

ORDINANCE 2014-003

**AN ORDINANCE OF THE MARILEE SPECIAL UTILITY
DISTRICT REPEALING SECTION H OF ITS RATE ORDER,
ADOPTING A REVISED DROUGHT CONTINGENCY PLAN; PROVIDING FOR A
PENALTY OF A FINE NOT TO EXCEED \$2,000 FOR EACH VIOLATION AND
PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Marilee Special Utility District (the "District") recognizes that the amount of water available to its customers is limited and subject to depletion during periods of extended drought; and

WHEREAS, the Texas Water Code and applicable rules of the Texas Commission on Environmental Quality require a Drought Contingency Plan (the "Plan"); and

WHEREAS, drought contingency plans provide measures that may be needed during drought conditions, during an emergency or when water use approaches the capacity of the District's system supply; and

WHEREAS, in 2005 the District adopted its current drought contingency plan which is Section H of the District's Rate Order; and

WHEREAS, it is in the best interests of the District and its customers to update the District's Drought Contingency Plan by repealing the current plan and adopting the attached Drought Contingency Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE DISTRICT'S BOARD OF DIRECTORS THAT:

SECTION 1. Section H of the District's current Rate Order is repealed and the Drought Contingency Plan attached hereto and made a part hereof is adopted as Section H of the District's Rate Order.

SECTION 2. Any person violating or failing to comply with any provision of this Ordinance shall be fined upon conviction, not less than One Dollar (\$1.00) no more than Two Thousand Dollars (\$2,000), and/or be subject to service limitation, including disconnection. Each day in which one or more of the provisions of this ordinance is violated shall constitute a separate offense.

SECTION 3. The terms and provisions of this Ordinance shall be deemed to be severable and that if the validity of any section, subsection, sentence, clause or phrase of this ordinance should be declared to be invalid, the same shall not affect the validity of any other section, subsection, sentence, clause or phrase of this ordinance.

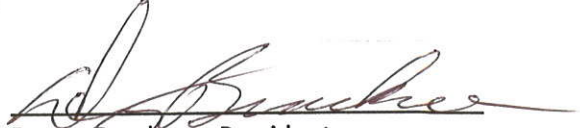
SECTION 4. The ordinance is effective on and after the date that the caption of this ordinance is published pursuant to Section 65.207 of the Texas Water Code.

PASSED BY THE BOARD OF DIRECTORS OF MARILEE SPECIAL UTILITY DISTRICT on this the

6th DAY OF October, 2014.

Attest: 
Joe Fuller, Secretary




Denny Brackeen, President


John Rapier, Legal Counsel

DROUGHT CONTINGENCY PLAN

Marilee Special Utility District

October 2014

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Ordinance or Resolution from Governing Body adopting the Drought
Contingency Plan

DROUGHT CONTINGENCY PLAN FOR MARILEE SPECIAL UTILITY DISTRICT (SUD)

October 2014

SECTION 1.

Introduction and Objectives

The purpose of this Drought Contingency Plan (the "Plan") is to provide drought contingency measure for Marilee SUD as required by the Texas Commission on Environmental Quality ("TCEQ"). Such contingency measures may be needed during drought conditions, during an emergency or when water use approaches the system capacity of treatment and delivery facilities. Examples of drought or emergency conditions include low levels of well water supplies, unusually high demands, unforeseen equipment and/or system failure or contamination of the water supply source.

This update of the Plan is consistent with TCEQ's model drought contingency plan and the latest requirements outlined below.

Marilee SUD uses the following source(s) of water: self-supplied groundwater plus purchased groundwater from the City of Sherman. The total combined amount from these sources is normally sufficient to provide water for residential and commercial customers and to maintain adequate reserve quantities and pressure from storage facilities to meet emergency demands.

Drought is frequent and inevitable factor in the climate of Texas. Therefore, it is vital to plan for the effect that droughts will have on the use, allocation and conservation of water in the region. Drought contingency planning is one critical element of a water supplier's effort to reduce peak water demands and extend water supplies. The following are the central objectives of this Plan:

- Help assure reliability of water service to retail customers;
- Conserve the available water supply in times of drought and emergency;
- Maintain adequate water supplies for domestic use, sanitation and fire protection where available;
- Protect and preserve public health, welfare and safety;
- Minimize the adverse impacts of water supply storages and
- Minimize the adverse impacts of emergency conditions affecting water supply.

