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# Memo

**To:** Enforcement and Administration  
**From:** David I. Weidman, General Manager  
**Date:** 9/14/09  
**Re:** Fishing Tournament Guidance Document

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This memo is to serve as a guidance document concerning requirements for the permitting of fishing tournaments on property owned or controlled by the District.

The District's Rules and Regulations state the following concerning commercial activities on property owned or controlled by the District:

## **ARTICLE X. COMMERCIAL ACTIVITIES**

*10.1 Commercial Operations are prohibited on District Property except as specifically allowed by a permit or other written agreement with the District, and then only on areas designated by the District for Commercial Operations. Notwithstanding the foregoing, the advertising and sale of a Lessee's leased property by such Lessee shall not be prohibited, provided that the foregoing exclusion shall not permit the operation of realty, brokerage, or other real estate related business on District Property.*

*10.2 The character, extent, and duration of any permitted Commercial Operations shall be as specified in a permit, concession, or other written agreement with the District.*

*10.3 Private notices, billboards, signs, and all other forms of advertising are strictly prohibited on District Property except as specifically authorized by the District in writing. Notwithstanding the foregoing, a Lessee shall be permitted to display up to two (2) "For Sale" or "For Rent" signs on such Lessee's leased property, provided however that such signs may not exceed 2' x 2' in size and shall only pertain to the actual property upon which they are located.*

The District is also bound by Texas Attorney General's Letter Opinion 98-064, which states the following conclusion:

*Summary of Morales Letter Opinion No. 98-064*

*A water conservation and reclamation district holds the waters, bed, and piscatorial inhabitants of a lake created by damming a navigable waterway in trust for the people of Texas. The Franklin County Water District is unauthorized to collect a fee for the privilege of operating as a fishing guide on Lake Cypress Springs or for holding a fishing tournament on the lake.*

*To the extent of inconsistency between the Wildlife Conservation Act, Parks and Wildlife Code chapter*

61, and Water Code Section 51.127(4), the Wildlife Conservation Act prevails. Thus, the Texas Parks and Wildlife Department has sole authority to regulate the taking and possession of fish, such as the periods of time when one may take or possess fish and the means, methods, and places for taking or possessing fish. Water District rules that purport to regulate the means of taking fish are ultra vires.

Nevertheless, the Franklin County Water District may regulate business privileges on the lake. Accordingly, District rules that require fishing guides and the organizers of a fishing tournament to obtain a permit are, on their face, within the District's jurisdiction (although the District may not exact a fee for the permit). Finally, the District may limit the number of boats that participate in a fishing tournament if the District has found that the limitation is necessary to protect the public safety.

This guidance document will provide information on how the District will handle fishing tournaments and when a permit will be required.

When a tournament is being held on Lake Cypress Springs and the weigh-in is located in a park or on property that is owned and controlled by the District, a no charge Special Event Permit will be required in the following situations:

1. When sponsor banners, signs, placards, or any other advertisement are displayed.
2. When additional tents, pavilions, or other types of shelters are to be erected.
3. When food, bait, or tackle is being offered for sale to the participants of the tournament.

The tournament promoters shall make all participants aware of District specific rules regarding the operations of boats on Lake Cypress Springs including but not limited to the following:

#### **ARTICLE V. BOATS, AIRCRAFT, AUTOMOBILES, BICYCLES AND OTHER VEHICLES**

*5.1 The Texas Water Safety Act and all amendments thereto are incorporated herein by reference and shall be applicable to all District Property.*

*5.2 Boats shall only be launched onto the Lake from boat ramps properly designated by the District.*

*5.3 No boat or other water craft exceeding twelve feet (12') in width or twenty-six feet (26') in length shall be allowed on the Lake at any time, with the exception of a "work barge" with a valid permit.*

*5.4 All boats and watercraft shall be operated in a careful and prudent manner at idling speed within two hundred feet (200') from any shoreline.*

*5.5 Any person being towed behind a boat or other watercraft (e.g., skiing, aquaplaning, jet skiing, wet biking, etc.) must wear a Coast Guard approved personal flotation device such as a life jacket.*

*5.6 All boats and other watercraft shall be kept securely moored and anchored when not in use.*

*5.7 Any boat or watercraft found abandoned, adrift or unattended shall be impounded by the District and subject to an impound fee. Any impounded boat or watercraft not claimed within thirty (30) days may be sold by the District.*

Participants shall also comply with restrictions stipulated by marker buoys.