288.22 – Drought Contingency Plans for Wholesale Water Suppliers (Page B-3)
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**City of Terrell
Drought Contingency and
Water Emergency Response Plan**

MAY 2009

1. INTRODUCTION AND OBJECTIVES

The City of Terrell has prepared this drought contingency and water emergency response plan in accordance with the requirements established by the Texas Commission on Environmental Quality (TCEQ) and the North Texas Municipal Water District (NTMWD). This Plan addresses all of the current TCEQ requirements for a drought contingency plan ¹. This Plan replaces the Plan included in Ordinance 2176 dated June 17, 2003.

The City of Terrell has a water right for supply in New Terrell City Lake and a contract for treated water from NTMWD. Terrell used to own and operate a water treatment plant to treat its own water. In February 2007, Terrell discontinued its raw water treatment operations. Terrell now purchases treated water from NTMWD.

The purpose of this drought contingency and water emergency response plan is as follows:

- To conserve the available water supply in times of drought and emergency
- To maintain supplies for domestic water use, sanitation, and fire protection
- To protect and preserve public health, welfare, and safety
- To minimize the adverse impacts of water supply shortages
- To minimize the adverse impacts of emergency water supply conditions.

A drought is defined as an extended period of time when an area receives insufficient amounts of rainfall to replenish the water supply, causing water supply sources, in this case reservoirs, to be depleted. In the absence of drought response measures, water demands tend to increase during a drought due to the need for additional outdoor irrigation. The severity of a drought depends on the degree of depletion of supplies and on the relationship of demand to available supplies. The NTMWD considers a drought to end when all of its supply reservoirs refill to the conservation storage pool.

The TCEQ rules governing development of drought contingency plans for public water suppliers are contained in Title 30, Part 1, Chapter 288, Subchapter B, Rules 288.20 and 288.22 of the Texas Administrative Code, a current copy of which is included in

¹ Superscripted numbers match references listed in Appendix A.

Appendix B. The location of the TCEQ requirements in this plan are summarized in Appendix B. For the purpose of these rules, a drought contingency plan is defined as “a strategy or combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies.”¹

1.1 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.

Block rate: means the charge to the customer per 1,000 gallons at the regular water rate schedule of the customer.

Commercial and institutional water use: water use which is integral to the operations of commercial, nonprofit establishments and governmental entities, such as retail establishments, hotels, 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 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, corporation, or organization using water supplied by City of Terrell.

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 addresses: 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.

Nonessential water use: water uses that are not essential, nor required for the protection of public, health, safety, and welfare, including:

- irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;

- use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle, except with a water hose that has a shut-off nozzle; an exception is allowed for commercial car washes.
- use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard- surfaced areas;
- use of water to wash down buildings or structures for purposes other than immediate fire protection;
- flushing gutters or permitting water to run or accumulate in any gutter or street;
- use of water to fill, refill, or add to any indoor or outdoor swimming pools or jacuzzi-type pools;
- use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
- use of water from hydrants for construction purposes or any other purposes other than fire fighting.

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

Pond: A pond is considered to be a still body of water with a surface area of 2,500 square feet or more, excluding swimming pools.

Safe operating capacity: The maximum capacity of the water supply, distribution, or high service pumping rates as determined by the City Manager.

Wholesale water customer: any person, company, or organization reselling water supplied by the City of Terrell.

2. DROUGHT CONTINGENCY AND WATER MANAGEMENT RESPONSE PLAN

2.1 Provisions to Inform the Public and Opportunity for Public Input

The City of Terrell provided opportunity for public input in the development of this drought contingency and water emergency response plan by the following means:

- Distributing water bill inserts.
- Providing written notice of the draft Plan and the opportunity to comment on the Plan by newspaper, posted notice, and notice on the City's web site (www.cityofterrell.org).
- Making the draft Plan available on the City's web site (www.cityofterrell.org).
- Providing the draft Plan to anyone requesting a copy.
- Holding a public meeting on March 14, 2009, at Terrell City Hall.

2.2 Provisions for Continuing Public Education and Information

The City 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. The City of Terrell will inform and educate the public about the drought contingency and water emergency response plan by the following means:

- Preparing a bulletin describing the Plan and making it available at city hall and other appropriate locations.
- Making the Plan available to the public through the City's web site.
- Including information about the drought contingency and water emergency response plan on the City's web site.
- Notifying local organizations, schools, and civic groups that staff are available to make presentations on the drought contingency and water emergency response plan (usually in conjunction with presentations on water conservation programs).
- At any time that the drought contingency and water emergency response plan is activated or the drought stage or water emergency response stage changes, Terrell will notify local media of the issues, the drought response stage or water emergency response stage (if applicable), and the specific actions required of the public. The information will also be publicized on the City's web site. Water bill inserts will also be used as appropriate.

2.3 Initiation and Termination of Drought or Water Emergency Response Stages

Initiation of a Drought or Water Emergency Response Stage

The City Manager or his/her official designee may order the implementation of a drought or water emergency response stage when one or more of the trigger conditions for that stage is met. The following actions will be taken when a drought or water emergency response stage is initiated:

- The public will be notified through local media and the City’s web site as described in Section 3.2.
- Wholesale customers and the NTMWD will be notified by e-mail with a follow-up letter or fax that provides details of the reasons for initiation of the drought/water emergency response stage.
- If any mandatory provisions of the drought contingency and water emergency response plan are activated, Terrell will notify the Executive Director of the TCEQ and the Executive Director of the NTMWD within 5 business days.

