

**TRIBAL WATER CODE
OF THE
SEMINOLE TRIBE OF FLORIDA**

SUBTITLE A

**BENEFICIAL USE AND CONSERVATION
OF WATER RESOURCES**

PART 1. INTRODUCTION

1.1 GOALS. The purpose of this Code is to establish tribal law regulating the use and management of all water and water resources under the legal control of the Tribe, and to provide for enforcement of these rules on all persons engaged in well construction or other activities on reservation or Tribal Trust Lands, in accord with the provisions of the Compact; the Manual; and any applicable federal law; in cooperation with the State and the District.

1.2 DECLARATION OF RIGHTS. The Tribe alone has authority, subject to federal law, to regulate water use by consumers and to manage surface water on the Seminole federal reservation and Tribal Trust Lands. All rights to the use of water on reservation and Tribal Trust Lands reside in the Tribe. Under the Compact, the State and the District recognize the right of the Tribe to enforce provisions of the Compact and to assure compliance with the terms and conditions of approved work plans by all persons conducting well construction or other activities on reservation and Tribal Trust Lands. This Code is adopted under the approved Constitution and Bylaws of the Tribe, as amended.

1.3 EFFECTIVE DATE. The date of this Code is the date of approval by

the Tribal Council of the Seminole Tribe of Florida.

1.4 REPEAL OF INTERIM CODE. On the date this Code becomes effective, under Section 1.3, the Interim Tribal Water Code shall be deemed repealed, and any use of water who has completed application to the Tribal Water Office under the provisions of the Interim Tribal Water Code shall be deemed a licensed user, as to the activity specified in the application, subject to the further provisions of this Code.

1.5 COMMUNICATIONS WITH THE DISTRICT. All official with the District, including but not limited to transmission of tribal work plans and notices required by the Compact, shall be made by or to the Director.

1.6 SCOPE OF TRIBAL ACTIVITIES. All well construction or other activities on reservation or Tribal Trust Lands approved under the authority of this Code shall be deemed tribal activities for the purposes of this Compact.

1.7 NUMBERING SYSTEM. The numbers identifying provisions of this Code shall be referenced as follows: "1." is a "Part"; "1.1" is a "Section"; "1.1.1" is a "Subsection"; "1.1.1.1" is a "Paragraph"; and "1.1.1.1 (a)" is a "Subparagraph".

PART 2. DEFINITIONS

2.1 ACTIVITIES. Activities mean consumption or other use of water including, but not limited to, those uses listed in the Manual, or any diversion or storage of water, or any action or inaction which directly or indirectly affects the quality or quantity of water within the jurisdiction of the Tribe, or the fish, shellfish or other wildlife which depend on such water.

2.2 APPLICANT. Applicant means a person who files an application with the Department for a permit.

‣ **2.3 DIRECTOR.** Director means the Director of the tribal Water Resource Management Department.

‣ **2.4 COMMISSION.** Commission means the Seminole Water Commission, which is empowered by the Tribal Council to administer and enforce this Code.

‣ **2.5 COMPACT.** Compact means the Water Rights Compact among the Tribe, the State and the District.

‣ **2.6 DEPARTMENT.** Department means Water Resource Management Department or its successor, which administers all provisions of this Code as assigned by the Tribal Council or the Commission.

‣ **2.7 DISTRICT.** District means the South Florida Water Management District.

‣ **2.8 DOMESTIC USE.** Domestic use means consumption in and around the residence of the applicant by the applicant, members of his household, and non-paying guests, and not involving the irrigation of fruits, vegetables or livestock to be held for commercial sale, or other commercial use of water.

‣ **2.9 MANUAL.** Manual means the Evaluation Criteria Manual approved by the Tribe, the State and the District, containing specific technical and procedural criteria.

‣ **2.10 MINOR USE.** A minor use is an activity involving (a) one or more wells, using one or more pipes, none of which have casing diameters in excess of four inches; or (b) a pump or other device for the movement of water provided that the total amount of water used by the activity does not exceed 100,000 gallons per day (gpd). Any other activity is a major use.

‣ **2.11 PERSON.** Person means any individual, whether a member or

non-member of the Tribe, and any business entity, whether tribal, corporate or individual, or any combination of persons, including any joint venture, partnership or other enterprise (whether or not the Tribe, or any member thereof, is a party to such entity or enterprise), engaged in activities within the meaning of this Code on lands within the jurisdiction of the Tribe.