SECTION 2.

Applicable Rules of Texas Commission on Environmental Quality

TCEQ rules governing the development of drought contingency plans for Municipal Uses by Public Water Suppliers, such as Marilee SUD, are contained in Title 30, Part 1, Chapter 288, Subchapter B and Rule 288.20 of the Texas Administrative Code ("TAC"). The rules define a drought contingency plan as:

"A strategy or a combination of strategies for temporary supply and demand management responses to temporary and potentially recurring water supply shortages and other water supply emergencies."

Minimum Drought Contingency Plan Requirements

The minimum requirements contained in the TAC for drought contingency plans are covered in this Plan as follows:

<u>Rule</u>	<u>Subject</u>	<u>Section</u>
288.20(a)(1)(A)	Informing the Public & Providing Opportunity for Input	Section 3
288.20(a)(1)(B)	Provisions for Continuing Public Education & Information	Section 4
288.20(a)(1)(C)	Coordination with the Regional Water Planning Group	Section 10
288.20(a)(1)(D)	Criteria for Initiation Monitoring & Termination of Stages	Section 7
288.20(a)(1)(E)	Drought and Emergency Response Stages	Section 7
288.20(a)(1)(F)	Targets to be Achieved During Drought	Section 7
288.20(a)(1)(G)	Water Supply & Demand Mgm't Measures for Each Stage	Section 7
288.20(a)(1)(H)	Procedures for Initiation & Termination of Drought Stages	Section 7
288.20(a)(1)(I)	Procedures for Granting Variances	Section 8
288.20(a)(1)(J)	Procedures for Enforcement Of Mandatory Restrictions	Section 9
288.20(a)(2)	Drought Plans for Privately-Owned Utilities	Section 12
288.20(a)(3)	Consultation with Wholesale Suppliers	Section 7
288.20(b)	Notification of Implementation of Mandatory Measures	Section 7
288.20(c)	Review & Update of Plan	Section 11

Also included in this Plan are statements of authorization (Section 5) and application (Section 6).

SECTION 3

Public Involvement

Marilee SUD previously provided opportunity for public input in the development of this Plan by the following means:

- Made the draft Plan available on the Marilee SUD website;
- Provided a copy of the draft Plan to anyone requesting a copy and
- Held a public meeting at a time and location convenient to the public and provided written notice to the public concerning the meeting.

SECTION 4

Provisions for Continuing Public Education and Information

Marilee SUD will provide public information about the Plan at least annually, 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 any of the following means:

- Prepare bulletins and newsletters describing the Plan and make said bulletins and newsletters available in utility bills, public facilities or other appropriate places;
- Make the Plan and its requirements available on the Marilee SUD website;

When provisions of the Plan are activated or when a drought response stage changes, Marilee SUD will notify the public of the relevant issues, the appropriate drought response stage and the specific actions required of the public. When mandatory provisions of the Plan are implemented, TCEQ shall be notified within five (5) business days. The information will also be publicized on the Marilee SUD website. Billing inserts may also be used as appropriate means of disseminating information to the public.

SECTION 5

Authorization

The General Manager, or official 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, and to comply with applicable regulations or contractual requirements. Except as otherwise provided in the Plan, the General Manager, or official designee, shall have the authority to initiate, to enforce and to terminate the measures provided herein for a drought or other water supply emergency.

SECTION 6

Application

The provisions of this Plan shall apply to all persons, customers and property utilizing water provided by Marilee SUD. The terms "person" and "customer" as used in the Plan include individuals, corporations, institutions, partnerships, associations and all other legal entities.

SECTION 7

Drought Contingency Plan - - Emergency Response Stages

The General Manager, or official designee, may order the initiation or termination of a drought response stage or water emergency when one or more of the trigger conditions for that stage is met as provided in this Section. The triggering criteria described below are based on the ability of Marilee SUD to deliver treated water to its customers. Water supply and or demand conditions are monitored by Marilee SUD on a regular basis to determine when conditions warrant initiation or termination of a drought response stage.