Drought contingency and water emergency response stages imposed by NTMWD action must be initiated by the City of Terrell. For other trigger conditions internal to the City, the City Manager or his/her official designee may decide not to order the implementation of a drought response stage or water emergency even though one or more of the trigger criteria for the stage are met. Factors which could influence such a decision include, but are not limited to, the time of the year, weather conditions, the anticipation of replenished water supplies, or the anticipation that additional facilities will become available to meet needs. The reason for this decision should be documented.

Termination of a Drought or Water Emergency Response Stage

The City Manager or his/her official designee may order the termination of a drought or water emergency response stage when the conditions for termination are met or at his/her discretion. The following actions will be taken when a drought or emergency response stage is terminated:

- The public will be notified through local media and the City’s web site as described in Section 3.2.
- Wholesale customers and the NTMWD will be notified by e-mail with a follow-up letter or fax.
- If any mandatory provisions of the drought contingency and water emergency response plan that have been activated are terminated, Terrell and Customers will notify the Executive Director of the TCEQ and the Executive Director of the NTMWD within 5 business days.

The City Manager or his /her official designee may decide not to order the termination of a drought or water emergency response stage even though the conditions for termination of the stage are met. Factors which could influence such a decision include, but are not

limited to, the time of the year, weather conditions, or the anticipation of potential changed conditions that warrant the continuation of the drought stage. The reason for this decision should be documented.

Drought Contingency and Water Emergency Response Stages and Measures

Stage 1

Initiation and Termination Conditions for Stage 1

- NTMWD has initiated Stage 1, which may be initiated due to one or more of the following:
 - The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 1.
 - Water demand is projected to approach the limit of NTMWDS's permitted supply.
 - The storage in Lavon Lake is less than 65 percent of the total conservation pool capacity.
 - NTMWD's storage in Jim Chapman Lake is less than 65 percent of NTMWD's total conservation pool capacity.
 - The Sabine River Authority has indicated that its Upper Basin water supplies used by NTMWD (Lake Tawakoni and/or Lake Fork) are in a Mild drought.
 - NTMWD has concern that Lake Texoma, the East Fork Raw Water Supply Project, or some other NTMWD source may be limited in availability in the next 6 months.
 - NTMWD water demand exceeds 90 percent of the amount that can be delivered to customers for three consecutive days.
 - Water demand for all or part of NTMWD's delivery system approaches delivery capacity because delivery capacity is inadequate.
 - NTMWD's supply source becomes contaminated.
 - NTMWD's water supply system is unable to deliver water due to the failure or damage of major water system components.
- Terrell's water demand exceeds 90 percent of the amount that can be delivered to customers for three consecutive days.
- Terrell's water demand for all or part of the delivery system approaches delivery capacity because delivery capacity is inadequate.
- Supply source becomes contaminated.
- Terrell's water supply system is unable to deliver water due to the failure or damage of major water system components.
- Conditions are such that implementation of Stage 1 is desirable.

Stage 1 may terminate when NTMWD terminates its Stage 1 condition or when the circumstances that caused the initiation of Stage 1 no longer prevail.

Goal for Use Reduction and Actions Available under Stage 1

The goal for water use reduction under Stage 1 is to achieve a voluntary two percent (2%) reduction in total water use.

The City Manager or his/her official designee may order the implementation of any of the actions listed below, as deemed necessary:

- Inform customers of the conditions by phone, mail, media and/or web site and request voluntary reductions in water use.
- Notify wholesale customers of actions being taken and require implementation of similar procedures.
- Increase public education efforts on ways to reduce water use and minimize or discontinue water use for nonessential purposes.
- Review the problems that caused the initiation of Stage 1.
- Intensify efforts on leak detection and repair.
- Reduce non-essential city government water use. (Examples include street cleaning, vehicle washing, operation of ornamental fountains, etc.)
- Notify major water users and work with them to achieve voluntary water use reductions.
- Reduce city government water use for landscape irrigation.
- Pro rata curtailment of water deliveries to or diversions by wholesale water customers in Section 3.
- Initiate engineering studies to evaluate alternatives should conditions worsen.
- Request that customers voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9).

Stage 2

Initiation and Termination Conditions for Stage 2

- NTMWD has initiated Stage 2, which may be initiated due to one or more of the following:
 - The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 2.
 - Water demand is projected to approach the limit of NTMWD's permitted supply.

