

## CHAPTER 7 ADMINISTRATIVE PROCEDURES

### 7.0 GENERAL

Notwithstanding any other provision of this chapter, upon agreement between the Tribe and the District, any provision in this chapter relating to time periods may be extended.

*History Note: Renumbered 6-28-94.*

### 7.1 APPROVAL AND AMENDMENT OF WORK PLANS

#### **7.1.1 Timeframes for Submittal, Approval and Amendment of Work Plans**

**7.1.1.1**            **General**    On or before June 1 of each year, the Tribe may submit to the District four (4) copies of a Work Plan describing the anticipated work to be initiated by the Tribe, or by individuals or entities whose plans are approved by the Tribe on one or more of the Tribe's Reservations or Tribal Trust Lands in the upcoming fiscal year (October 1 - September 30), or for such other periods as are acceptable to the District. A Work Plan is not required for any fiscal year or other period in which the Tribe does not intend to commence any new projects. If the Tribe is delayed in submitting its Work Plan or makes an early submission, or if the District modifies its procedures for scheduling meetings, the dates specified under this section shall be modified to allow the same number of days under the procedure as written. Board action will occur at the first monthly meeting after the required number of days under the procedural steps have passed, unless the Tribe and the District agree to an amendment pursuant to 7.1.1.11. The work plan shall include such information as is specified in this chapter.

#### **7.1.1.2**            **Timeframe for Notice of Receipt of Work Plan**

The District shall by June 15 publish notice of receipt of the work plan in a newspaper having general circulation as defined in chapter 50, Florida Statutes. The District also shall provide a copy of the notice to any person who has filed a written request for notification of

any work plan affecting a particular designated area no earlier than six (6) months before the date specified in the notice. For all persons, publication shall constitute legal notice. The publication shall expressly state that notice of further action shall only be provided to persons requesting such notice in writing by July 15.

**7.1.1.3**                    **Timeframe for Review**            The District staff shall review the annual work plan, evaluate the proposals contained therein in accordance with the criteria and principles contained in Parts (I) through (VI) of the Compact and in accordance with the provisions of Chapter 2 through 6 of the Manual. By June 15 the District shall advise the Tribe in writing of any additional information required.

**7.1.1.4**                    **Timeframe for Submittal of Additional Information**            By July 1, the Tribe shall submit in writing the additional information requested by the District or advise the District in writing of the Tribe's decision not to supply part or all of the additional information requested.

**7.1.1.5**                    **Timeframe for Proposed District Action**            By July 21, the District shall prepare staff recommendations which shall contain a recommendation of concurrence, or concurrence in part, concurrence with conditions, or objection to the proposed Work Plan, and supporting reasons. Such recommendation shall constitute proposed District action.

**7.1.1.6                    Timeframe for Notice of Proposed District Action**

By July 21, the District shall provide a notice of proposed District action and a copy of the staff report pursuant to 7.1.1.5 to the Tribe and to any persons requesting notice of proposed District action pursuant to this chapter. The notice of proposed District action shall state that requests for a hearing must be received by the District Clerk and the Tribe on or before August 4.

**7.1.1.7                    Timeframe for Hearing**

Upon written request filed with the District Clerk and the Tribe (unless filed by the Tribe) on or before August 4 to the Board by the Tribe or any substantially affected third persons, a hearing shall be scheduled for the September meeting of the Board. Requests for a hearing shall contain the information specified in this chapter. At the August Board meeting, the Board will review requests for hearings that have been filed, and shall deny frivolous requests for hearings or requests that have been filed by persons lacking a significant interest which is substantially affected. The Board cannot deny any request by the Tribe or an agency of the State listed under Part (I)(J) of the Compact for a hearing.

**7.1.1.8                    Timeframe for Filing a Notice of Reliance**

A person may file a notice reliance on the proposed District action concerning the proposed Work Plan. Such notice of reliance shall be in lieu of a request for hearing, under this chapter, and shall be filed on or before August 4. The notice of reliance shall contain the information set forth in this chapter. The filing of a notice of reliance shall preserve the rights of the filing person as specified in this chapter, in the event the final District action differs materially from the proposed District action.

**7.1.1.9                    Timeframe for Final District Action**

The proposed District action shall become final District action as of the August Board meeting, if:

- A. the District staff report recommends concurrence, objection, or concurrence with conditions with all or part of the proposed work plan, and no requests for hearings are received by the District Clerk on or

before August 4; or

- B. all timely requests have been dismissed by the Board as frivolous, or as having been filed by persons lacking a non-frivolous interest which is substantially affected.

**7.1.1.10**            **Hearings on Proposed Work Plans**    At the September Board meeting, the Board shall conduct hearings on all approved requests for hearing and shall concur or object, in whole or part, or concur with conditions to the proposed Work Plan, constituting final District action. Failure to hold a hearing shall constitute acceptance of the Tribe's proposed Work Plan as final District action.

**7.1.1.11**            **Timeframe for Amendment to Work Plans**    The Tribe shall submit to the District amendments to any Work Plan effective under the Compact. The Tribe shall not implement any amendments without concurrence by the Board. If the amendment is reasonable, the Board shall not withhold concurrence. The procedures set forth under this chapter shall apply to Work Plan amendments, with dates modified to allow the same number of days between each step as are allocated under the procedures as written.

**7.1.1.12**                    **Service of Written Order**    Copies of the written order under this chapter shall be served on all persons who timely requested a hearing or timely filed a notice of reliance.

**7.1.2 Approval and Amendment of Work Plan -- Post Board Action**

**7.1.2.1**                    **Timeframes for Rehearing**    Following                    District action, the Tribe:

A.    may, within thirty (30) days of Board decision, request the Board for a rehearing. The request for rehearing shall contain the information set forth in this chapter. The District shall give seven (7) days notice to the parties to the initial hearing of such request and shall agenda the rehearing at the next Board meeting held after such notice has been provided. The request for rehearing shall contain the information set forth in this chapter. The Board shall concur or object to the Work Plan in whole or part, which action shall constitute final District action. The written order recording the final District action shall contain the information set forth in this chapter. Copies of the written order shall be served on all parties to the hearing.

B.    shall, with or without rehearing, within ninety (90) days of the final Board decision, give notice to the District by filing with the District Clerk and to all persons who timely requested a hearing or timely filed a notice of reliance, by mailing first class on the same day as notice is provided to the District of the Tribe's intention to:

1.    implement the Work Plan as approved following final District action, including final District action under this chapter; or
2.    implement the proposed Work Plan or amendment without complying with part or all of final District action.

The notice shall contain the information set forth in this chapter.

### **7.1.3 Approval and Amendment of Work Plan -- Action Following Tribal Notice**

**7.1.3.1 Timeframe for Commencement of Suit** The District or any person who timely requested a hearing or timely filed a notice of reliance, shall have forty-five (45) days to commence suit in federal court, after filing by the Tribe of notice pursuant to this chapter with the District Clerk. The District and any other party shall have the burden of showing that the Tribe's proposed Work Plan or amendment violates the Compact or the Manual.

If the District does not file suit in federal court within forty-five (45) days of receipt of notice pursuant to this chapter, by the Tribe, the District shall be deemed to have concurred with the Tribe's intention to proceed as set forth in such notice. Any other person who timely requested a hearing or who timely filed a notice of reliance shall have ten (10) days following the expiration of the forty-five (45) day limit set forth under this chapter to commence suit in federal court ex rel the District to enforce final District action taken under this chapter.

Upon the filing of a suit in federal court by the District, all work pursuant to the challenged Work Plan or amendment shall be stayed pending resolution by the court or by settlement, unless the parties agree otherwise.

### **7.1.4 Early Work Orders for Work Prior to Submission of a Tribal Work Plan**

**7.1.4.1 Work that May be Authorized Prior to Submission of a Tribal Work Plan** The Tribe and the District recognize that certain kinds of work related to the construction and/or alteration of surface water management systems, and incidental site work associated with such systems, are not harmful either to the water resources of the Tribe's Reservation and Trust Lands or to the water resources of adjoining lands and that such kinds of work are consistent with the objectives of both the Tribe and the District. If such work satisfies the conditions set forth in paragraph B of this

subsection the commencement of such work may be authorized prior to the approval of a Tribal Work Plan which includes the work. The Water Resource Management Department of the Seminole Tribe (Department) may authorize such work by issuing an early work order under procedures specified in the Tribal Water Code. This section sets forth the requirements for qualifying for an early work order and the procedures by which the Department shall give notice to the District of its intent to issue an early work order and for the District to interpose any objections it may have. No construction or alteration of a surface water management system shall be commenced until the permittee receives written authorization to proceed from the Department.