2.12 RESERVATION LANDS. Reservation Lands means all lands within the boundaries of the Hollywood, Big Cypress and Brighton reservations, and the tribal holdings in Collier County (Immokalee) and Hillsborough County (Tampa).

2.13 SUBSTANTIALLY AFFECTED THIRD PERSON. The term substantially affected third person means any person, group, or entity that demonstrates a non-frivolous interest substantially affected by the exercise of the Tribe's rights under the Compact, or under Tribal, state or federal law. The Florida Department of Environmental Protection, the Florida Department of Community Affairs, and the Florida Game and Fresh Water Fish Commission, successor agencies, and owners of lands within the basins affected by the exercise of the Tribe's rights under the Compact are presumed to be substantially affected third parties. This presumption can be rebutted by an affirmative showing that a state agency or landowner does not have an interest that would be substantially affected by the exercise of rights under the Compact. Any tribal member is presumed to be a substantially affected third person for purposes of raising an objection to a permit application or appealing from the issuance of a permit by the Commission.

2.14 STATE. State means the State of Florida

2.15 TRIBAL TRUST LANDS. Tribal Trust Lands are lands held in trust by the United States for the benefit of the Tribe

2.16 TRIBE. Tribe means the Seminole Tribe of Florida.

2.17 USER. User means any person conducting activities on lands

within the jurisdiction of the Tribe.

PART 3. GENERAL PROVISIONS

3.1 PERMITS. All persons digging wells or conducting other activities subject to this Code on lands within the jurisdiction of the Tribe must obtain a permit, in accordance with the procedures specified in this Code or adopted by the Commission, before commencing such activities.

3.2 CONSTRUCTION. This Code is intended to be consistent with and to ensure compliance with the Compact and Manual. In the case of any inconsistency between provisions of this Code and provisions of the Compact or the Manual, the provisions of the Compact or the Manual shall govern unless, as to requirements of the Manual, there is a waiver granted pursuant to Section 5.2 of this Code.

3.3 JURISDICTION. The territorial jurisdiction of the Tribe extends to all lands within the present exterior boundaries of the Hollywood, Brighton, and Big Cypress reservations, the tribal land holdings in Hillsborough County (Tampa) and Collier County (Immokalee), and any other lands as have been or as may hereafter be acquired by or for the Tribe.

3.4 COMPOSITION OF WATER COMMISSION.

3.4.1 NUMBER OF COMMISSIONERS; APPOINTMENT. The Commission shall consist of seven regular voting members, appointed by the Tribal Council, together with the Director, who shall serve *ex officio* and without a vote. Two members of the Commission shall be appointed as representatives of each of the following Reservations: Big Cypress, Brighton and Hollywood. One member shall be appointed as a representative of the Immokalee

Reservation.

3.4.2 STAGGERED TERMS. The terms of office of the members shall be staggered. This shall be accomplished in the manner set forth in this subsection. With respect to each of the members in office as of the date of enactment of an amendment to the Tribal Water Code increasing the number of Commissioners from three to seven, each of these current members will serve the entirety of his/her appointed term. Each new member appointed to represent the Big Cypress, Brighton, or Hollywood Reservation will be appointed to a term of office that will expire one year after the expiration of the term of office of the member currently in office representing that Reservation. (For example, if the current member representing Big Cypress has two years remaining in his/her term, the new member will be appointed to a three year term. For the Reservation whose current member's term expires at the same time that the membership of the Commission is increased, the first term for the new position for that Reservation shall be four years.) The member appointed to represent Immokalee will serve an initial term of three years.

3.4.3 DURATION OF TERMS. After the initial term, the members shall have three-year terms.

3.4.4 SELECTION OF CHAIR. The voting members shall elect annually a Chairman among themselves.

3.4.5 COMPENSATION AND REIMBURSEMENT. Compensation and reimbursement of members shall be in accordance with the recommendation of the Director as reviewed and approved by the Tribal Council of the Seminole Tribe of Florida. Commission members shall be paid on a fixed meeting basis plus approved travel allowance to the site of the meeting in accordance with the travel regulations of the Tribe in effect at the time of the meeting.