- The storage in Lavon Lake is less than 55 percent of the total conservation pool capacity.
 - NTMWD's storage in Jim Chapman Lake is less than 55 percent of NTMWD's total conservation pool capacity.
 - The Sabine River Authority has indicated that its Upper Basin water supplies used by NTMWD (Lake Tawakoni and/or Lake Fork) are in a Mild drought.
 - NTMWD has concern that Lake Texoma, the East Fork Raw Water Supply Project, or some other NTMWD source may be limited in availability in the next 3 months.
 - NTMWD water demand exceeds 95 percent of the amount that can be delivered to customers for three consecutive days.
 - NTMWD water demand for all or part of the delivery system equals delivery capacity because delivery capacity is inadequate.
 - NTMWD's supply source becomes contaminated.
 - NTMWD's water supply system is unable to deliver water due to the failure or damage of major water system components.
- Terrell's water demand exceeds 95 percent of the amount that can be delivered to customers for three consecutive days.
 - Terrell's water demand for all or part of the delivery system equals delivery capacity because delivery capacity is inadequate.
 - Supply source becomes contaminated.
 - Terrell's water supply system is unable to deliver water due to the failure or damage of major water system components.
 - Conditions are such that implementation of Stage 2 is desirable.

Stage 2 may terminate when NTMWD terminates its Stage 2 condition or when the circumstances that caused the initiation of Stage 2 no longer prevail.

Goal for Use Reduction and Actions Available under Stage 2

The goal for water use reduction in Stage 2 is five percent (5%).

The City Manger or his/her designee may order the implementation of any of the actions listed below, as deemed necessary. Measures described as "requires notification to TCEQ" impose mandatory requirements on customers. Terrell will notify TCEQ and NTMWD within five business days if such measures are implemented.

- Continue or initiate any actions available under Stage 1.
- Notify wholesale customers of actions being taken and require them to implement similar procedures.
- Initiate engineering studies to evaluate alternatives should conditions worsen.

- Further accelerate public education efforts on ways to reduce water use.
- Halt non-essential city government water use. (Examples include street cleaning, vehicle washing, operation of ornamental fountains, etc.)
- Reduce or discontinue flushing of water mains.
- Reduce or discontinue irrigation of public landscaped areas.
- Encourage the public to wait until the current drought or emergency situation has passed before establishing new landscape.
- Initiate preparations for the implementation of pro rata curtailment of water diversions and/or deliveries by preparing a monthly water usage allocation baseline for each wholesale customer according to the procedures specified in Section 3 of the Plan.
- **Requires Notification to TCEQ** – Limit landscape watering with sprinklers or irrigation systems to no more than two days per week. An exception is allowed for landscape associated with new construction that may be watered as necessary for 30 days from the date of the certificate of occupancy. An exemption is also allowed for registered and properly functioning ET/Smart irrigation systems and drip irrigation systems, which do not have restrictions to the number of days per week of operation.
- **Requires Notification to TCEQ** – Prohibit planting of cool season grasses (such as rye grass or other similar grasses) that intensify cool season water requirements.

Stage 3

Initiation and Termination Conditions for Stage 3

- The NTMWD has initiated Stage 3, which may be initiated due to one or more of the following:
 - The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 3.
 - Water demand is projected to approach or exceed the limit of NTMWD's permitted supply.
 - The storage in Lavon Lake is less than 45 percent of the total conservation pool capacity.
 - NTMWD's storage in Jim Chapman Lake is less than 45 percent of NTMWD's total conservation pool capacity.
 - The Sabine River Authority has indicated that its Upper Basin water supplies used by NTMWD (Lake Tawakoni and/or Lake Fork) are in a Moderate drought. (Measures required by SRA under a Moderate drought designation are similar to those under NTMWD's Stage 3.)
 - The supply from Lake Texoma, the East Fork Raw Water Supply Project, or some other NTMWD source has become limited in availability.

- NTMWD water demand exceeds 98 percent of the amount that can be delivered to customers for three consecutive days.
 - NTMWD water demand for all or part of the delivery system exceeds delivery capacity because delivery capacity is inadequate.
 - NTMWD’s supply source becomes contaminated.
 - NTMWD’s water supply system is unable to deliver water due to the failure or damage of major water system components.
- Terrell’s water demand exceeds 98 percent of the amount that can be delivered to customers for three consecutive days.
 - Terrell’s water demand for all or part of the delivery system exceeds delivery capacity because delivery capacity is inadequate.
 - Supply source becomes contaminated.
 - Terrell’s water supply system is unable to deliver water due to the failure or damage of major water system components.
 - Conditions are such that implementation of Stage 3 is desirable.

Stage 3 may terminate when NTMWD terminates its Stage 3 condition or when the conditions that caused the initiation of Stage 3 no longer prevail.

Goal for Use Reduction and Actions Available under Stage 3

The goal for water use reduction under Stage 3 is a reduction in water use of ten percent (10%) or greater if set by NTMWD.

The City Manger or his/her designee may order the implementation of any of the actions listed below, as deemed necessary. Measures described as “requires notification to TCEQ” impose mandatory requirements on customers. Terrell will notify TCEQ and NTMWD within five business days if such measures are implemented.

- Continue or initiate any actions available under Stages 1 and 2.
- Notify wholesale customers of actions being taken and require them to implement similar procedures.
- Implement viable alternative water supply strategies.
- **Requires Notification to TCEQ** – Initiate mandatory water use restrictions as follows:
 - Prohibit hosing of paved areas, buildings, or windows. (Pressure washing of impervious surfaces is allowed.)
 - Prohibit operation of all ornamental fountains or other amenity impoundments to the extent they use treated water.
 - Prohibit washing or rinsing of vehicles by hose, except with a hose-end shut-off nozzle.
 - Prohibit using water in such a manner as to allow runoff or other waste.