**A. Relationship to Tribal Water Code** The Tribal Water Code sets forth the procedure through which a person can apply to the Department for an early work order. Potential applicants should consult the Tribal Water Code for further guidance.

**B. Conditions** An applicant for an early work order must give reasonable assurances that all of the following conditions will be satisfied.

1. The proposed surface water management system must meet the criteria specified in Chapter 4 of this Manual.
2. The project or incidental site work must not be located in natural water bodies, viable wetlands habitat, surface waters of the state, or an Outstanding Florida Water as listed in Rule 17-3.041, Fla. Admin. Code.
3. If the project proposes to connect with, place structures in or across, or otherwise make use of works of the District, the permittee must obtain approval from the District for such use before commencing work.

*History Note: New 6-28-94.*

#### **7.1.4.2                    Action by the Department**

**A. Notice to the District** The Department shall process applications for early work orders in accordance with procedures set forth in the Tribal Water Code, including the preparation of a report by the Administrator of the Department which shall include a determination of whether the proposed work qualifies for any early work order and, if conducted as planned, would comply with the Tribal Water Code, the Compact, and all applicable federal and tribal environmental laws and regulations. If the Administrator determines that the proposed work so qualifies, the Administrator shall give notice to the District that unless the District disapproves the application within 10 days as provided in subsection 7.1.4.3, the Department will issue an early work order. The Administrator's notice to the District shall include a copy of the application and the Administrator's report.

**B. Authorization to proceed** Unless the District disapproves the application within 10 days as provided in subsection 7.1.4.3, the Department may issue an early work order, which shall constitute authorization to proceed with the early work specified in the application. The authorization shall include any limiting conditions requested by the District and may include any other reasonable conditions that are appropriate to assure that the permitted work will not be inconsistent with the overall objectives of the Tribe and the District and will not be harmful to water resources protected under the Compact. In addition, each early work order shall also include the following conditions:

1. The early work order may be revoked by the Department at any time for violation of:
  - a. the terms of its conditions;
  - b. other applicable Tribal law or regulations; or
  - c. the Water Rights Compact and Criteria Manual.
2. The applicant shall not refuse immediate entry or access to any

authorized representative of the Tribe or the District who requests entry for purposes of inspection of the early work and presents appropriate credentials.

3. If, in the opinion of Department or District staff, the incidental site work is the cause of adverse water resource impacts, the Department staff will so notify the applicant and the applicant shall take corrective action specified by the Department.
4. The property must be restored to the satisfaction of the Department if the permit under the Tribal Water Code is ultimately denied or the permitted project is otherwise not in accord with the incidental site work authorized in the early work order.
5. The applicant agrees to hold and save the District and the Tribe harmless from any and all liability arising from property damage or bodily injury as a result of the work conducted pursuant to early work order.
6. Any damage to off-site property which may have been caused by the incidental site work authorized in the early work order must be mitigated or otherwise offset to the satisfaction of the Department.
7. The activities are commenced at the applicant's own risk.
8. The applicant shall proceed to timely obtain all permits required under the Tribal Water Code.
9. This early work order only applies to authorization from the South Florida Water Management District and the Water Department of the Seminole Tribe; it is possible that additional permits from federal authorities may be necessary, and nothing contained herein relieves the permittee from timely compliance with applicable federal and tribal laws.

*History Note: New 6-28-94.*

#### **7.1.4.3**                    **Action by the District**

**A. Notice of objection**    The District may advise the Department that, in its view, the proposed work does not qualify for an early work order. Such notice of objection must be communicated to the Department no later than 10 days from the date the Administrator's notice to the District is received. In such cases, the District's action shall be final, not subject to review, and the Department shall not issue an early work order.

**B. Concurrence**    The District may expressly indicate concurrence in the proposed work by advising the Department in writing that the Department may issue an early work order only if certain specified conditions are included in the early work order. In such cases, the Department shall include any such conditions if it issues an early work order. If the District takes no action within 10 days from the date the Administrator's notice is received (or if the tenth day falls on a Saturday or Sunday or holiday on the next working day), the District shall be deemed to have given its concurrence for the Department to issue an early work order.

*History Note: New 6-28-94.*

#### **7.1.4.4**                    **Reporting in Next Annual Work Plan**    The

Department shall include a summary report of all work authorized under early work orders in any year in the next annual work plan submitted to the District. The District's review of such work and associated planned work included in the proposed work plan shall be on a de novo basis -- the fact that certain aspects of the work may have been completed shall not determine whether the remainder of the work will be authorized or whether work that has been completed complies with the requirements of the Compact.

*History Note: New 6-28-94*

#### **7.1.4.5**                    **Expiration, Revocation or Suspension of Early Work Orders**

A.    Each early work order shall expire on the date of final District action, or federal district court action, whichever is later, on the Tribal Work Plan, which includes the project for which the early work order

was issued. Any further work associated with the early work order must thereafter be authorized in a Tribal Work Plan approved under the Compact.

B. Violations of this section or of any of the conditions included in an early work order may result in revocation or suspension of the early work order.

C. The Administrator may revoke or suspend an early work order as provided in the Tribal Water Code.

*History Note: New 6-28-94*

### **7.1.5 Enforcement of Compact Rights and Obligations Other Than the Work Plan and Amendments**

#### **7.1.5.1**

#### **Tribe and District**

A. In any instance where the District notifies the Tribe that it has initiated rulemaking for establishment of new programs or changes in rules, regulations or procedures, under the provisions of Part II(J)(5) of the Compact, the District will use its best efforts to advise the Tribe as to the specific portion of the new program, rules, regulations or procedures it believes may be appropriate for application to the Tribe. Following notice from the District, the Tribe will use best efforts to advise the District as early as possible of its concerns by providing comments during the development of the rules.

B. The District and the Tribe shall use best efforts to resolve disputes concerning the enforcement of rights and obligations created by the Compact through informal meetings, or if agreed, through mediation, arbitration, or third party facilitation. Notwithstanding the notice requirements for filing suit in federal court specified in this chapter, each party shall give the other earlier notice of intention to commence suit in federal court if practicable.

C. If the Tribe believes that the District or other person is engaged in or will engage in conduct violating the Compact, the Tribe shall give the District fifteen (15) days notice before commencing action in federal court to enforce the Compact, unless the delay would cause

irreparable injury, and the Tribe is seeking a temporary restraining order. Such notice shall contain the information set forth in this chapter.

D. If the District believes the Tribe is engaged in or will engage in conduct violating the Compact, the District shall give the Tribe fifteen (15) days notice before commencing action in federal court to enforce the Compact, unless the delay would cause irreparable injury, and the District is seeking a temporary restraining order. Such notice shall contain the information set forth in this chapter.

1. The Tribe may request a hearing before the Board on the matter in issue. If the Tribe requests a hearing, the District shall not commence action in federal court until the Board has finally disposed of the matter in issue unless the delay would cause irreparable injury, and the District is seeking a temporary restraining order. The request for hearing shall contain the information set forth in this chapter.
2. If the Tribe has by Tribal Council Resolution requested the District to enforce the provisions of the Compact against any third party pursuant to this chapter, the District shall not commence action in federal court until the Board has responded to the Tribe's request for assistance unless the delay will cause irreparable injury and the District is seeking a temporary restraining order.

*History Note: Amended and renumbered 6-28-94*

**7.1.5.2 Enforcement by the Tribe and the District Against Persons Conducting Activities on Reservation and Tribal Trust Land**

In individual cases the Tribe may, through Tribal Council Resolution, request the District to enter Reservation and Tribal Trust Lands for the purpose of enforcing the provisions of the Compact against persons other than the Tribe conducting activities on Reservation or Tribal Trust lands.