7.1 Initiation of Drought Response Stages

The following actions will be taken when a drought response stage is initiated:

- The public will be notified through the Marilee SUD website and other appropriate methods as described in Section 3 above;
- Marilee SUD may notify all wholesale water customers by telephone, with a follow-up letter, e-mail or fax to confirm implementation of any drought response stage and to provide relevant details and
- **When any mandatory provisions of the Plan are implemented, Marilee SUD will notify the Executive Director of the TCEQ with five (5) business days.**

When specific drought response stages are announced by Marilee SUD's wholesale water provider (City of Sherman), the General Manager, or official designee, may implement contingency measures based on local conditions affecting Marilee SUD; or for good cause may decide not to order the implementation of a drought response stage or water emergency even though one or more trigger criteria for the stages are met. Various factors are taken into account when making a decision about such stages, including circumstances unique to Marilee SUD, the time of year, weather conditions, the anticipation of replenished water supplies, use of an alternate water resource or the anticipation that additional facilities will become available on a timely basis to meet needs.

7.2 Termination of Drought Response Stages

The following actions will be taken when a drought response stage is terminated.

- The public will be notified through the Marilee SUD website and other appropriate methods as described in Section 3 above;
- Marilee SUD may notify their wholesale water provider by telephone, with a follow-up letter, email or fax to confirm the particular drought response state has been terminated, and;
- **When any mandatory provisions of the Plan are terminated, Marilee SUD will notify the Executive Director of the TCEQ within five (5) business days.**

The General Manager, or official designee, may decide not to order the termination of a drought response stage or water emergency even though the conditions for termination of the stage are met. Various factors could influence such a decision about whether to end a specific stage, including circumstances unique to Marilee SUD, the time of year, weather conditions, and conditions with the local water distribution system or anticipation of other relevant factors that warrant continuation of measures for the drought stage.

7.3 Drought and Emergency Response Stages

A. Stage 1 – Water Wise

Requirements for Initiation

The following are key conditions, any one of which may trigger this stage:

Marilee SUD has announced Stage 1 – Water Wise, which may be a result of:

- The total groundwater supply in self-supplied water wells has dropped below 65% (35% depleted); or
- Wholesale water provider (City of Sherman) has initiated Stage 1 and given notice to Marilee SUD;
- Marilee SUD with concurrence of the Board of Directors, finds that conditions warrant the declaration of Stage 1; or
- Water demand has reached or exceeded (80%) of delivery capacity for four consecutive days; or
- Water demand is approaching a level that will cause a reduced delivery capacity for all or part of the distribution system, as determined by Marilee SUD or
- The water supply system has significant limitation due to failure of or damage to important water supply components.

Goal

Stage 1 is intended to raise public awareness of potential drought and water emergency problems. The goal for water use reduction under Stage 1 is one percent (1%) if total daily water use that otherwise would have occurred in the absence of drought contingency measures.

Water Use Restrictions for Reducing Demand

Under this stage, customers will be requested to conserve water through mandatory and voluntary measures, and to comply with restrictions on certain non-essential water use as provided below.

Specific measures to be implemented during the stage will be determined by the Marilee SUD's General Manager, or official designee. The General Manager, or official designee, may also take other actions not listed, if deemed necessary.

- Require reduction of water used through maximum 2-days-per-week landscape irrigation schedule. This provision as identified in Marilee SUD's Water Conservation Plan is mandatory under this Water Wise stage. No outdoor watering with automatic irrigation systems and hose-end sprinklers can occur from 10:00 a.m. to 6:00 p.m. Customers with street addresses ending in even numbers (0,2,4,6,8) may irrigate on Sunday and Thursday. Customers with street addresses ending in odd numbers (1,3,5,7,9) may irrigate on Saturday and Wednesday. Irrigation of landscaped areas and building foundations is permitted at any time if it is by means of a hand-held hose, drip irrigation or soaker hose system.
- Encourage reduction in frequency of washing or rinsing of vehicles and recommend use of bucket or container, hand-held hose with positive shut-off valve or commercial car wash.
- Encourage reduction in frequency of draining and refilling swimming pools.
- Encourage retail customers to avoid waste during recreational use (water used for leisure and entertainment purposes) from faucets, hoses or hydrants.
- Increase public education efforts on ways to reduce water use.
- Review internal operational conditions and capabilities by Marilee SUD.
- Be alert to internal non-essential water use by Marilee SUD.