3.4.6 REMOVAL OF COMMISSIONER. If any Commissioner, during his term of office, fails to attend three or more consecutive regular meetings of

the Commission, or is, in the judgment of the other Commissioners, unwilling or unable to perform, or guilty of malfeasance in performing, the duties of Commissioner, the other Commissioners may, by vote of five of the remaining six Commissioners, recommend to the Tribal Council the removal of such Commissioner during his term. If the Tribal Council removes the affected Commissioner, a replacement shall be appointed by the Tribal Council to fill the unexpired term of the replaced Commissioner.

3.5 COMMISSION PROCEDURAL RULES

3.5.1 MEETING REQUIREMENTS; QUORUM. The Commission shall meet regularly, at least once each month, and may, at any regular meeting, or at a special meeting duly noticed and called by the Chairman for that purpose, adopt or amend procedural rules consistent with this Code and the Compact and necessary to enforce this Code. A quorum shall consist of any two voting members. The business of the Commission shall be transacted pursuant to procedural rules adopted under authority of this Section.

3.5.2 EFFECT OF PROCEDURAL RULES. Any procedural rules adopted under the authority of this Section, and consistent with the provisions of this Code, shall have the force and effect of tribal law.

3.5.3 WHEN RULES EFFECTIVE. Any procedural rule adopted under the authority of this Section shall be effective upon publication, as defined in Subsection 3.5.5 of this Code, unless another effective date is specified in the procedural rule.

3.5.4 WHEN RULES EXPIRE. Any such procedural rule shall remain effective until:

3.5.4.1 It expires by its own terms, if an expiration date is specified in the rule; or

3.5.4.2 It is modified or repealed by the Commission; or

3.5.4.3 It is modified or repealed by a duly enacted resolution of the Tribal Council.

3.5.5 PUBLICATION. For the purposes of this Section, publication shall consist of the following:

3.5.5.1 Posting in at least one conspicuous public place on each reservation for a period of not less than one week; and

3.5.5.2 Direct mail to every permitted major user of water or any other person who has requested such notice at the address shown in the water use registration application of request for notice.

3.5.6 REVIEW OF CODE. At least once every five years, or sooner if the Director so recommends, the Commission shall review this Code and procedural rules adopted under this authority, and recommend to the Tribal Council any amendments needed in this Code to improve the tribal water management system.

3.5.7 OPTIONAL FEES. The Commission shall have the right to set a schedule of reasonable fees, including penalties for late filings, for any application or permit required for the use or management of water under this Code. The fee schedule, and any modification to it, shall be effective on publication as specified in Subsection 3.5.5 of this Code. This schedule may be modified from time to time by the Commission.

3.5.8 PERMITS. Each permit issued by the Commission shall identify: the name and address of the applicant, the activity and the location of the activity described in the application, and any conditions required by the

Commission.

3.5.8.1 The Commission, in granting any permit for a proposed activity, shall impose such conditions as assure that the proposed activity:

- (a) Makes provision for adequate flood protection and drainage;
- (b) Will not adversely impact water quality or quantity on receiving waters and adjacent lands;
- (c) Will not adversely impact surface and groundwater levels and flows;
- (d) Will not adversely impact the environment;
- (e) Can be effectively operated and maintained;
- (f) Will not adversely affect public health;
- (g) Will not be harmful to water or water resources of the reservation or Tribal Trust Lands; and
- (h) Is, in the opinion of the Director, the most acceptable alternative available.

3.5.8.2 The Commission may impose conditions on any permit, to assure that the proposed activity is consistent with the overall objectives of this Code and will not harm the water or water resources of the reservation or Tribal Trust Lands.

3.5.8.3 Employees of the Department are authorized to

enter the site of any permitted activity to inspect, monitor or enforce permit conditions.

3.5.8.4 A permit issued under this Code constitutes a tribal license to use, drain or divert water, subject to all conditions of the permit and the provisions of this Code. Such permit does not convey any ownership interest in the water or water resources of the Tribe.

3.5.8.5 Any permit issued under the provisions of this Code may be revoked by the Commission, on the recommendation of the Director, on the following conditions:

(a) The commission finds that the permittee has violated the provisions of this Code, the Compact or the Manual; or

(b) The Commission finds that the permittee has violated or failed to comply with the conditions of his permit; or

(c) The permit is in force, but the Commission finds that the permittee has not proceeded in a timely fashion to construct facilities authorized under the terms of the permit, if required, and more than one year has elapsed since the permit was issued.

