RESOLUTION #06-003

RESOLUTION ADOPTING DISTRICT RULES REGARDING ENFORCEMENT AND CIVIL PENALATIES

THE STATE OF TEXAS §

COUNTY OF MONTGOMERY §

LONE STAR GROUNDWATER CONSERVATION DISTRICT §

WHEREAS, the Lone Star Groundwater Conservation District (District) was created by the Legislature of the State of Texas in Acts 2001, 77th Leg., R.S., ch. 1321, p. 3246, § 1(a), as amended ("the Act"), as a groundwater conservation district operating under Chapter 36, Texas Water Code, and the Act;

WHEREAS, § 36.101 of the Texas Water Code authorizes a groundwater conservation district to make and enforce rules to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence or prevent waste of groundwater and to carry out the powers and duties provided by Chapter 36 of the Texas Water Code;

WHEREAS, the Board of Directors of the District ("the Board") initially adopted rules for the District on August 26, 2002, and has subsequently amended such rules;

WHEREAS, Texas Water Code §36.102(a) authorizes groundwater conservation districts to enforce its rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction;

WHEREAS, Texas Water Code §36.102(b) establishes that the board of directors for a groundwater conservation district may by rule set reasonable civil penalties for breach of any rule of the district not to exceed $10,000.00 per day per violation, and each day of a continuing violation constitutes a separate violation;

WHEREAS, Texas Water Code §36.102(c) provides that penalties assessed under §36.102 are in addition to any other penalty accorded to the District by the law of the state of Texas and 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, Montgomery County;

WHEREAS, in accordance with Chapter 36 and District Rule 2.2, the District has adopted an Enforcement Policy and a Civil Penalty Schedule, and has subsequently amended it;

WHEREAS, in the course of District's operations, the District's general manager and legal counsel have identified necessary revisions to the District's Enforcement Policy and Civil Penalty Schedule;

WHEREAS, notice and hearing requirements set forth by Texas Water Code §36.101 have been met regarding the amendment of the District Rules, specifically the District Board provided notice of a rulemaking hearing in compliance with §36.101(d) and §36.101(e), Water Code, and with the District Rules;

WHEREAS, the Board finds that the attached revised Enforcement Policy and Civil Penalty Schedule for the District meets the requirements of Chapter 36, Water Code, and the District Rules, and further finds that the set forth in the revised Enforcement Policy and Civil Penalty Schedule are reasonable based upon the severity of the violations; and

WHEREAS, the Board finds that the amendment of certain rules of the District is merited to support the District's efforts to manage the groundwater located within the District, and that the amendment to the District's existing rules is supportable under Texas law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LONE STAR GROUNDWATER CONSERVATION DISTRICT THAT:

1. The Enforcement Policy and Civil Penalty Schedule, attached as Attachment "A," is hereby incorporated into this resolution and into the District Rules by reference as an addendum to the District Rules.
2. The Enforcement Policy and Civil Penalty Schedule is adopted in accordance with District Rule 2.2 and is a rule of the District for all purposes.
3. The General Manager of the District is further authorized to take any and all action necessary to implement this resolution.
4. The Enforcement Policy and Civil Penalty Schedule, as an addendum amendment to the District Rules, is effective as of the date of adoption of this resolution by the Board of Directors.

AND IT IS SO ORDERED.

PASSED AND ADOPTED on this 13th day of June, 2006.

LONE STAR GROUNDWATER CONSERVATION DISTRICT

By: _____
Orval R. Love, Board President

ATTEST:

_____
Richard J. Tramm, Secretary