Termination

Stage 1 may terminate when the District's wholesale water provider (City of Sherman) terminates its Stage 1 condition or when the circumstances that caused the initiation of Stage 1 – Water Wise no longer prevail, or at the discretion of Marilee SUD.

B Stage 2 – Water Watch

Requirements for Initiation

The following are key conditions, any one of which may trigger this stage:

Marilee SUD has initiated Stage 2 – Water Watch, which may be a result of:

- The total groundwater supply in self-supplied water wells has dropped below 55% (45% depleted); or
- The wholesale water supplier (City of Sherman) has initiated Stage 2 and has given notice, or

- Marilee SUD with occurrence of the Board of Directors, finds that conditions warrant the declaration of Stage 2; and
- Water demand has reached or exceeded (85%) of delivery capacity for three (3) consecutive days; or
- Water demand **has reached** a level that is causing a reduced delivery capacity for all or part of the distribution system, as determined by Marilee SUD; or
- The water supply system is **unable to deliver** water at **normal rates** due to failure of or damage to major water system components; or
- A **significant deterioration** in the quality of water supply, being affected by a natural or man-made source.

Goal

The goal for water use reduction under Stage 2 is a five percent (5%) reduction in the use that would otherwise have occurred in the absence of drought contingency measures.

Water Use Restrictions for Reducing Demand

Under this stage, customers will be requested to continue all voluntary measures, plus adhere to the following mandatory measures to conserve water and to comply with restriction on certain non-essential water uses as provided below. Specific measures to be implemented during this stage will be determined by the General Manager, or official designee. The General Manager, or official designee, may also take other actions not listed, if deemed necessary. All requirements of Stage 1 shall remain in effect during this Stage 2, plus the following incremental or new measures:

- Require reduction of water use through maximum 2-days-per-week landscape irrigation schedule. This includes irrigation of landscaped areas with automatic irrigation systems and hose-end sprinklers. Customers with street addresses ending in even numbers (0,2,4,6,8) may irrigate on Sunday and Thursday. Customers with street addresses ending in odd numbers (1,3,5,7,9) may irrigate on Saturday and Wednesday. Irrigation of Landscaped areas and building foundations is permitted at any time if it is by means of a hand-held hose, drip irrigation or soaker hose systems.
- Require reduction of water use through time-of-day landscape irrigation schedule. No outdoor watering can occur from 10:00 a.m. to 6:00 p.m. Irrigation of landscaped areas and building foundations is permitted at any time if it is by means of a hand-held hose, drip irrigation or soaker hose systems.
- Prohibit recreational water use (water used for leisure and entertainment purposes) including use of faucets or hoses in such a manner that creates runoff or other wastes.

- Restrict washing any motor vehicle, motorbike, boat, etc. to the use of a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle, except on the premises of a commercial car wash.
- Prohibit hosing off paved areas, buildings, windows or other hard surfaces. Normal window washing is okay.
- Encourage further reduction in draining and filling of swimming pools.
- Further accelerate public education efforts on ways to reduce water use.
- Reduce internal water use by Marilee SUD.
- Encourage retail customers to wait until the current drought or water emergency situation has passed before establishing new landscaping.
- Require reduction of water use through day-of-the-week landscape watering schedule for parks and golf courses.
- Announce enforcement efforts and penalties for noncompliance. Enforcement to be primarily based on complaints being received.

Termination

Stage 2 may terminate when wholesale water provider (City of Sherman) terminates its Stage 2 condition or when the circumstances that caused the initiation of Stage 2 no longer prevail, or at Marilee SUD's discretion. Upon termination of Stage 2, Stage 1 – Water Wise will remain in effect unless otherwise announced by Marilee SUD.