3.5.8.6 Where an application for a proposed activity is submitted to the Director, which, in the judgment of the Commission, upon recommendation by the Director, does not significantly affect any interest protected by this Code, the Compact or the Manual, the Commission may suspend further proceedings and grant a Special Permit exempting the proposed activity from any further procedures ordinarily required under this Code.

3.5.8.7 Applications to modify any activity licensed under this Code may be made by letter to the Department, providing sufficient information so that the Director may determine that the modification does not:

- (a) Substantially alter the permitted activity;
- (b) Increase the authorized off site discharge;
- (c) Alter the environmental features of the project;
- (d) Decrease the required flood control elevations for roads or buildings;
- (e) Decrease the required retention/detention; or
- (f) Decrease the pollution removal efficiency.

3.5.8.8 The Commission may grant, grant with conditions, or deny an application for permit at its next regularly scheduled meeting following receipt of the Director's Report and any additional information it has requested.

3.5.9 INCLUSION IN WORK PLAN. The substance of any proposed activity approved the the Commission shall be included by the Director in the tribal work plan or work plan amendment next submitted to the District, under the provisions of Part 4.0 of this Code.

3.5.10 EARLY WORK ORDERS. Pursuant to authority recognized in section 7.1.4 of the Manual, the Department may authorize such work prior to the approval of a Tribal Work Plan which includes the work. The Commission's rules shall establish procedures through which a person may apply to the Department for an early work order. The procedures contained in the Commission's rules shall ensure that the Department will not issue an early work

order unless the work that would be authorized by such an order qualifies for an early work order and otherwise meets the requirements specified in section 7.1.4 of the Manual. In particular, the Commission's rules shall include provisions to ensure that:

3.5.10.1 The work covered by an early work order satisfies the conditions set forth in Paragraph B of subsection 7.1.4.1 of the Manual.

3.5.10.2 Prior to the issuance of an early work order, the Director:

(a) makes a determination, based on a report prepared by the Department, that the proposed work qualifies for an 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;

(b) provides the District with a copy of the application and the Department's report on the application and gives notice to the District that, unless the District disapproves of the application with ten (10) days, the Department will issue an early work order;

3.5.10.3 If, within ten (10) days of receipt of notice from the Director, the District:

(a) objects, then an early work order shall not be issued; or

(b) concurs only if specific conditions are included, then such conditions shall be included if an early work order is issued;

3.5.10.4 Any early work that is issued includes conditions in accordance with paragraph B of subsection 7.1.4.2 of the Manual;

3.5.10.5 A summary report of all work authorized under early work orders is included in the next annual work plan submitted to the District;

3.5.10.6 The Director may revoke or suspend an early work order for any violation of any condition included in the early work order; and

3.5.10.7 No construction or alteration of a surface water management system shall be commenced under an early work order until the permittee receives written authorization to proceed from the Department.

3.6 ADMINISTRATIVE PROCEDURES

3.6.1 AVAILABILITY OF CODE AND RULES. The Director shall maintain and provide for inspection upon request a complete copy of this Code and any amendments to it, and all rules adopted by the Commission.

3.6.2 AUTHORITY OF THE DIRECTOR. The Director is authorized to enforce this Code and the duly adopted procedural rules of the Commission, as specified herein.

3.6.2.1 The Director may issue citations to any person subject to this Code whom he reasonably believes has violated the Compact, the Manual, this Code or any procedural rule duly adopted by the Commission.

3.6.2.2 Such citation shall require the person cited to appear before the Commission on a date specified in the citation for a hearing on the charge specified in the citation. The citation shall give notice of the specific

relief to be requested from the Commission.

3.6.2.3 In no event shall the required appearance be less than five nor more than sixty days from the date of the citation, unless both the Director and the person cited or his representative agree to another date or settle the matter, and so inform the Commission before its next scheduled meeting.

3.6.2.4 When the Commission appearance is scheduled for a date more than ten days after the date of the citation, and the Director believes the practice constituting the alleged violation represents a serious, on going threat to the health or safety of the Tribe or any member thereof, the Director may apply, with or without notice to the alleged violator, to the Commission Chairman who may, in his discretion, issue an Order on behalf of the Tribe to Cease and Desist or modify the threatening practice.