A. The request accompanying the Resolution shall specify to the best of the Tribe's knowledge the identity of the alleged violator, the location and nature of the alleged violation, and any additional information deemed relevant or material by the Tribe. The District may request the Tribe to provide other information reasonably

necessary to aid in investigating the Tribe's request.

B. Upon Tribal request through Resolution, the District shall investigate the allegations contained in the Resolution. The Tribe shall assist the District in the investigation of the allegations. The District shall complete its investigation within thirty (30) days of receipt of the Tribal request through Resolution.

C. Within ten (10) days of completion of the investigation, the District shall advise the Tribe of the District's findings and any proposed enforcement action the District intends to take.

D. The District may use any State administrative and judicial procedures authorized under State law and District rules, regulations and orders to satisfy the Tribal request through Resolution.

E. Absent such Resolution, the District must challenge alleged violations of the Compact through the procedures set forth under Chapter 7 of this Manual and Part (VIII) of the Compact and will defer to Tribal jurisdiction exercised pursuant to the Tribal Water Code approved under the Compact.

### **7.1.5.3 Conflicts with Permit Applications or Other Requests for Approval**

A. The Tribe shall identify to the District geographical areas and types of permit applications or other requests for approval for which the Tribe desires the District to provide notification. The Tribe may periodically amend its request for notice. The District shall use best efforts to notify the Tribe of any other permit applications or other requests for approval that may potentially affect the Tribe's rights under the Compact.

B. Within fifteen (15) days of receipt, the District shall give written notice to the Tribe of any permit application or other request for approval of which the Tribe requests notice under this chapter. The notice shall contain the information set forth in this chapter.

C. Within twenty (20) days of receipt of notice of application, the Tribe may request notice of proposed District action, and may comment on the permit application or any other request for approval, and shall furnish any additional information explaining and supporting its comments. The District staff shall expressly consider the Tribe's comments and shall address such comments in the District's written analysis of the application.

D. The District shall provide the Tribe with notice of proposed District action on those applications and other requests for approval for which the Tribe has requested notice of proposed District action or provided comments under this chapter, and a copy of the District's analysis of the applications or other requests for approval. The notice shall contain the information set forth in this chapter and include a date for filing notice of objection by the Tribe. The Tribe shall be given a reasonable time, but not less than ten (10) days to file such a notice of objection.

E. The Tribe may, within the period for filing specified in the District notice, file a notice of objection with the District Clerk and the applicant.

1. The notice of objection shall contain the information set forth in this chapter and shall state with reasonable specificity the basis for the Tribe's objection and the Compact rights affected.
2. Within twenty (20) days of receipt of a Tribal notice of objection, the applicant shall file a response with both the District Clerk and the Tribe.

F. Failure by the Tribe to timely file a notice of objection shall preclude the Tribe from further objection to the proposed District action unless a timely request for hearing is filed by the applicant or a substantially affected third person; or the Board takes final District action which differs materially from the proposed District action.

1. The District shall notify the Tribe within ten (10) days of the filing with the District Clerk of any request, by the applicant or a substantially

affected third person, for a hearing pursuant to state law concerning any application or other request for approval of which the Tribe receives notice under this chapter.

2. No later than the date final District action is filed with the District Clerk, the District shall serve the Tribe with copies of any final District action which differed materially from the proposed District action which was noticed to the Tribe under this chapter.

G. At the next regularly scheduled Board meeting following receipt of the Tribe's notice of objection, the Board shall review the Tribe's notice of objection and shall determine whether the proposed District action would substantially and adversely affect the Tribe's rights under the Compact.

1. If the Board determines that the proposed District action would not substantially and adversely affect the Tribe's rights under the Compact, and no administrative hearing under state law is requested by the applicant or other substantially affected third person, the Tribe shall have thirty (30) days to file suit in federal district court. Such court action shall be decided in a timely manner as provided in the "Seminole Land Claims Settlement Act of 1987".
2. If the Board determines that proposed District action will substantially and adversely affect the Tribe's rights under the Compact, final District action shall be modified to resolve those objections raised by the Tribe that have been determined to substantially and adversely affect the Tribe's rights under the Compact. If the final District action differs materially from proposed district action, the applicant and others who have been notified of proposed District action shall have an opportunity to request a hearing pursuant to District rules. If the Tribe continues to object to the modified final District action and no administrative hearing is requested, the Tribe shall have thirty (30) days to file suit in federal district court. Such court action shall be decided in a timely manner as provided in the "Seminole Land Claims Settlement Act of 1987". If no hearing is requested and the Tribe does not file suit, the modified final District action shall become final District action.

H. If an administrative hearing under state law is requested, concerning an application or other request for approval of which the Tribe receives notice under this chapter, the Tribe shall have thirty (30) days from the date of either filing of the request for hearing or Board evaluation of a Tribal notice of objection, whichever occurs later, to elect:

1. to intervene as a party to the administrative hearing; or
2. to request in writing that the District, in the event the Board has determined that the proposed District action substantially and adversely affects the Tribe's rights under the Compact, represent the Tribe's interest in whole or part in the administrative hearing, provided that such representation will not involve the District in a conflict of interest as provided in Chapter 112, Florida Statutes (1985); or
3. to refrain from participating in the administrative hearing; or
4. to file an action in federal district court which shall be decided in a timely manner as provided in the "Seminole Land Claims Settlement Act of 1987". The court action shall stay any administrative hearing on the issues raised in such action, unless a party to the hearing demonstrates to the court that the Tribe will not be unreasonably injured and allows the hearing to proceed.

I. If the Tribe requests the District to represent the Tribe's interests in the state administrative hearing pursuant to this chapter, the District shall represent the Tribe's interests unless and until the District determines a conflict of interest exists or unless and until the Tribe requests the District to terminate representation of Tribal interests.

1. Immediately upon District determination of a conflict of interest or a Tribal request for termination of District representation, the District and Tribe shall notify all parties to the administrative hearing and the presiding hearing officer.
2. If the District determines there is a conflict of interest, the administrative hearing shall be stayed for a period of no less than thirty

(30) days to allow the Tribe time to assume its own representation. If the Tribe requests the District to terminate representation, the Tribe may seek a stay of the administrative hearing, which shall not be unreasonably withheld.

J. If the Tribe elects to proceed under subparagraphs 1, 2, or 3 of paragraph (H) of this subsection, the Tribe shall not file any action in federal district court until final District action has occurred. Any court action filed under this paragraph shall be filed within forty-five (45) days of the date of final district action and shall be limited to review of the final District action. Such review shall not be de novo.

K. If the District fails to provide notice as required under this chapter, and the Tribe has not or could not with reasonable diligence have learned of any District action on the application for permit or other request for approval in time to participate in the proceedings under this subsection, the District shall give actual notice to the Tribe immediately upon discovering the failure. The Tribe shall have twenty-one (21) days from receipt of actual notice to file a notice of objection with the District Clerk and request a hearing to consider the issues raised in such notice of objection. The notice shall contain the information set forth in this chapter. If final District action has occurred, the District shall give notice to the applicant that such final District action is no longer final. Regardless of whether final District action has occurred, the District, Tribe, applicant and substantially affected third person shall proceed under the provisions of this chapter, as though notice were properly given in the first instance.

#### **7.1.5.4                      Substantially Affected Third Persons**

A. Any substantially affected third person may file a written complaint with the District Clerk alleging that the Tribe or District is in violation of any of the provisions of the Compact, the Manual, or the terms and conditions of any approved work plan.

B. The complaint shall contain the information set forth in this chapter. Upon the filing of the complaint with the District Clerk, the District shall give the Tribe notice and a copy of all materials filed.

C. Upon receipt of a complaint filed pursuant to this subsection, the District shall conduct an investigation and make a determination as to whether there are substantial grounds to believe a violation has occurred, and whether any enforcement action is necessary. The District may conduct other investigations as are authorized or required by State law, District rules, regulations and orders. The District shall give notice to the complainant and the Tribe of its findings and intended enforcement action, if any.