- Prohibit the flushing of gutters or allowing water to run or accumulate in any gutter or street.
- **Requires Notification to TCEQ** – Limit landscape watering with sprinklers or irrigations systems at each services address to once every seven business days. Exceptions are as follows.
 - Foundations, new landscaping, new plantings (first year) of shrubs, and trees may be watered for up to 2 hours on any day by a hand-held hose, a soaker hose, or a dedicated zone using a drip irrigation system.
 - Golf courses may water greens and tee boxes without restrictions.
 - Public athletic fields used for competition may be watered twice per week.
 - Locations using other sources of water supply for irrigation may irrigate without restrictions.
 - Registered and properly functioning ET/Smart irrigation systems and drip irrigation systems may irrigate without restrictions.
- **Requires Notification to TCEQ** – Discontinue the use of water for construction purposes from fire hydrants.
- **Requires Notification to TCEQ** – Limit landscape watering with sprinklers or irrigation systems between November 1 and March 31 to once every two weeks. An exception is allowed for landscape associated with new construction that may be watered as necessary for 30 days from the date of the certificate of occupancy, temporary certificate of occupancy, or certificate of completion.
- **Requires Notification to TCEQ** – Prohibit hydroseeding, hydromulching, and sprigging.
- **Requires Notification to TCEQ** – Existing swimming pools may not be drained and refilled (except to replace normal water loss).
- **Requires Notification to TCEQ** - Initiate a surcharge as requested by NTMWD.
- **Requires Notification to TCEQ** – If NTMWD has imposed a reduction in water available to Member Cities and Customers, impose the same percent reduction on wholesale customers according to the procedures specified in Section 4 of the Plan
- **Requires Notification to TCEQ** – Prohibit watering of golf courses using treated water, except as needed to keep greens and tee boxes alive.

Stage 4

Initiation and Termination Conditions for Stage 4

- The NTMWD has initiated Stage 4, which may be initiated due to one or more of the following:
 - The NTMWD Executive Director, with the concurrence of the NTMWD Board of Directors, finds that conditions warrant the declaration of Stage 4.

- Water demand is projected to approach or exceed the limit of NTMWD’s permitted supply.
 - The storage in Lavon Lake is less than 35 percent of the total conservation pool capacity.
 - NTMWD’s storage in Jim Chapman Lake is less than 35 percent of NTMWD’s total conservation pool capacity.
 - The Sabine River Authority has indicated that its Upper Basin water supplies used by NTMWD (Lake Tawakoni and/or Lake Fork) are in a Severe drought or Emergency.
 - The supply from Lake Texoma, the East Fork Raw Water Supply Project, or some other NTMWD source has become severely limited in availability.
 - NTMWD water demand exceeds the amount that can be delivered to customers.
 - NTMWD water demand for all or part of the delivery system seriously exceeds delivery capacity because the delivery capacity is inadequate.
 - NTMWD’s supply source becomes contaminated.
 - NTMWD’s water supply system is unable to deliver water due to the failure or damage of major water system components.
- Terrell’s water demand exceeds the amount that can be delivered to customers.
 - Terrell’s water demand for all or part of the delivery system seriously exceeds delivery capacity because the delivery capacity is inadequate.
 - Supply source becomes contaminated.
 - Terrell’s water supply system is unable to deliver water due to the failure or damage of major water system components.
 - Conditions are such that implementation of Stage 4 is desirable.

Stage 4 may terminate when NTMWD terminates its Stage 4 condition or when the circumstances that caused the initiation of Stage 4 no longer prevail.

Goal for Use Reduction and Actions Available under Stage 4

The goal for water use reduction under Stage 4 is reduction in water use of fifteen percent (15%), or greater. If circumstances warrant, the City Manager or his/her official designee can set a goal for a greater water use reduction.

The City Manager or his/her official designee must implement any action(s) required by NTMWD. In addition, the City Manager or his/her official designee may order the implementation of any of the actions listed below, as deemed necessary. Measures described as “requires notification to TCEQ” impose mandatory requirements. The supplier must notify TCEQ and NTMWD within five business days if these measures are implemented.

- Continue or initiate any actions available under Stages 1, 2, and 3.
- Notify wholesale customers of actions being taken and require them to implement similar procedures.
- Implement viable alternative water strategies. The City of Terrell will deliver water by truck or in bottles if needed.
- **Requires Notification to TCEQ** – Prohibit the irrigation of new landscaping using treated water.
- **Requires Notification to TCEQ** – Prohibit washing of motor vehicles, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and not in the immediate interest of public health, safety and welfare.
- **Requires Notification to TCEQ** – Prohibit commercial and residential landscape watering, except that foundations and trees may be watered for 2 hours on any day with a hand-held hose, a soaker hose, or a dedicated zone using a drip irrigation system. ET/Smart controllers and drip irrigation systems are not exempt from this requirement.
- **Requires Notification to TCEQ** – Prohibit the permitting of private pools. Pools already permitted may be completed and filled with water. Existing private and public pools may add water to maintain pool levels. Existing private and public pools may be drained and refilled for maintenance purposes.
- **Requires Notification to TCEQ** – Require all commercial water users to reduce water use by a percentage established by the City Manager or his/her official designee.
- **Requires Notification to TCEQ** – If NTMWD has imposed a reduction in water available to Member Cities and Customers, impose the same percent reduction on wholesale customers.
- **Requires Notification to TCEQ** – No applications 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 allowed or approved.