C. Stage 3 – Water Warning

Requirements for Initiation

The following are key conditions, any one of which may trigger Stage 3:

Marilee SUD has initiated Stage 3 – Water Warning, which may be a result of:

- The total groundwater supply in self-supplied water wells has dropped below 45% (55% depleted); or
- The wholesale water provider (City of Sherman) has initiated Stage 3 and given notice to Marilee SUD; or
- Marilee SUD with the concurrence of the Board of Directors, finds that conditions warrant the declaration of Stage 3; or
- Water demand has reached or exceeded (90%) of deliver capacity for two consecutive days; or

- Water demand **exceeds** the delivery capacity for all or part of the distribution system, as determined by Marilee SUD; or
- The water supply system is **unable to deliver** water in **adequate quantities** due to failure of or damage to major water system components; or
- **Interruption** of one or more water supply source(s).
- Natural or man-made contamination of the water supply source that **threatens water availability**.

Goal

The goal for water use reduction under Stage 3 is a reduction of fifteen percent (15%) in the use that would otherwise have occurred in the absence of drought contingency measures.

Water Use Restrictions for Reducing Demand

Customers will comply with the requirements and mandatory restrictions on non-essential and other water uses as provided below. Specific measures to be implemented during this stage will be determined by the General Manager, or official designee. The General Manager, or official designee, may also take other actions not listed, if deemed necessary. All requirements of Stage 1 and Stage 2 shall remain in effect during this Stage 3, plus the following incremental or new measures:

- Require reduction of water use through maximum 1-day-per-week landscape irrigation schedule. Irrigation by means of automatic irrigation systems and hose-end sprinklers can occur between 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 12:00 midnight. Customers with street addresses ending in even numbers (0,2,4,6,8) may irrigate on Sunday. Customers with street addresses ending in odd number (1,3,5,7,9) may irrigate on Saturday. Irrigation of landscaped areas and building foundations is permitted between 6:00 p.m. and 6:00 a.m. if it is by means of a hand-held hose, drip irrigation or soaker hose systems.
- Restrict vehicle washing to commercial car wash facilities. Such vehicle washing shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 12:00 midnight, unless the commercial facility has wash water recycling system.
- Prohibit the filling, refilling or adding of water to swimming pools, wading pools, hot tubs, spas and ornamental ponds.
- Prohibit non-essential internal water use by Marilee SUD.
- Restrict watering of nursery plant stock to the designated off-peak hours applicable to residential customers.
- Implement a rate surcharge on retail usage.
- Step-up enforcement activities.
- Implement utilization of alternative water sources if available.

Termination

Stage 3 may terminate when the wholesale water provider (City of Sherman) terminates its Stage 3 condition or when the circumstances that caused the initiation of Stage 3 no longer prevail, or at Marilee SUD's discretion. Upon termination of Stage 3, Stage 2 – Water Watch will be initiated, unless otherwise announced by Marilee SUD.

D. Stage 4 – Emergency

Requirements for Initiation

The following are key conditions, any one of which may trigger Stage 4:

Marilee SUD has initiated Stage 4 – Emergency, which may be a result of:

- The total groundwater supply available to Marilee SUD has dropped below 30% (70% depleted); or
- The wholesale water provider (City of Sherman) has initiated Stage 4 and given notice to Marilee SUD; or
- Marilee SUD, with concurrence of the Board of Directors, finds that conditions warrant the declaration of Stage 4; or
- Water demand has reached or exceeded (98%) of delivery capacity for one day; or
- Water supply system is **unable to deliver** adequate quantities of water due to failure or damage of major water system components; or
- **Interruption** of one or more water supply source(s); or
- Natural or man-made **contamination** of the water supply available to Marilee SUD.

Goal

The goal for water use reduction under Stage 4 is twenty-five percent (25%) in the use that would have occurred in the absence of drought contingency measures. If circumstances warrant, the General Manager, or official designee, may set a goal for further water use reduction.

Water Use Restrictions for Reducing Demand

Specific actions taken during this stage, including water allocation, according to the actual circumstances, will be determined by the General Manager, or official designee. All requirements of Stages 1, 2, and 3 shall remain in effect during Stage 4 plus the following additional measures:

During Emergency Conditions, the governing body of Marilee SUD may modify, amend or extend any provisions of this Plan as warranted by the conditions and circumstances.