D. If the complainant or the Tribe is not satisfied with the District's findings or intended action upon completion of the investigation, either party may file a request for a hearing before the Board. Such request shall be filed within fourteen (14) days of notice of the District findings, and shall contain the information set forth in this chapter. The hearing shall be scheduled for Board consideration no later than forty-five (45) days after the request for hearing is filed. The Tribe and the complainant may participate in the hearing. The Board shall take final District action concerning the complaint. No action in federal district court shall be commenced until the Board has taken final District action, unless delay would cause irreparable injury, and the relief requested is a temporary restraining order.

## **7.2 EMERGENCY SITUATIONS**

### **7.2.1 Emergency Action by the Tribe**

A. In the case of serious and unforeseen or unforeseeable circumstances, the Tribe may take emergency action which may be in violation of the Compact, the Manual, or the terms and conditions of approved work plans. Within 24 hours of the occurrence of the emergency, the Tribe shall give the District notice, by the best means available, of the emergency and the intended action of the Tribe. Unless the Tribe and the District agree otherwise, the Tribe shall present to the Board, at the first monthly meeting of the Board following the emergency action, a report of action taken under this subsection along with any action the Tribe proposes for conforming specific acts taken during the emergency to the Compact and the

Manual. The Board may, at the following Board meeting, require the Tribe to conform specific acts taken under this subsection to the standards set forth in the Compact. Failure by the Board at such Board meeting to request the Tribe to conform its acts shall constitute acceptance of the results of the Tribe's emergency acts and shall constitute final District action, unless the Tribe and the District agree otherwise. The Tribe shall, within sixty (60) days of the Board's request, notify the District of the Tribe's intention to comply, or refusal to comply, with part or all of the request. The notice shall contain the information set forth in this chapter. The District shall have forty-five (45) days from filing of the Tribe's notice under this subsection to commence action in federal district court. If the District does not file suit in federal district court within the forty-five (45) days, the District shall be deemed to have accepted the results of the Tribe's emergency acts.

B. Nothing in (A) of this section shall limit the District from issuing emergency action orders and taking emergency actions pursuant to this chapter.

### **7.2.2 Emergency Action by the District**

A. The District shall employ the resources of the District to take all reasonable action necessary to alleviate any emergency condition governed by this subsection.

B. Notwithstanding any other provision in this chapter, the District may issue an emergency order, other than a water shortage emergency order, to the Tribe when the following factors are present:

1. the time requirements set forth under this chapter cannot reasonably be satisfied; and
2. the situation is due to construction, alteration, operation, maintenance, or abandonment of Tribal facilities authorized pursuant to the Compact, and there exists either imminent danger to life or property, or imminent danger of irreparable harm to water resources.

C. The District may issue an emergency water shortage order to the Tribe when the following factors are present:

1. the District has imposed water shortage restrictions on the Tribe and other similarly situated users by class of use, source, or manner of withdrawal as authorized under Part (III)(D)(1) of the Compact; and
2. the District affirmatively finds that the imposition of further restrictions by class of use, source, or manner of withdrawal will not prevent irreparable harm to the water resources of the District or significant harm to human health and safety; and
3. the District affirmatively finds that the imposition of restrictions on the Tribe's use, source, or manner of withdrawal which are different from those imposed on other users, is necessary to prevent irreparable harm to the water resources of the District or significant harm to human health and safety.

D. An emergency order issued pursuant to (B) and (C) of this section shall state with particularity the action to be taken, that the requirements of (C) of this section have been met, and the expiration date of the emergency order.

1. The emergency order shall require only such action as is essential to alleviate the emergency; and
2. the duration of the emergency order shall be no longer than the time necessary to alleviate the emergency, not to exceed the expiration date set forth in the emergency order.

E. Any emergency orders issued under this section shall be presented to the Board for ratification at the first monthly meeting following the issuance of the emergency order.

F. If the Tribe objects to part or all of an emergency order, the Tribe may request a hearing before the Board.

1. The request must be in writing, must contain the information set forth

in this chapter, and must be filed with the District Clerk within three (3) days of service on the Tribe of the emergency order. The Board shall hold a hearing and shall render its decision at the next Board meeting following the filing of the request which shall constitute final District action, unless the parties agree otherwise.

2. Unless the Tribe files notice pursuant to (G) of this section, the Tribe shall comply with all provisions of the emergency order until the Board determines otherwise or until the emergency order expires, whichever occurs first.

G. In the alternative, the Tribe, within three (3) days of service on the Tribe of the emergency order, may file with the District Clerk a notice of refusal to comply with part or all of the emergency order.

1. The notice of refusal to comply shall state with reasonable specificity the part or parts of the emergency order with which the Tribe does not intend to comply and the basis for the refusal to comply;
2. The District, following notice to the Tribe, may petition the federal district court for a temporary restraining order to enforce the emergency order.

H. Within forty-five (45) days of the expiration of the emergency order, the Tribe may request the District to remedy the effects of specific acts taken pursuant to the emergency order. The District shall not be required to remedy the effects of acts taken to bring the Tribe into compliance with the Compact or Manual. The District shall, within forty-five (45) days of receipt of the request to remedy, notify the Tribe of the District's intent to comply, or refusal to comply, with part or all of the request. The notice shall contain the information set forth in this chapter. Upon receipt of a notice of refusal, the Tribe may commence action in federal district court.

### **7.3 INFORMATION REQUIREMENTS AND CHECKLISTS**

**7.3.1 Information Requirements** This section includes a description of the information requirements.

**7.3.1.1**                    **Proposed Work Plan**    A proposed Work Plan submitted under 7.1 shall contain:

A.    A status report on any previously approved Work Plans, if a status report is a condition to any approved Work Plan which has not been completed, abandoned, or terminated.

B.    Information on proposed increases in water use, describing the type of use, method, location and amount of withdrawal. The plan shall provide information crucial to the District to determine reasonable-beneficial use; impact, if any, on presently existing legal users protected under the Compact, and impact on natural systems.

C.    Information on proposed pesticide use and underground injection plans.

D.    And information on proposed surface water management work including, but not limited to, a description of purpose, type, and design specifications. The Work Plan shall provide information required to enable the District to assess impact on water resources, water quantity, and water quality.

**7.3.1.2**                    **Notice of Receipt of a Proposed Work Plan**

Notice of receipt of a proposed Work Plan under 7.1.1 shall contain:

A.    A description of the physical location of the property affected in the proposed Work Plan.

B.    A general description of the projects proposed in the Work Plan.  
And:

C.    A statement that notice of further action will be provided only to persons who have requested such notice in writing by July 15.

**7.3.1.3**                    **Notice of Proposed District Action**    Notice of proposed District action under 7.1.1.5 shall contain:

A. A statement that the District recommends objection, or concurrence in whole or in part with the proposed Work Plan, with or without conditions.

B. A statement that the staff report provides supporting reasons for the District's recommendations. And:

C. A statement that requests a hearing must be filed with the District Clerk and the Tribe on or before August 4.

**7.3.1.4**                    **Request for a Hearing**A request for a hearing under 7.1.1.7 shall contain:

A. A request for a hearing by the Tribe shall contain:

1. The specific exceptions to the proposed District action.
2. A demand for relief, which may include, but is not limited to, a request that the hearing be delayed beyond the September Board meeting. Or:
3. A notice of revision and resubmittal of the revised proposed Work Plan to the District. And:
4. Any other information that the Tribe deems relevant.

B. A request for a hearing by a substantially affected third person shall contain:

1. The name and address of the third person.
2. An explanation of how a non-frivolous interest of the third person will be substantially affected.
3. The specific exceptions to the Tribe's proposed plan or the proposed District action including reference to specific provisions of the Compact or Manual allegedly violated. And:

4. Other information the third party contends is relevant.

C. A request for a hearing by a State agency as listed under Part (I)(J) of the Compact shall contain:

1. The specific exceptions to the Tribe's proposed plan or the proposed District action, including reference to specific provisions of the Compact, Manual, or applicable federal laws allegedly violated.