2.4 Procedures for Granting Variances to the Plan

The City Manager or his/her designee may, in writing, grant temporary variances for existing water uses otherwise prohibited under this drought contingency and water emergency management plan if one or more of the following conditions are met:

- 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.
- 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.

- Alternative methods can be implemented which will achieve the same level of reduction in water use.

Variances shall be granted or denied at the discretion of the City Manager or his/her designee. Persons requesting an exemption from the provisions of this Plan shall file a petition for a variance with the City after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be submitted in writing and shall include the following:

- Name and address of the petitioner(s).
- Purpose of water use.
- Specific provision(s) of the Plan from which the petitioner is requesting relief.
- 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.
- Description of the relief requested.
- Period of time for which the variance is sought.
- 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.
- Other pertinent information.

Variances granted by the City shall be subject to the following conditions, unless waived or modified by the City Manager or his/her designee:

- Variances granted shall include a timetable for compliance.
- 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.

2.5 Procedures for Enforcing Mandatory Water Use Restrictions

Mandatory water use restrictions may be imposed in Stage 2, Stage 3 and Stage 4 drought contingency and water emergency response stages. Appendix G contains the ordinance adopted as part of this Plan to enforce the Plan. The penalties associated with the mandatory water use restriction are discussed below.

- No person shall knowingly or intentionally allow the use of water from the City 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 City Manager, or his/her designee, in accordance with provisions of this Plan.
- Any person who violates this Plan is guilty of a misdemeanor and, upon conviction shall be subject to a fine of not less than one hundred dollars (\$100.00) and not more

than five hundred dollars (\$500.00). Each day that one or more of the provisions in this Plan are violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the City Manager shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge, hereby established at two times the current standard connection fee, and any other costs incurred by the City in discontinuing service. In addition, suitable assurance must be given to the City Manager that the same action shall not be repeated while the Plan is in effect. Compliance with this Plan may also be sought through injunctive relief in the district court.

- Any person, including a person classified as a water customer of the City, 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.
- Any employee of the City, police officer, or other City employee designated by the City Manager, may issue a citation to a person he/she reasonably believes to be in violation of this Plan. The citation shall be prepared in duplicate and shall contain the name and addresses of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on the date shown on the citation for which the date shall not be less than three days nor more than five days from the date the citation was issued. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this Plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases.

2.6 Coordination with Regional Water Planning Group and NTMWD

The City of Terrell's retail service area is located entirely within the Region C water planning area. The City's wholesale service area is located within the Region C and Region D planning areas. The City has provided a copy of this Plan to the Region C and Region D Water Planning Groups and to the NTMWD. A copy of each letter is included in Appendix D.

2.7 Review and Update of Drought Contingency Plan

As required by TCEQ rules, Terrell must review the drought contingency plan every five years. The Plan will be updated as appropriate based on new or updated information.

3. PRO RATA WATER ALLOCATION TO WHOLESALE CUSTOMERS

3.1 Policy and Procedures

In the event that the triggering criteria specified in Section 2.3 of the Plan for Stage 3 or Stage 4 have been met, the City Manager or his/her official designee is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code Section 11.039 and according to the following water allocation policies and procedures:

- A wholesale customer's allocation shall be calculated in the same manner as the City of Terrell allocation from North Texas Municipal Water District is calculated. The allocation will be set by resolution of the Terrell City Council based on the City Manager's assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries and may be adjusted periodically by resolution of the Terrell City Council as conditions warrant. Once pro rata allocation is in effect, water diversions by or deliveries to each wholesale customer shall be limited to the allocation established.
- The City Manager shall provide notice, by certified mail, to each wholesale customer informing them of their water usage allocations and shall notify the news media and the executive director of the Texas Commission on Environmental Quality (TCEQ) upon initiation of pro rata water allocation.
- Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the wholesale customer's normal water usage; (2) the customer agrees to transfer part of its allocation to another wholesale customer; or (3) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Council of the City of Terrell.

3.2 Enforcement

Mandatory water use restrictions may be imposed in Stage 3 and Stage 4 drought contingency and water emergency response stages. These mandatory water use restrictions will be enforced by warnings and penalties as follows:

- On the first violation, the Customer will be given a written warning that they have violated the mandatory water use restriction.
- After a second violation, Terrell may install a flow restrictor in the line or other device to limit the amount of water delivered to the Customer.
- Terrell may charge up to twice the established rate for any water used in violation of mandatory water use restrictions.

Each Customer will determine and enforce within its distribution system its own set of penalties associated with the mandatory water use restrictions.

3.3 Variances

The procedure for wholesale customers requesting a variance and the City's procedure for granting variances is described in Section 2.4.