3.6.2.5 The Director may seek and obtain the assistance of the Seminole Department of Law Enforcement to:

(a) Deliver a copy of the Cease and Desist or Modification Order, or any order of the Commission, to the alleged violator, including a copy of any citation issued by the Director; and

(b) Enforce the Order to Cease and Desist or any action of the Commission after hearing specified in Paragraph 3.6.2.2.

3.6.2.6 At the hearing specified in Paragraph 3.6.2.2, the alleged offending party shall be given an opportunity to be heard, to present and to question witnesses. The Commission, in its discretion, may designate a hearing officer other than the Director or a member of the Commission to conduct the hearing on its behalf and report findings and recommended action to

the Commission. At the conclusion of the hearing, or after receiving the report of the hearing officer, the Commission may:

- (a) Vacate the citation;
 - (b) Approve the relief recommended in the citation;
- or
- (c) Order such other relief as may be appropriate.

3.6.3 APPLICATION FOR PERMIT

3.6.3.1 Any person who intends to dig a well or use, drain or divert surface or ground waters of the reservation or Tribal Trust Lands, unless the person intending to engage in such activity is already a tribally licensed user under Section 1.4 of this Code for such activity, must apply for a permit to dig a well or engage in such activity, before digging the well or engaging in the activity.

3.6.3.2 The applicant must provide sufficient information in the application to permit the Director to determine whether the well or other proposed use drainage or diversion is consistent with the purposes of this Code.

3.6.3.3 The Director may require additional information sufficient to determine whether the proposed use, well or drainage or diversion presents any threat to the health or safety, or to the economic interests, of the Tribe or any member thereof, or to the water, water resources or physical environment o, the reservation or Tribal Trust Lands.

3.6.3.4 The Director shall prepare standardized forms for use in making all applications required under this Code, subject to the approval of the Commission.

(a) Each application for permit shall contain: a completed application form; a copy of construction plans; a sufficient description to locate the site of the proposed activity and related facilities on aerial photographs maintained by the Department; basic technical data about the proposed activity, including minimum road and floor levels: proposed discharge rate, retention/detention volume, and design of any irrigation pipe, well or pump; and

(b) Any other necessary information required by the

Director.

3.6.3.5 No application shall be deemed properly filed nor accepted by the Director unless accompanied by the appropriate filing or other required fee, if any.

3.6.3.6 An application mailed or delivered to the Department without the appropriate fee, if any, shall be returned to the sender without being considered, with notification of the appropriate fee due.

3.6.3.7 The Director shall be responsible for collecting, safeguarding, and accounting for any fees collected by the Department until deposited to the credit of the Tribe.

3.6.3.8 Notwithstanding any other provision of this section, the Director may waive the filing fee for any applicant for the minor use of water, *provided* that:

- (a) The application is for an activity involving water exclusively for the domestic use of the applicant; and
- (b) Waiver of the fee is consistent with the purposes of this Code.

3.6.3.9 In the event of any such waiver, the affected application shall be marked "fee waived" and signed by the Director.

3.6.4 FILING OF APPLICATIONS

3.6.4.1 When any time limit specified in any section of this Code, or under any procedural rule, expires on a Saturday, Sunday or holiday during which the Department is officially closed, the time limit shall automatically be extended to the next business day during which the Department is officially

open.

3.6.4.2 Notwithstanding any other provision of this Code, the Director may extend, without penalty the applicant, for up to 60 days, the time available for completing any application or for otherwise complying with any requirement of this Code, when, in the judgment of the Director:

(a) The applicant is making a good faith attempt to meet the requirements of this Code; and

(b) The objectives of this Code are served by extending the deadline applicable to the person to whom the extension is granted.

3.6.4.3 The Director shall maintain at the Department a record of any application received and accepted for filing, together with a record of any fee received with the application. The Director shall note on the face of the filed application the amount of any fees received with the application, and return to the applicant a duplicate copy of the application including the notation. The Director shall also publish any application accepted for filing in the manner prescribed in Subsection 3.5.5 of this Code.