2. An explanation of how the agency will be substantially affected.

3. A demand for relief. And:

4. Other information the agency contends is relevant.

**7.3.1.5**                    **Notice of Reliance**     A notice of reliance under 7.1.1.8 shall contain:

A. The name and address of the person filing the notice.

B. An explanation of how the non-frivolous interest of the person filing will be substantially affected.

C. A concise statement regarding how the person is relying upon the proposed District action.

D. And any other information the person contends is relevant.

**7.3.1.6**                    **Tribal Request for a Rehearing**     A Tribal request for rehearing following District action under 7.1.2.1(A) shall contain:

A. Specific objections to the final District actions.

B. A demand for relief. And:

C. Any other information the Tribe contends is relevant.

**7.3.1.7**                    **Written Final District Order** A written final District order under 7.1.2.1(A) shall contain:

A.    A statement of the final District action, including, but not limited to, a statement of the Board's objection, concurrence, or concurrence in part with the proposed Work Plan, with or without conditions.    And:

B.    A detailed explanation of the basis for the final District action.

**7.3.1.8**                    **Tribal Intent**            Written notification of Tribal intent under 7.1.2.1(B) shall contain:

A.    A statement indicating that the Work Plan as approved, following final District action, will be implemented.    Or:

B.    A statement indicating the Tribe will implement the proposed Work Plan without complying with part or all of final District action. Notification of compliance with part shall include which part will be implemented.

**7.3.2 Information Requirements for Proceedings Other than Work Plan Proceedings**

**7.3.2.1**                    **Notice of Intent to File Suit** A notice of intent to file suit under 7.1.5.1(B) and 7.1.5.1(C) shall contain:

A.    A description of the action in which the District, the Tribe or other person believe that the Tribe, the District or other person is, or will be, engaged in and which violates, or will violate, the Compact.

B.    A citation of the specific provisions of the Compact, Manual, or approved active Work Plan which is, or will be, violated by the Tribe's conduct.    And:

C.    A statement of relief sought.

**7.3.2.2**                    **Request for a Hearing** A request for a hearing under 7.1.5.1(C)(1) shall contain:

- A. A concise statement as to why the conduct challenged by the District does not violate the specific provisions of the Compact, the Manual, or an active Work Plan alleged by the District to be violated. And:
- B. Any other information the Tribe contends is relevant.

**7.3.2.3**                    **Notice to the Tribe of Receipt of Permit Application** Notice of receipt of a permit application under 7.1.5.3 shall contain:

- A. A description of the physical location of the parcel for which an application for a permit or other for approval has been received.
- B. A general description of the purpose of the permit application or other request for approvals. And:
- C. A statement identifying the project location for the permit application or other request for approval as within the Tribe's designated request area under 7.1.5.3(A); or, as identified through the District's best efforts, to be located outside the Tribe's designated request area but potentially affecting the Tribe's rights under the Compact.

**7.3.2.4**                    **Notice to the Tribe of Proposed District Action** Notice of proposed District action on an application under 7.1.5.3(D) shall contain:

- A. A statement that proposed District action recommends approval, rejection, or approval with conditions of the request for a permit or other approval.
- B. A concise explanation of how the proposed agency action affects the Tribe's rights under the Compact.

C. A statement that the District's written analysis provides supporting reasons for the proposed District action and the effect such action will have on the Tribe's rights under the Compact. And:

D. A deadline for filing notice of objection.

**7.3.2.5** **Notice of Objection to the Proposed District Action** Notice of objection to the proposed District action on an application under 7.2.5.3(E)(1) shall contain:

A. The specific objections to the permit application or other request for approval.

B. A concise explanation of how specific rights of the Tribe under the Compact will be substantially and adversely affected by the approval, or approval with conditions, of the permit application or other request for approval. And:

C. Any other information the Tribe contends is relevant.

**7.3.2.6** **Actual Notice of Objection** An actual notice of objection to the permit application or other request for approval under 7.1.5.3(K) shall contain the information required under 7.3.2.5.

**7.3.2.7** **Written Complaint** A written complaint by a substantially affected third person under 7.1.5.4(B) shall contain:

A. The name and address of the person filing the written complaint.

B. An explanation of the non-frivolous interest of the person filing and how such non-frivolous interest is substantially affected.

C. An explanation of how the conduct of the Tribe or the District violates specific provisions of the Compact, the Manual, or the terms and conditions of an active Work Plan. And:

D. Any other information the person contends is relevant.

**7.3.2.8**                    **Request for a Hearing** A request for a hearing by the complainant or Tribe to the findings of the District to the written complaint under 7.1.5.4(D) shall contain:

- A. A statement that the complainant filed a written complaint under 7.1.5.4(A), and a summary of the nature of the complaint.
- B. Specific objections to the District's findings and intended action, including an explanation as to the failure of the District's findings and intended agency action to address the allegations raised in the written complaint.
- C. The remedy requested. And:
- D. Any other information the person contends is relevant.

**7.3.3 Information Requirements for Emergency Situations**

**7.3.3.1**                    **Notice of Intent to Comply or Refusal to Comply**

A notice of intent to comply or a refusal to comply to an emergency order under 7.2.1(A) shall contain the following:

- A. A statement that the Tribe or the District intends to comply with the request to comply, or refuses to comply in whole or in part with a request to comply.
- B. If the Tribe or the District refuses to comply in part, a specific statement identifying the parts of the request with which the Tribe or the District intends to comply and the parts with which the Tribe or the District refuses to comply.
- C. The basis for any refusal to comply with a request to comply.
- D. Information regarding any other actions the Tribe or the District intends to take to comply with the request to comply, and the time schedule for such actions.

**7.3.3.2 Request for a Hearing to an Emergency Order**

A request for hearing to an emergency order under 7.2.2(F)(1) shall contain:

- A. A statement as to the specific parts of the emergency order to which the Tribe objects.
- B. The basis for the Tribe's objection to part or all of the emergency order. And:
- C. Any other information the Tribe contends is relevant.

**7.3.3.3** A notice of intent to comply or refusal to comply under 7.2.2(H) shall contain the information required under 7.3.3.1

**7.3.4 Information Requirements for Modification and Amendment of Manual**

**7.3.4.1 Request for a Hearing**A request for a hearing by substantially affected third persons under Part (VII)(G)(4)(b) of the Compact shall contain:

- A. The name and address of the person filing the request.
- B. An explanation of the non-frivolous interest of the person filing and how such non-frivolous interest is substantially affected.
- C. An explanation as to how the agreement to modify, amend, or otherwise change the Manual violates the Compact. And:
- D. Any other information the person contends is relevant.

**7.3.5 Applicable Checklists** Applicable tables for the checklists are included at the end of this Chapter.

**7.3.5.1**                      **Checklist for Public Water Supply**                      This checklist is for a typical project. Complex projects and large withdrawals in sensitive areas may require additional information.

**A.    General**

1. State the requested annual quantity of water (gals/year) needed. This quantity should equal the annual quantity which will be pumped at a future point in time, or may equal the existing pumpage if no future increases in pumpage are anticipated. The requested quantity should equal average daily pumpage multiplied by three hundred sixty-five (365) days.
2. Explain briefly the derivation of annual demand:
  - a. Indicate the projected population used to determine the annual demand.
  - b. Indicate proposed consumption of water per capita on a permanent population basis. If proposed per capita consumption is greater than existing consumption, please explain the difference.
3. Indicate the maximum daily pumpage associated with the projected average day pumpage.
4. Indicate the amount of maximum daily to average daily demand ratio used in calculating the projected maximum daily pumpage. Explain briefly the basis for using this number.
5. Indicate the source of water.

**B.    Location**

1. Provide a location map.
2. Provide a map delineating the area to be served and a site map of existing and proposed wellfield and treatment plant facilities. Number the wells, pumps and culverts on the map to correspond with Tables

A, B, and C.

**C. Facilities**

1. Describe all existing and proposed wells by completing Table A.
2. Describe all existing and proposed surface water pumps by completing Table B.
3. Describe all existing and proposed culverts essential to the operation of the wellfield by filling out Table C.
4. Describe the existing wellfield operation schedule, including those wells that are primary, secondary, stand-by, and the well rotation schedule.

**D. Population, Service Area, and Water Use**

1. Indicate the number of people, and number of equivalent residential connections presently served.
2. Indicate - in acres - the size of area served.
3. Provide information on present, past, and projected water use by filling out Tables D, E, and F.