APPENDIX A
REFERENCES

Appendix A References

- (1) Freese and Nichols, Inc.: *North Texas Municipal Water District Water Conservation and Drought Contingency and Water Emergency Response Plan*, prepared for the North Texas Municipal Water District, Fort Worth, March 2008.
- (2) Title 30 of the Texas Administrative Code, Part 1, Chapter 288, downloaded from [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=288](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=30&pt=1&ch=288), May 2008.
- (3) City of Terrell, *Water Conservation Plan and Drought Contingency Ordinance, Ordinance Number 2176*.
- (4) City of Terrell, *Amendment to Water Conservation Plan and Drought Contingency Ordinance 2176, Ordinance Number 2184*

APPENDIX B
TCEQ RULES ON DROUGHT CONTINGENCY PLANS

APPENDIX B

Texas Commission on Environmental Quality Rules on Drought Contingency Plans

Texas Administrative Code

<u>TITLE 30</u>	ENVIRONMENTAL QUALITY
<u>PART 1</u>	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
<u>CHAPTER 288</u>	WATER CONSERVATION PLANS, DROUGHT CONTINGENCY PLANS, GUIDELINES AND REQUIREMENTS
<u>SUBCHAPTER B</u>	DROUGHT CONTINGENCY PLANS
RULE §288.20	Drought Contingency Plans for Municipal Uses by Public Water Suppliers

-
- (a) A drought contingency plan for a retail public water supplier, where applicable, must include the following minimum elements.
- (1) Minimum requirements. Drought contingency plans must include the following minimum elements.
- (A) Preparation of the plan shall include provisions to actively inform the public and affirmatively provide opportunity for public input. Such acts may include, but are not limited to, having a public meeting at a time and location convenient to the public and providing written notice to the public concerning the proposed plan and meeting.
- (B) Provisions shall be made for a program of continuing public education and information regarding the drought contingency plan.
- (C) The drought contingency plan must document coordination with the regional water planning groups for the service area of the retail public water supplier to ensure consistency with the appropriate approved regional water plans.
- (D) The drought contingency plan must include a description of the information to be monitored by the water supplier, and specific criteria for the initiation and termination of drought response stages, accompanied by an explanation of the rationale or basis for such triggering criteria.
- (E) The drought contingency plan must include drought or emergency response stages providing for the implementation of measures in response to at least the following situations:
- (i) reduction in available water supply up to a repeat of the drought of record;
 - (ii) water production or distribution system limitations;
 - (iii) supply source contamination; or
 - (iv) system outage due to the failure or damage of major water system components (e.g., pumps).

- (F) The drought contingency plan must include the specific, quantified targets for water use reductions to be achieved during periods of water shortage and drought. The entity preparing the plan shall establish the targets. The goals established by the entity under this subparagraph are not enforceable.
 - (G) The drought contingency plan must include the specific water supply or water demand management measures to be implemented during each stage of the plan including, but not limited to, the following:
 - (i) curtailment of non-essential water uses; and
 - (ii) utilization of alternative water sources and/or alternative delivery mechanisms with the prior approval of the executive director 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.).
 - (H) The drought contingency plan must include the procedures to be followed for the initiation or termination of each drought response stage, including procedures for notification of the public.
 - (I) The drought contingency plan must include procedures for granting variances to the plan.
 - (J) The drought contingency plan must include procedures for the enforcement of any mandatory water use restrictions, including specification of penalties (e.g., fines, water rate surcharges, discontinuation of service) for violations of such restrictions.
- (2) Privately-owned water utilities. Privately-owned water utilities shall prepare a drought contingency plan in accordance with this section and incorporate such plan into their tariff.
- (3) Wholesale water customers. Any water supplier that receives all or a portion of its water supply from another water supplier shall consult with that supplier and shall include in the drought contingency plan appropriate provisions for responding to reductions in that water supply.
- (b) A wholesale or retail water supplier shall notify the executive director within five business days of the implementation of any mandatory provisions of the drought contingency plan.
- (c) The retail public water supplier shall review and update, as appropriate, the drought contingency plan, at least every five years, based on new or updated information, such as the adoption or revision of the regional water plan.

Source Note: The provisions of this §288.20 adopted to be effective February 21, 1999, 24 TexReg 949; amended to be effective April 27, 2000, 25 TexReg 3544; amended to be effective October 7, 2004, 29 TexReg 9384.

Texas Administrative Code

TITLE 30 ENVIRONMENTAL QUALITY
PART 1 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
CHAPTER 288 WATER CONSERVATION PLANS, DROUGHT
CONTINGENCY PLANS, GUIDELINES AND
REQUIREMENTS
SUBCHAPTER B DROUGHT CONTINGENCY PLANS
RULE §288.22 Drought Contingency Plans for Wholesale Water Suppliers

(a) A drought contingency plan for a wholesale water supplier must include the following minimum elements.