- Prohibit irrigation of landscaped areas. Foundations and trees may be watered for 2 hours per day with hand-held hose, bucket or drip irrigation and or soaker hose.
- Prohibit vehicle washing except as necessary for health, sanitation or safety reasons.
- Prohibit non-essential internal water use by Marilee SUD.
- Increase the rate surcharge applicable to retail customers.
- Implement utilization of alternative water sources if available.

Termination

Stage 4 may terminate when the wholesale water provider (City of Sherman) terminates its Stage 4 condition or when the circumstances that caused the initiation of Stage 4 no longer prevail, or at Marilee SUD's discretion. Upon termination of Stage 4, Stage 3 – Water Watch will remain in effect unless otherwise announced by Marilee SUD

SECTION 8

Variations

The General Manager, or official designee, may grant temporary variations for existing water uses otherwise prohibited under this Plan if one or more of the following conditions are met:

- Failure to grant such a variance would cause an emergency condition adversely affecting health, sanitation or fire safety for the public or the person requesting the variance;
- Compliance with this Plan cannot be accomplished due to technical or other limitations and
- Alternative methods that achieve the same level of reduction in water use can be implemented.

Variations may be granted or denied at the discretion of the General Manager, or official designee. However, no variations shall be granted under any circumstance if Marilee SUD is in Stage 4 – Water Emergency. All petitions for variance should be in writing and should include the following information:

- Name and address of the owner and a licensed Texas Irrigator responsible for the variance;
 - Purpose of water use;
 - Specific provisions from which relief is requested;
 - Detailed statement of the adverse effect of the provision from which relief is requested;
 - Description of the relief requested including a proposed irrigation plan;
 - Monthly report verifying the goal reductions;
 - Period of time for which the variance is sought;
-
- On call personnel with contact information for 24-hour a day repair response within one hour notice;
 - Alternative measures that will be taken to reduce water use and
 - Other pertinent information.

SECTION 9

Enforcement

Mandatory water use restrictions are imposed in Stages 1, 2, 3, or 4 of the Plan. These mandatory water use restrictions will be enforced by any combination of warnings, reconnection fees, suspension of service, monetary penalties, citations and fees as follows and authorized by the governing body:

- On the first violation, customers will be notified by telephone, email, sign or a door-hanger that they have violated the mandatory water use restriction;

- On the second violation, the customer may have to disconnect its irrigation system; or, if the resident doesn't comply with said request, the Marilee SUD may disconnect said irrigation system. In addition, Marilee SUD may post notification of violation with reconnection fees and possible monetary penalties;
- On the second violation, Marilee SUD will disconnect water service and post notification of violation with reconnection fees, fines and / or citations.
- The Marilee SUD maintains the right at any violation level to disconnect irrigation systems and/ or total water services to a customer with reconnection fees and possible monetary penalties authorized by action of the governing body and
- The General Manager or official designee may implement any provision of the enforcement process of this Plan.
- Any police officer having jurisdiction may issue a citation for any violation.

SECTION 10

Coordination with Regional Water Planning Group and Others

Marilee SUD has coordinated with Region C Water Planning Group to ensure consistency with the approved regional water plan. After adoption, Marilee SUD may send the final ordinance(s) or resolution(s) and the Plan to Region C Water Planning Group.

SECTION 11

Review and Update of Drought Contingency Plan

As required by TCEQ rules, Marilee SUD will review and update this Plan every five years. The Plan will be updated as appropriate based on new or updated information, such as the adoption or revision of the regional water plan, or based on new or updated information related to Marilee SUD's service area, population, water supply or transmission system. The next revision of the drought contingency plan must be prepared, adopted and submitted to TCEQ's Executive Director not later than June 30, 2019. Any revised Plan must be submitted to TCEQ within 90 days of adoption by the community water system.

SECTION 12

Drought Contingency Plans For Privately-Owned Water Utilities

Any privately-owned or independent water utilities that are located within the service area of Marilee SUD shall prepare a drought contingency plan in accordance with TCEQ requirements contained in the TAC, Title 30, Part 1, Chapter 288, Subchapter B and Rule 288.20, and incorporate such plan into their tariff.

APPENDIX A

Ordinance Adopting the Drought Contingency Plan