**E. Raw Water Quality** Provide recent information on raw water quality.

**F. Water Problems** Explain any problems the utility or any other user is currently experiencing or causing as a consequence of withdrawals.

**G. Irrigation** If any of the projected water use will be for irrigation of golf courses or park areas, please indicate the following:

1. Area in acres which will be irrigated.

2. Type of vegetation to be irrigated.
3. Approximate maximum monthly water use.
4. Approximate average annual water use. And:
5. Show irrigated area on map.

#### **H. Impacts**

1. Will the proposed water use affect domestic, irrigation, or other public water supply wells?
2. Will the proposed water use affect any adjacent lake levels?
3. Will the proposed water use cause saltwater intrusion?
4. Will the proposed water use impact environmental features that have either a direct or indirect relationship to the water resources of the District (wetland habitat, natural water bodies, intermittent ponds, upland areas), preferred habitats for rare, endangered or threatened species?

**I. Reverse Osmosis Treatment** If reverse osmosis is proposed indicate the following:

1. Withdrawal capacity.
2. Potable water supply capacity.
3. Reject water discharge capacity.
4. The treatment efficiency ratio.
5. The amount of raw water that can be blended with the R.O. permeate.
6. The highest level of total dissolved solids (TDS) or chlorides that can be efficiently and economically treated using the installed membranes.

7. The chloride ion concentration in both the reject water and receiving water body. And:
8. Location of effluent discharge on a map.

**7.3.5.2**                      **Irrigation Water Use Checklist**                      The following water uses should utilize this checklist: Livestock, nursery, recreational area, soil flooding, agricultural, freeze protection, golf course and landscape irrigation.

This checklist is for a typical project. Complex projects, large withdrawals, or withdrawals in sensitive areas, may require additional information. Only the applicable information need be submitted.

**A. General**

1. If the project is existing, an aerial photograph that shows the crop must be submitted with the application.
2. Indicate the source of water.

**B. Location**

1. Provide a location map.
2. Provide a site map showing the property boundaries, irrigated area, wells, pumps, culverts, canals, ditches, roads, and other landmarks. Number the wells, pumps and culverts to correspond with Tables A, B, and C. Show areas served by irrigation systems as described in Table G.

**C. Facilities**

1. Describe all existing and proposed wells by completing Table A.
2. Describe all abandoned flowing wells by completing Table A.
3. Describe all existing and proposed surface water irrigation pumps by

completing Table B.

4. Describe all existing and proposed irrigation withdrawal culverts by completing Table C.

**D. Crop Type by Irrigation System** For each type of irrigation system (flood, drip, microjet, overhead) fill out a Table G form. For example, if a grower has one hundred fifty (150) acres of citrus on drip and five hundred (500) acres on flood, two copies of the Table G form would need to be filled out, one for drip and another for flood irrigation. Three copies of the Table G form are attached. "Acres planted" is the irrigated acreage minus roads, ditches, canals, swales.

**E. Water Usage**

1. Indicate the amount of water required, on a maximum monthly basis, for irrigation of each crop.
2. Explain the basis for the crop requirements in "1" if different from Chapter 3 of the Manual.

**F. Water Problems** Explain any water problems currently being experienced by the Tribe as a result of withdrawals.

**G. Frost Protection** Describe methods of freeze protection and water quantities desired.

**H. Impacts**

1. Will the proposed water use affect domestic, irrigation, or other public water supply wells?
2. Will the proposed water use affect adjacent lake levels?
3. Will the proposed water use cause saltwater intrusion?
4. Will the proposed water use affect environmental features that have either a direct or indirect relationship to the water resources of the District (wetland habitat, natural water bodies, intermittent ponds, upland areas) and preferred habitats for rare, endangered or threatened species?

**7.3.5.3 Checklist for Mining Dewatering Water Use** This checklist is for a typical project. Complex projects, large withdrawals, or withdrawals in sensitive areas may require additional information. Only the applicable information need be submitted.

**A. General**

1. Explain in detail why dewatering is necessary. Indicate the method of excavation.

2. Explain briefly the derivation of the requested annual demand and average daily withdrawal.
3. Indicate the maximum daily pumpage and how it was derived.
4. Indicate the source of water.

**B. Location**

1. Provide a location map.
2. Provide a site map, showing pit area (existing and/or proposed dimensions, including maximum depth of excavation); stockpile area; dikes and levees (cross sections designating height, width, side slopes); retention/detention area location and linear extent; pumps; culverts; structures (with numbers to correspond with Tables A and B); ditches; and canals (designating side slopes and dimensions including height, width and depth).
3. Provide an aerial photo and topographic map of the site.

**C. Facilities**

1. Describe all existing and proposed surface water pumps by completing Table B.
2. Describe all existing and proposed culverts by completing Table C.

**D. Operation Description**

1. Indicate the elevation to which the ground water level will be drawn down as a consequence of dewatering. Indicate the maximum depth of the pit to be excavated.
2. Describe how discharge turbidity will be controlled.

**E. Historical Information - Water Problems**

1. Provide information on past construction and practices, pumpage, and pollution.
2. Describe any water problems that have occurred within one mile of the project site.

**F. Water Table/Geologic Borings Data** Provide information on wet and dry season water table elevations. Include logs and attach data of borings that have been made at the pit site.

**G. Drainage System (Stormwater)** Indicate the routing of stormwater and retention/detention system facilities. Provide computations.

**H. Structural Stability** Provide information on the structural stability of dikes, levees, structures and pit slopes.

**I. If a Landfill Operation in Conjunction with the Mining/Dewatering Project (in addition to above detailed requirements) is proposed, provide the following --**

1. Landfill location map and site map.
2. Date landfill started operating.
3. Expected life of landfill.
4. Type of waste accepted (please indicate the type of waste accepted in the past if different from waste accepted presently).
5. Methods of waste disposal, indicating how and where the waste is and has been buried. Elaborate on waste buried below the water table.
6. Site engineering plans and information, to include:
  - a. Groundwater pollution control measures.
  - b. Leachate collection system and treatment. Has leachate been found at the site? And:
  - c. Location and type of liners.
7. Monitoring program for groundwater pollution control. If any:

- a. Please indicate location of monitoring wells on a map showing areal extent and location of landfill.
- b. Provide well logs and well construction detail.
- c. Supply all water quality and water level data collected during the monitoring program. And
- d. Supply any additional information or reports related to the effect of the landfill on groundwater quality or levels.

**J. Evaluation/Impact**

1. Will the dewatering operation affect off-site building foundations?
2. Will the dewatering operation significantly affect adjacent lakes, domestic water use, or irrigation wells?
3. Will the dewatering operation cause saline water intrusion or potable water to be discharged to tide water?
4. Will the dewatering operation impact environmental features that have either a direct or indirect relationship to the water resources of the District (wetland habitat, natural water bodies, intermittent ponds, upland areas), preferred habitats for rare, endangered or threatened species?

**7.3.5.4 Checklist for Industrial Water Use** The following water uses must utilize this checklist: Power production, commercial and industrial processes, cooling and air conditioning, navigation, water based recreation, aquacultural, diversion and impoundment into non-District facilities, any other uses which are not on the checklist.

This checklist is for a typical project. Complex projects, large withdrawals, or withdrawals in sensitive areas may require additional information. Only the applicable information need be submitted.

**A. General**

1. Indicate the quantity of water needed as an annual demand (gals/year), and whether it is the annual quantity which will be pumped at a future point in time, or is equal to the existing pumpage if no future increases in withdrawals are anticipated. The requested quantity should equal the projected average day pumpage multiplied by 365 days.
2. Explain briefly the derivation of the requested allocation.
3. Indicate the maximum daily pumpage associated with the projected average daily pumpage.
4. Indicate the maximum day to average day demand ratio used in calculating the projected maximum day pumpage. Explain briefly the derivation of this number.
5. Indicate the source of water.

**B. Location**

1. Provide a location map.
2. Provide a site map, showing the location of wells, pumps, and culverts which correspond with Tables A, B, and C.

**C. Facilities**

1. Describe all existing and proposed wells by completing Table A.
2. Describe all existing and proposed surface water pumps by completing Table B.
3. Describe the existing pump operation schedule, including which pumps are primary, secondary, stand-by, and pump rotation schedule.

