

DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10

ORDER OF DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10, RECOGNIZING THE THREAT THAT WATER INJECTION OF BUILDING PADS MAY HAVE ON THE ROAD INFRASTRUCTURE OF THE DISTRICT, AS WELL AS THE ABILITY OF THE DISTRICT TO GATHER, CONDUCT, DIVERT, AND CONTROL LOCAL STORM WATER OR OTHER LOCAL HARMFUL EXCESSES OF WATER; RECOGNIZING THAT THE DISTRICT'S CURRENT DRAINAGE AND FLOOD CONTROL RULES AND REGULATIONS DO NOT ADEQUATELY ADDRESS THESE SERIOUS ISSUES; ADOPTING DRAINAGE AND FLOOD CONTROL RULES AND REGULATIONS GOVERNING THE PRACTICE OF ALTERING SOIL CONDITIONS THROUGH WATER INJECTION WITHIN THE DISTRICT; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDER; REPEALING ALL CONFLICTING RULES AND REGULATIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE OF THIS ORDER; AND PROVIDING FOR THE PUBLICATION OF A COPY HEREOF.

WHEREAS, Denton County Fresh Water Supply District No. 10 (the "District") is a political subdivision of the State of Texas created pursuant to Article XVI, Section 59 of the Texas Constitution and operating pursuant to Chapters 49, 51, and, for limited purposes, 53, Water Code;

WHEREAS, the District may provide for the control, storage, preservation, and distribution of its floodwater; and the control, abatement, and change of any shortage or harmful excess of water;

WHEREAS, the District is authorized to provide improvements and facilities incident to or helpful or necessary to gather, conduct, divert, and control local storm water or other local harmful excesses of water;

WHEREAS, pursuant to the provisions of Chapter 53.029, Water Code, and an election held within the District, the District assumed the rights, authority, privileges, and functions of a road district operating under Article III, Section 52(b)(3), of the Texas Constitution, Chapter 257, Transportation Code, and other general laws of this State relating to road districts;

WHEREAS, further pursuant to elections held within the District, the duly qualified resident voters of the District have authorized the board of directors of the District (the "Board of Directors") to issue bonds for the acquisition and/or a construction of water, wastewater, and drainage facilities and roads and related drainage facilities;

WHEREAS, pursuant to such elections, the District has issued its bonds and has acquired or constructed water, sanitary sewer, and drainage facilities and roads and related drainage improvements (the "Road Infrastructure") that serve areas within the District;

WHEREAS, the Road Infrastructure is a significant and necessary component of the District's drainage and storm water control system, and the condition of the Road Infrastructure

affects the control, storage, preservation, and distribution of the state's storm and flood waters; the control, abatement, or change of any shortage or harmful excess of water; and the ability of the District to accomplish its purposes under Sections 49.211, 51.121, and 51.331, Water Code;

WHEREAS, under certain circumstances and in certain areas, the practice of altering soil condition through water injection has become an alternative used to stabilize building pads in the recent past; and

WHEREAS, water injection operations alter the natural soil conditions that were present during the construction of the public infrastructure; and

WHEREAS, after District acceptance of certain Road Infrastructure and prior to the construction of houses located along such Road Infrastructure, a developer and/or builder injected water under the ground to cause the soils to heave;

WHEREAS, such Road Infrastructure subsequently experienced failures;

WHEREAS, the District has determined based upon studies provided by its independent geo-technical engineering consultant that the practice of water injection caused or is one of the contributing causes of such damage to such Road Infrastructure;

WHEREAS, water injection procedures negatively impact and jeopardize the integrity of the District's Road Infrastructure and related drainage, flood control, and public safety matters; and

WHEREAS, the Board of Directors has determined that in order to prevent the condition of the Road Infrastructure within the District from adversely affecting the control, storage, preservation, and distribution of the state's storm and flood waters; adversely affecting the control, abatement, or change of any shortage or harmful excess of water, or otherwise impeding the District's ability to accomplish its purpose, it is necessary to govern the practice of altering soil conditions by water injection as provided in this Order;

WHEREAS, the Board of Directors has determined that it is in the best interest of the public to govern the practice of water injection within the District as provided herein by adoption of appropriate regulations related to the alteration of soil conditions through water injection; and

WHEREAS, pursuant to Section 49.211(c), Water Code, the District may adopt: rules for construction activity to be conducted within the District that reasonably relate to providing adequate drainage or flood control and use generally accepted engineering criteria; and reasonable procedures to enforce rules adopted by the District under such subsection; and

WHEREAS, subject to the conditions of Section 51.338, Water Code, the District may adopt and enforce reasonable rules and regulations for providing any District facility or service, and the District may discontinue a facility or service to prevent an abuse.

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10, THAT:

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual findings of the District and they are hereby approved and incorporated into the body of this Order as if copied in their entirety.

SECTION 2

The practice of altering soil conditions through water injection is hereby prohibited within 100 feet of a District right-of-way containing Road Infrastructure unless approved in writing by the District Board of Directors, effective immediately upon passage of this Order.

SECTION 3

Any person, firm, entity or corporation who violates any provision of this Order, as it exists or may be amended, shall be subject to a civil penalty of not less than \$100.00, and in no event to exceed \$5,000, for each breach of the foregoing provisions. Each day that a breach continues shall be considered a separate breach. The amount of any penalty levied by the District pursuant to this Section 3 shall be established by the District's Board of Directors after reasonable notice to the violator and a public hearing relative to such matter before the Board of Directors.

Penalties levied under this Section 3 shall be in addition to such other penalties as are provided under the laws of the State of Texas, including the discontinuance of a District facility or service, and any other right of recovery that the District may have for damages or otherwise under applicable law. Notwithstanding the foregoing, in no event shall the District levy a penalty that is in excess of the jurisdictional limit of the justice court as provided by Section 27.031, Texas Government Code, as amended. In addition to the enforcement provisions set forth in this Order, the provisions of this Order, including any penalties levied hereunder, may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the District's principal office or meeting place is located. If the District prevails in any suit to enforce its rules, it may, in the same action, recover reasonable fees for attorneys, expert witnesses and other costs incurred by the District before the court. The amount of attorney's fees shall be fixed by the court.

SECTION 4

Any and all District orders, resolutions, rules, regulations, policies or provisions in conflict with the provisions of this Order are hereby repealed and rescinded to the extent of any conflict herewith.

SECTION 5

If any section, subsection, clause, phrase or provision of this Order, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses,

phrases or provisions of this Order, or the application thereof to any person or circumstances, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

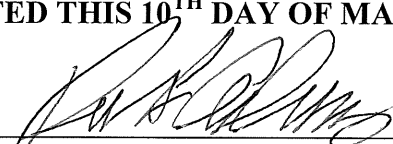
SECTION 6

This Order shall become effective from and after the date of its passage.

SECTION 7


A copy of this Order shall be published in one or more newspapers with general circulation in the District and recorded in the minutes of the District as required by the applicable provisions of the Water Code.

PASSED, APPROVED AND ADOPTED THIS 10TH DAY OF MAY, 2011.



Robert Tague, President
ROBERT ADAMS - VICE PRESIDENT

ATTEST:



Tammy Fritz, Secretary