- (1) Preparation of the plan shall include provisions to actively inform the public and to affirmatively provide opportunity for user input in the preparation of the plan and for informing wholesale customers about the plan. Such acts may include, but are not limited to, having a public meeting at a time and location convenient to the public and providing written notice to the public concerning the proposed plan and meeting.
- (2) The drought contingency plan must document coordination with the regional water planning groups for the service area of the wholesale public water supplier to ensure consistency with the appropriate approved regional water plans.
- (3) The drought contingency plan must include a description of the information to be monitored by the water supplier and specific criteria for the initiation and termination of drought response stages, accompanied by an explanation of the rationale or basis for such triggering criteria.
- (4) The drought contingency plan must include a minimum of three drought or emergency response stages providing for the implementation of measures in response to water supply conditions during a repeat of the drought-of-record.
- (5) The drought contingency plan must include the procedures to be followed for the initiation or termination of drought response stages, including procedures for notification of wholesale customers regarding the initiation or termination of drought response stages.
- (6) The drought contingency plan must include specific, quantified targets for water use reductions to be achieved during periods of water shortage and drought. The entity preparing the plan shall establish the targets. The goals established by the entity under this paragraph are not enforceable.
- (7) The drought contingency plan must include the specific water supply or water demand management measures to be implemented during each stage of the plan including, but not limited to, the following:
 - (A) pro rata curtailment of water deliveries to or diversions by wholesale water customers as provided in Texas Water Code, §11.039; and
 - (B) utilization of alternative water sources with the prior approval of the executive director 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.).

- (8) The drought contingency plan must include a provision in every wholesale water contract entered into or renewed after adoption of the plan, including contract extensions, that in case of a shortage of water resulting from drought, the water to be distributed shall be divided in accordance with Texas Water Code, §11.039.
 - (9) The drought contingency plan must include procedures for granting variances to the plan.
 - (10) The drought contingency plan must include procedures for the enforcement of any mandatory water use restrictions including specification of penalties (e.g., liquidated damages, water rate surcharges, discontinuation of service) for violations of such restrictions.
- (b) The wholesale public water supplier shall notify the executive director within five business days of the implementation of any mandatory provisions of the drought contingency plan.
 - (c) The wholesale public water supplier shall review and update, as appropriate, the drought contingency plan, at least every five years, based on new or updated information, such as adoption or revision of the regional water plan.

Source Note: The provisions of this §288.22 adopted to be effective February 21, 1999, 24 TexReg 949; amended to be effective April 27, 2000, 25 TexReg 3544; amended to be effective October 7, 2004, 29 TexReg 9384.

Location of TCEQ Requirements in This Plan

Minimum Requirements for Public Water Suppliers

TCEQ's minimum requirements for drought contingency plans are addressed in the following subsections of this report:

- 288.20(a)(1) – Provisions to Inform the Public and Provide Opportunity for Public Input – Sections 2.1 and 2.2
- 288.20(a)(2) – Coordination with the Regional Water Planning Group – Section 2.6
- 288.20(a)(3) – Criteria for Initiation and Termination of Drought Stages – Section 2.3
- 288.20(a)(4) – Drought and Emergency Response Stages – Section 2.3
- 288.20(a)(5) – Procedures for Initiation and Termination of Drought Stages – Section 2.3
- 288.20(a)(6) – Specific, Quantified Targets for Water Use Reductions – Section 2.3
- 288.20(a)(7) – Water Supply and Demand Management Measures for Each Stage – Section 2.3
- 288.20(a)(8) – Provisions for Wholesale Customers to Divide Water during Drought Section 3 and Section 2.3
- 288.20(a)(9) - Procedures for Granting Variances – Section 2.4
- 288.20(a)(10) - Procedures for Enforcement of Mandatory Restrictions – Section 2.5
- 288.20(b) – Notification of Implementation of Mandatory Measures – Section 2.3
- 288.20(c) – Review and Update of Plan – Section 2.7

Minimum Conservation Plan Requirements for Wholesale Water Suppliers

Terrell is also a wholesale water supplier to seven rural water supply corporations. The minimum requirements in the Texas Administrative Code for water conservation plans for wholesale water suppliers are covered in this report as follows:

- 288.22(a)(1) – Provisions to Inform the Public and Provide Opportunity for Public Input – Section 2.1
- 288.22(a)(2) – Coordination with the Regional Water Planning Group – Section 2.6
- 288.22(a)(3) – Criteria for Initiation and Termination of Drought Stages – Section 2.3
- 288.22(a)(4) – Drought and Emergency Response Stages – Section 2.3
- 288.22(a)(5) – Procedures for Initiation and Termination of Drought Stages – Section 2.3

- 288.22(a)(6) – Specific, Quantifiable Targets for Water Use Reduction – Section 2.3
- 288.22(a)(7) – Specific Measures to be Implemented during Each Drought Stage – Section 2.3
- 288.22(a)(8) – Provision for Wholesale Contracts to Require Water Distribution According to Texas Water Code §11.039 – Sections 2.3 and 3.1
- 288.22(a)(9) – Provision for Granting Variances to the Plan - Sections 2.4 and 3.3
- 288.22(a)(10) - Procedures for Enforcement of Mandatory Restrictions – Sections 2.5 and 3.2
- 288.22(b) – Notification of Implementation of Mandatory Measures – Sections 2.3 and 3.1
- 288.22(c) – Review and Update of Plan – Section 2.7

APPENDIX C
LETTERS TO REGION C AND D WATER PLANNING GROUPS
AND NTMWD

APPENDIX C
Letters to Region C and D Water Planning Groups and NTMWD

May 5, 2009

Mr. Jim Parks
Region C Water Planning Group
c/o North Texas Municipal Water District
P.O. Box 2408
Wylie, TX 75098

Dear Mr. Parks:

Enclosed please find a copy of the recently updated Drought Contingency and Water Emergency Response Plan for the City of Terrell. I am submitting a copy of this Plan to the Region C Water Planning Group in accordance with the Texas Water Development Board and Texas Commission on Environmental Quality rules. The City Council of Terrell adopted the updated Plan on April 21, 2009.