3.6.5 DIRECTOR'S REPORT. The Director shall, within 30 days of the filing of any application or objection under Subsection 3.6.7, whichever is later, investigate all aspects of the proposed activity including engineering, environmental and legal. The Director shall prepare a Report which includes analysis of the proposed activity, its likely consequences, any objections received and their resolution, and his recommendation for granting, granting with conditions, or denying the permit, and submit it to the Commission at its scheduled meeting. Where such analysis requires outside technical assistance, the Director shall assess a processing fee, consistent with the expenses incurred, and collect the fee from the applicant.

3.6.6 REPRESENTATION. Any person required to submit an application for permit or to comply with any provision of this Code, or any procedural rule, or who receives a citation or an Order to Cease and Desist, or other order, or is otherwise subject to this Code, may represent himself, or appear with counsel, or be represented by counsel of his choice, at his sole expense, in any procedure covered by this Code.

3.6.7 OBJECTIONS TO APPLICATIONS. Any substantially affected third person may file an objection to an application for a permit. Any such person who objects to any application under this section must notify the Director of his objection not later than fifteen days following publication of the Application, unless the time is extend for good cause shown.

3.6.7.1 Any objection must be submitted in writing to the person objecting or his representative, with such information as the Director may require in order to understand the basis of the objection.

3.6.7.2 Upon receipt of such objection, if, in the judgment of the Director, there is good cause for the objection, notwithstanding the time limit in subsection 3.6.5, the Director shall not file the applicable Report with the Commission until the applicant has resolved the objection, or thirty days have elapsed, whichever first occurs. Oral or written acknowledgment by the person filing the objection that the objection is resolved is sufficient. If the objection is unresolved at the time of the filing of the Director's Report, the Director shall so note in the Report.

3.6.8 GRIEVANCE AND APPEAL PROCEDURE

3.6.8.1 Any person aggrieved by action of the Director may file a notice of appeal addressed to the Commission, specifying the aggrieved person's name, address, the basis for grievance, and the relief requested, by mailing or delivering a copy to the Department and to the General Counsel of the Tribe, at least ten days prior to any regularly scheduled meeting of the

Commission. The Director may, if he chooses, respond in writing by providing a copy of his response to each Commissioner, and by delivering or mailing by certified mail a copy of the response to the aggrieved person at the address specified. For the purposes of this action, an aggrieved person is one who objects to any final decision or other final action by the Director on any application or other procedure under this Code.

3.6.8.2 The Commission shall consider any timely filed grievance at its next regular meeting by reviewing any notices of appeal received from aggrieved parties and other interested persons, and any response received from the Director. Upon such consideration, the Commission shall issue a written Order to take one of the following actions:

(a) Sustain the final decision or action by the Director; or

(b) Grant the relief requested by the aggrieved party, or such other relief as the Commission deems appropriate; or

(c) Set the matter for hearing on a date certain either before the Commissioner before a hearing officer (other than the Director) designated by the Commission, who shall report findings and recommend action to the Commission. At such hearing, the aggrieved person and the Director shall have the opportunity to be heard, to present a question witnesses, and to present photographic or documentary evidence. Following a hearing by the Commission, or report by the hearing officer, the Commission shall take action in accordance with Subparagraph (a) or (b) of this Paragraph.

3.6.8.3 All notices of appeal, responses, reports, orders and documentary or photographic evidence received as a result of a grievance

proceeding, shall be retained in a file under the name of the aggrieved person at the Department and the office of the General Counsel of the Tribe. A separate file shall be maintained for each activity or grievance for which an aggrieved person may file a grievance or appeal.

3.6.8.4 Any person aggrieved by any final action or order of the Commission may file a Notice of Appeal addressed to the Commission, specifying the aggrieved person's name, address, the basis for the appeal, and the relief requested, by mailing or delivering a copy of the Notice of Appeal to the Office of General Counsel at least ten days prior to any regularly scheduled meeting of the Tribal Council. The General Counsel shall, at the earliest practicable time, provide a complete copy of the Notice of Appeal to the Director. The Director shall respond in writing by providing a copy of the Commission action or order at issue together with any applicable report of the Director, or of a hearing officer, and any other papers, responses, or documentary or photographic evidence in the file, and the Director's response to the appeal, to the General Counsel, and by delivering or mailing a copy of the response to the appellant at the address specified.