- D. Process** Describe the process and how water is used in the

process. Indicate the nature of changes to the water by the process including thermal, physical, and chemical changes.

**E. Water Usage** Fill out Table D using the most recent twelve (12) months of pumpage records.

**F. Water Problems** Explain any water problems currently experienced within one (1) mile of the project site.

**G. Wastewater Disposal** Describe the manner in which wastewater is disposed (i.e., evaporation, percolation ponds, drainage wells, canal discharge, spray irrigation)

**H. Impacts** Document any impact on other users, the saline water interface, adjacent water bodies, land uses, or pollution sources that the proposed withdrawals may have.

1. Will the proposed water use affect domestic, irrigation, or other public water supply wells?
2. Will the proposed water use affect adjacent lake levels?
3. Will the proposed water use cause saltwater intrusion?
4. Will the proposed water use affect environmental features that have either a direct or indirect relationship to the water resources of the District (wetland habitat, natural water bodies, intermittent ponds, upland areas), preferred habitats for rare, endangered or threatened species?

#### **7.3.5.5                      Checklist for Surface Water Management**

##### **A. Site Information Must Include:**

1. A detailed location sketch.
2. Topographic map (with contours) of the site and adjacent hydrologically related areas, showing location and description of bench

marks (minimum of one per major water control structure).

3. Overall map of the area showing where runoff presently goes; and size, location, topography, and land use of off-site areas which drain through, onto, and/or from the project.
4. Identification of seasonal water table elevations. If the project is in the known floodway of a natural stream, it should be identified and approximate flooding depths determined. The one hundred (100) year flood plain elevations and limits should be identified if applicable.
5. A description of vegetative cover. Wetland areas and wetland areas to be traded/mitigated should be identified.
6. A recent aerial photograph of the project area with project boundaries delineated.
7. Paving, grading and drainage plans, with special attention to perimeter site grading.
8. Percolation tests must be submitted if percolation or exfiltration systems are proposed. Percolation tests shall be representative of design conditions.
9. Complete description of measures to be implemented during the construction period to mitigate adverse quantity and quality of off-site impacts. And:
10. Indicate whether surface or groundwater withdrawals are proposed for irrigation or other on-site water use.

**B. Submit Master Drainage Plan Showing:**

1. Location of all water bodies with details of size, side slopes, elevations and depths.
2. Location and details of all major water control structures. Control elevations of the control structures must be included along with any

seasonal water level regulation schedules.

3. Drainage basin boundaries showing direction of flow, taking into account off-site runoff being routed through or around the project.
4. Locations of roads and buildings along with their proposed elevations. Sufficient site grades to justify the proposed stage storage curves.
5. Right-of-way and easement locations for the drainage system, including all areas to be reserved for water management purposes, describing the legal method to be utilized.
6. Location and size of internal minor water management facilities. And:
7. Nearby existing off-site water management facilities such as wells, lakes, which might be affected by the proposed construction or development. The names and addresses of the owners of such facilities should also be submitted.

**C. Submit Drainage Calculations, Including:**

1. Design storms used, including depth, duration and distribution.
2. Off-site inflows.
3. Stage storage computations for the project and stage discharge computations for the outfall structure(s).
4. Acreages and percentage of property proposed as:
  - a. Impervious surfaces (excluding water bodies).
  - b. Pervious surfaces (green areas).
  - c. Lakes, canals, retention areas. And:
  - d. Total acreage of project.

5. Runoff routing calculations showing discharges, elevations, and volumes retained and/or detained during applicable storm events. Included should be the necessary mathematical computations to demonstrate that the proposed development will not remove net storage from the basin for events up to the one hundred (100) year frequency.
6. Calculations required for determination of minimum building floor and road elevations. And:
7. Calculations which demonstrate compensation for flood plain encroachment, if applicable.

**D. Legal and Institutional Information Must Include:**

1. Indication how water and wastewater service will be supplied. Letters of commitment from off-site suppliers must be included, if applicable. And:
2. Documentation of physical availability of receiving water system to receive project discharge, if such is not evident.

**7.3.5.6 Checklist for Underground Injection** For projects involving construction - engineering drawings, specifications, and design data shall be submitted. Attach one (1) eight and one-half (8 1/2) inch USGS site location map, indicating section, township, range, and latitude/longitude for the project.

**A. General Information**

1. Project status: New, existing, or modification.
2. Well type: Exploratory well, or test/injection well.
3. Type:
  - Class I Exploratory Well Construction and Test
  - Class I Test/Injection Well Construction and Test
  - Class I Well Operation
  - Class I Well Plugging and Abandonment
  - Class III Well Construction/Operation/Plugging and Abandonment
  - Class V Well Construction
  - Class V Well Operation
  - Class V Well Plugging and Abandonment.
4. Facility identification.
5. Well identification: Well number, purpose, and location (latitude and longitude)

6. **General Projection Description** Describe the nature, extent, and schedule of the injection well project. Refer to existing and/or future pollution control facilities, and expected improvement in performance of the facilities. Attach additional sheet(s) if necessary or cross-reference the engineering report.

**B. Engineering and Hydrologic Data Required for Support of Application to Construct, Operate, and Abandon Class I, III, or V Injection Well Systems** The following information shall be provided for each type of application.

1. **Class I Exploratory Well Construction and Testing** Provide:
- a. A conceptual plan of the injection project. Include the number of injection wells, proposed injection zone, nature and volume of injection fluid, and proposed monitoring program.
  - b. A preliminary area of review study. Include the proposed radius of the area of review with justification for that radius. Provide a map showing the location of the proposed injection well or well field area and the applicable area of review. Within the area of review, the map must show the number or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, public water systems, mines (surface and subsurface), quarries, water wells, and other pertinent surface features, including residences and roads. The map should also show faults, if known or suspected. Only information of public record and pertinent information known to the Tribe is required to be included on this map.
  - c. Information regarding proposed other uses of the exploratory well.
  - d. A drilling and testing plan for the exploratory well. The drilling plan must specify the proposed drilling program, sampling, coring, and testing procedures. And:
  - e. An abandonment plan.

**2. Class I Test/Injection Well Construction and Testing**

Submit:

- a. A map showing the location of the proposed injection wells or well field area for which a permit is sought and the applicable area of review. Within the area of review, the map must show the number or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, public water systems, mines (surface and subsurface), quarries, water wells and other pertinent surface features, including residences and roads. The map should also show faults, if known or suspected. Only information of public record and pertinent information known is required to be included on this map.
- b. Tabulation of data on all wells within the area of review which penetrate into the proposed injection zone, confining zone, or proposed monitoring zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the District may require.
- c. Maps and cross sections indicating the general vertical and lateral limits within the area of review of all underground sources of drinking water, their position relative to the injection formation and the direction of water movement - where known - in each underground source of drinking water which may be affected by the proposed injection.
- d. Maps and cross sections detailing the hydrology and geologic structures of the local area.
- e. Generalized maps and cross sections illustrating the regional geologic setting.
- f. The following proposed operating data:
  - i. Average and maximum daily rate and volume of the fluid to be injected.