Sincerely,

Sonny Groessel
City of Terrell

May 5, 2009

Mr. Jim Parks
Executive Director
North Texas Municipal Water District
P.O. Box 2408
Wylie, TX 75098

Dear Mr. Parks:

Enclosed please find a copy of the recently updated Drought Contingency and Water Emergency Response Plan for the City of Terrell. I am submitting a copy of this Plan to the District in accordance with the guidelines established in the model plan. The City Council of Terrell adopted the updated water conservation plan on April 21, 2009.

Sincerely,

Sonny Groessel
City of Terrell

May 5, 2009

Mr. Jim Thompson
Chair, Region D Water Planning Group
P.O. Box 1107
Atlanta, TX 75551

Dear Mr. Thompson:

Enclosed please find a copy of the recently updated Drought Contingency and Water Emergency Response Plan for the City of Terrell. I am submitting a copy of this Plan to the Region D Water Planning Group in accordance with the Texas Water Development Board and Texas Commission on Environmental Quality rules. The City Council of Terrell adopted the updated water conservation plan on April 21, 2009.

Sincerely,

Sonny Groessel
City of Terrell

APPENDIX D
ADOPTION OF DROUGHT CONTINGENCY AND WATER
EMERGENCY RESPONSE PLAN.

ORDINANCE NO. 2401

AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, REVISING SECTION 12-15 OF THE CODE OF ORDINANCES THROUGH THE ADOPTION OF A DROUGHT CONTINGENCY AND WATER EMERGENCY RESPONSE PLAN FOR THE CITY OF TERRELL TO PROMOTE RESPONSIBLE USE OF WATER AND TO PROVIDE FOR PENALTIES AND/OR THE DISCONNECTION OF WATER SERVICE FOR NONCOMPLIANCE WITH THE PROVISIONS OF THE DROUGHT CONTINGENCY AND WATER EMERGENCY RESPONSE PLAN; AND PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Terrell, Texas (the “City”), recognizes that the amount of water available to its water customers is limited; and

WHEREAS, the City recognizes that due to natural limitations, drought conditions, system failures and other acts of God which may occur, the City cannot guarantee an uninterrupted water supply for all purposes at all times; and

WHEREAS, the Water Code and the regulations of the Texas Commission on Environmental Quality (the “Commission”) require that the City adopt a Drought Contingency and Water Emergency Response Plan; and

WHEREAS, the City has determined an urgent need in the best interest of the public to adopt a Drought Contingency and Water Emergency Response Plan; and

WHEREAS, pursuant to Chapter 54 of the Local Government Code, the City is authorized to adopt such Ordinances necessary to preserve and conserve its water resources; and

WHEREAS, the City Council of the City of Terrell desires to adopt a Drought Contingency and Water Emergency Response Plan.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL THAT:

Section 1. Chapter 12, Utilities, Section 15, Water conservation and drought contingency plan of the Code of Ordinances of the City of Terrell; Texas is hereby repealed in its entirety.

Section 2. The Code of Ordinances is hereby amended by adopting a new section 15 to read as follows:

Section 3. The City Council hereby approves and adopts the Drought Contingency and Water Emergency Response Plan (the “Plan”), attached hereto as Addendum A, as if recited verbatim herein. The City commits to implement the requirements and procedures set forth in the adopted Plan.

Section 4. Any customer, defined pursuant to 30 Tex. Admin. Code Chapter 291, failing to comply with the provisions of the Plan shall be subject to a fine of up to two thousand dollars (\$2,000.00) and/or discontinuance of water service by the City. Proof of a culpable mental state is not required for a conviction of an offense under this section. Each day a customer fails to comply with the Plan is a separate violation. The City's authority to seek injunctive or other civil relief available under the law is not limited by this section.

Section 5. The City Council does hereby find and declare that sufficient written notice of the date, hour, place and subject of the meeting adopting this Ordinance was posted at a designated place convenient to the public for the time required by law preceding the meeting, that such place of posting was readily accessible at all times to the general public, and that all of the foregoing was done as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the posting thereof.

Section 6. Should any paragraph, sentence, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected.

Section 7. The City Manager or his designee is hereby directed to file a copy of the Plan and this Ordinance with the Commission in accordance with Title 30, Chapter 288 of the Texas Administrative Code.

Section 8. The City Secretary is hereby authorized and directed to cause publication of the descriptive caption of this ordinance as an alternative method of publication provided by law.

Section 9. All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Passed and Approved by the Terrell City Council on this 7th day of April, 2009.

Passed and Adopted by the Terrell City Council on this 21st day of April, 2009.

Hal Richards
Hal Richards, Mayor

Attest:

John Rounsavall
John Rounsavall, City Secretary

Approved as to Form:

Mary Gayle Ramsey
Mary Gayle Ramsey, City Attorney