3.6.8.5 The General Counsel shall instruct the Tribal Secretary to note the matter by name of the aggrieved party on the agenda of the Tribal Council under "new business", and to distribute all papers received from aggrieved persons and all responses received from the Director to each member of the Tribal Council with the agenda for the meeting. The Tribal Council, in its discretion, may:

- (a) Decline to consider the grievance;
- (b) Consider the grievance based on the papers filed;
- (c) Provide a limited time for interested persons to be heard on the subject of the grievance; or

(d) Appoint a Referee to consider the grievance, and report recommendations to the Tribal Council at a subsequent meeting.

3.6.9 NOTICE TO DISTRICT. The Director shall provide a copy of any proposed amendment to this code to the District at least ten days before the amendment is adopted by the Tribe.

ᅓ **3.7 MANDATORY LEASE PROVISION.** Any lease or sublease of tribal lands or resources executed on or after the effective date of this Code shall require the lessee to acknowledge, as a material condition of the lease, agreement to be bound by the terms and procedures of this Code and by any procedural rules adopted by the Commission pursuant to this Code. Any tribal approval of any such lease or sublease which does not contain a provision complying with this section shall be void.

ᅓ **3.8 SEVERABILITY.** Should any provision of this Code be declared invalid, unconstitutional or otherwise unenforceable, the remainder of this Code shall be in full force and effect.

ᅓ **3.9 REQUEST FOR DISTRICT ACTIONS.** The Commission, in its discretion, may recommend to the Tribal Council, that it seek the assistance of the District to enforce the provisions of the Compact against any person other than the Tribe, as provided in part VII, Section A, of the Compact. Upon deciding to seek such assistance, the Tribal Council shall notify the Director, who will transmit the request to the District.

PART 4. TRIBAL WORK PLANS

ᅇ **4.1 PREPARATION OF TRIBAL WORK PLANS.** Tribal work plans required under the Compact and any amendment to such plans will be prepared by the Director, approved by the Commission, and submitted to the Tribal Council for approval no later than 10 days before its next scheduled meeting prior to the date when the Director must submit such plan or amendment to the District.

ᅇ **4.2 WORK PLAN SUBMISSION.** The Director shall submit work plans or amendments to the District after approval by the Tribal Council.

ᅇ **4.3 IMPLEMENTATION AFTER DISTRICT PROPOSES AMENDMENT.** On recommendation of the Director and the General Counsel of the Tribe, consistent with the timeframes and procedures set forth in the Manual, the Tribal Council will determine whether or not to implement the work plan with or without adopting amendments requested by the District.

PART 5. SUBSTANTIVE REQUIREMENTS

ᅇ **5.1 INCORPORATION OF COMPACT AND MANUAL BY REFERENCE.** The substantive requirements as to water use, management and storage of surface waters and environmental protection contained in the Compact and Manual are hereby incorporated by reference as tribal law, and all persons conducting activities on reservation or Tribal Trust Lands shall comply with these requirements.

ᅇ **5.2 WAIVERS.** The Commission, with advice of the Director, may allow a waiver of any provision of the Manual, provided that such waiver will not result in any violation of the Compact or this Code.

Tribal Water Code
As Amended through January 1995
Subtitle A - Use and Conservation

Note: The Tribal Water Code was originally adopted by the Tribal Council of the Seminole Tribe of Florida in Ordinance No. C-03-89, adopted September 20, 1988, and became effective on that date. The original Tribal Water Code was amended and redesignated "Subtitle A -- Beneficial Use and Conservation of Water Resources" by the Tribal Council in Resolution No. C-216-94, May 19, 1994, and the amendments became effective on that date.

The Tribal Council enacted amendments to Subtitle A by the adoption of Resolution No. C-91-95, January 12, 1995. These amendments: (1) amended subsections 3.4.1, 3.4.2 and 3.4.6 to authorize the expansion of the membership of the Commission from three (3) members to seven (7) members and to provide for the appointment and removal of Commissioners; (2) amended subsection 3.6.7 to provide that any "substantially affected third person" may file an objection to an application for a permit, and made a corresponding amendment in part 2 by adding a new definition of "substantially affected third person" and revising the numerical designations of the remaining definitions in that part; and (3) added a new subsection 3.5.10 authorizing the Commission, in its Rules, to authorize the Department to issue "early work orders."