- ii. Average and maximum injection pressure. And:
  - iii. The source, and an analysis of the chemical, physical, radiological and biological characteristics of injection fluids.
    - g. The proposed formation testing program to obtain an analysis of the chemical, physical and radiological characteristics of and other information on the injection zone.
    - h. The proposed stimulation program.
    - i. The proposed injection procedure.
    - j. Engineering drawings of the surface and subsurface construction details of the system.
    - k. Contingency plans to cope with all shut-ins or well failures, so as to protect the quality of the waters of the State, including alternate or emergency discharge provisions.
    - l. Plans (including maps) and proposed monitoring data to be reported for meeting the monitoring requirements in Chapter 6 of the Manual.
    - m. Information on wells within the area of review which penetrate the injection zone but are not properly completed or plugged, and the corrective action proposed to be taken to satisfy criteria outlined in Chapter 6 of the Manual.
    - n. Construction procedures, including a cementing and casing program, logging procedures, deviation checks, proposed methods for isolating drilling fluids from surficial aquifers, proposed blowout protection (if necessary), and a drilling, testing, and coring program.
3. **Class I Injection Well Operation** A report shall be submitted for a Class I well operation which shall include, but not be limited to, the following information:

- a. Results of the information obtained in 7.3.5.6.(B)(2)., including:
  - i. All available logging and testing program and construction data on the well or well field.
  - ii. A satisfactory demonstration of mechanical integrity for all new wells, pursuant to Chapter 6 of the Manual.
  - iii. The actual operating data, including injection pressures versus pumping rates, where feasible, or the anticipated maximum pressure and flow rate at which the well will operate, if approved by the District.
  - iv. The actual injection procedure.
  - v. The compatibility of injected waste with fluids in the injection zone. And:
  - vi. The status of corrective action on defective wells in the area of review within Tribal lands.
- b. Record drawings, based upon inspections by the engineer or person under his direct supervision, with all deviations noted.
- c. Sealed certification of completion, submitted by the engineer of record.
- d. If requested by the District, operation manual including emergency procedures.
- e. Proposed monitoring program and type of monitoring data to be submitted.
- f. Proof that the existence of the well has been recorded on the surveyor's plan at the county courthouse. And:
- g. The proposed plugging and abandonment plan pursuant to Chapter 5 of the Manual.

4. **Class I Well Plugging and Abandonment** Provide:

- a. The reasons for abandonment.
- b. A proposed plan for plugging and abandonment describing the preferred and alternate methods, and justification for use, including:
  - i. The type and number of plugs to be used.
  - ii. The placement of each plug, including the elevation of the top and bottom.
  - iii. The type, grade, and quantity of cement or any other approved plugging material to be used. And:
  - iv. The method for placement of the plugs.
- c. The procedure to be used to meet the requirements of Chapter 6.

5. **Class III Well Construction** Furnish:

- a. A map showing the location of the proposed injection wells or well field area and the applicable area of review. Within the area of review, the map must show the number or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, public water systems, mines (surface and subsurface), quarries, water wells and other pertinent surface features including residences and roads. The map should also show faults, if known or suspected. Only information of public record and pertinent information known is required to be included on this map.
- b. A tabulation of data on all wells within the area of review which penetrate into the proposed injection zone, confining zone, or proposed monitoring zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the District

may require.

- c. Maps and cross sections indicating the general vertical and lateral limits within the area of review of all underground sources of drinking water, their position relative to the injection formation, and the direction of water movement - where known - in each underground source of drinking water which may be affected by the proposed injection.
- d. Maps and cross sections detailing the hydrology and geologic structures of the local area.
- e. Generalized maps and cross sections illustrating the regional geologic configuration.
- f. Proposed operating data:
  - i. Average and maximum daily rate and volume of the fluid to be injected.
  - ii. Average and maximum injection pressure. And,
  - iii. Source and an analysis of the chemical, physical, radiological, and biological characteristics of injection fluids, including any additives.
- g. Proposed formation testing program to obtain an analysis of the chemical, physical, and radiological characteristics of, and other information on the injection zone.
- h. Proposed stimulation program.
- i. Proposed injection procedures.
- j. Engineering drawings of the surface and subsurface construction details of the system.
- k. Contingency plans to cope with all shut-ins, well failures or catastrophic collapse, so as to protect the quality of the waters of the

State as defined in Chapter 6 of the Manual, including alternate or emergency discharge provisions.

l. Plans (including maps), and proposed monitoring data to be reported for meeting the monitoring requirements in Chapter 6 of the Manual.

m. Outline of corrective action, proposed to be taken for wells within the area of review which penetrate the injection zone, but are not properly completed or plugged, according to Chapter 6 of the Manual.

n. Construction procedures including a cementing and casing program, logging procedures, deviation checks, proposed methods for isolating drilling fluids from surficial aquifers, and a drilling, testing and coring program.

o. A certificate that the Tribe has ensured, through a performance bond or other appropriate means, the resources necessary to close, plug or abandon the well as required by Chapter 6 of the Manual.

p. Expected changes in pressure, native fluid displacement, or direction of movement of injection fluid. And:

q. A proposed monitoring plan, which includes a plan for detecting migration of fluids into underground sources of drinking water, a plan to detect water quality violation in the monitoring wells, and the proposed monitoring data to be submitted.

**6. Class III Well Operation Phase** The following information shall be provided to the District prior to obtaining approval for the operation of the well or well field:

a. All available logging and testing program data and construction data on the well or well field.

b. A satisfactory demonstration of mechanical integrity for all new wells pursuant to Chapter 6 of the Manual.

- c. The actual operating data, including injection pressure versus pumping rate - where feasible - or the anticipated maximum pressure and flow rate at which the well will operate, if approved by the District.
- d. The results of the formation testing program.
- e. The actual injection procedure. And:
- f. The status of corrective action on defective wells in the area of review.

**7. Class III Well Plugging and Abandonment Submit:**

- a. The justification for abandonment.
- b. A proposed plan for plugging and abandonment describing the preferred and alternate methods to include:
  - i. The type and number of plugs to be used.
  - ii. The placement of each plug including the elevation of the top and bottom.
  - iii. The type, grade and quantity of cement or any other approved plugging material to be used.
  - iv. The method for placement of the plugs.
- c. The procedure to be used to meet the requirements of Chapter 6 of the Manual.

**8. Class V Well Construction Furnish:**

- a. The type and number of proposed Class V Wells:
  - i. Wells receiving domestic waste.
  - ii. Saltwater intrusion barrier wells.

- iii. Cooling water return flow wells.
- iv. Subsidence control wells.
- v. Open-looped system, sand backfill wells.
- vi. Experimental technology wells.
- vii. Wells used to inject spent brine.
- viii. Radioactive waste disposal after halogen recovery wells (provided the concentrations of the waste do not exceed state drinking water standards).
- ix. Borehole slurry mining wells.
- x. Other non-hazardous industrial or commercial disposal wells.
- xi. Other (explain):
  - b. Project Description:
    - i. Description and use of proposed injection system.
    - ii. Nature and volume of injected fluid (Note: The District may require an analysis, including bacteriological analysis). And:
    - iii. Proposed pretreatment.
  - c. Water well contractor's name, title, state license number, address, phone number and signature.
  - d. Well design and construction details (for multi-casing configurations or unusual construction provisions, an elevation drawing of the proposed well should be attached), to include:

- i. Proposed total depth.
- ii. Proposed depth and type of casing(s).
- iii. Diameter of well.
- iv. Cement type, depth, and thickness.
- v. Injection pumps (if applicable):  
 \_\_\_\_\_ gpm @ \_\_\_\_\_ psi

Controls: \_\_\_\_\_  
 \_\_\_\_\_

**e. Water Supply Wells** When required, attach a map section showing the locations of all water supply wells within a one (1) mile radius of the proposed well. The well depths and casing depths should be included. Any required results of bacteriological examinations of water from all water supply wells within one (1) mile, and drilled to approximate depth of proposed well, should be attached.

**f. Area of Review (may be required at District's discretion)**  
 Include the proposed radius of the area of review with justification for that radius. Provide a map showing the location of the proposed injection well or well field area and the applicable area of review. Within the area of review, the map must show the number or name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, public water systems, mines (surface and subsurface), quarries, water wells, and other pertinent surface features including residences and roads. The map should also show faults, if known or suspected. Only information of public record and pertinent information known is required to be included on this map.

**9. Class V Well Operation** Final report of the construction that includes the following information may be submitted to operate:

- i. Type of Well.

- ii. Construction and testing summary to include:
  - (a) Actual Dimensions: Diameter, well depth, casing depth.
  - (b) Results of Initial Testing.
- iii. Proposed operating data, containing:
  - (a) Injection rate (GPM).
  - (b) Description of injected waste.
  - (c) Injection pressure and pump controls.
- iv. Proposed monitoring plan (if any), including:
  - (a) Number of monitoring wells.
  - (b) Depth(s).
  - (c) Parameters.
  - (d) Frequency of sampling.
  - (e) Instrumentation (if applicable) flow pressure.

**10. Class V Well Plugging and Abandonment** To include information on:

- a. The type of well.
- b. Proposed plugging procedures, plans and specifications.
- c. Reasons for abandonment.