

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners

Date: August 20, 2007

Thru: La Donna Castenuela, Chief Clerk

From: *CR*
8-24 Carlos Rubinstein, Director, Texas Border Area

Subject: Agenda Executive Summary for Approval of Fiscal Year (FY) 2008 Proposed Assessment for Annual Costs for Watermaster Operations in the Rio Grande Water Division Set for September 19, 2007 Uncontested Agenda

Summary of Request:

The Rio Grande Watermaster Program seeks approval of its Fiscal Year (FY) 2008 proposed assessment for annual costs of operations based on its operating budget which consists of a \$50.00 base fee applicable to each assessment account. A penalty of 5.0% of any delinquent fee due shall be imposed on a person who fails to pay the required fee when due and if the person fails to pay the fee within 30 days after the day the fee is due, an additional 5.0% penalty shall be imposed. Delinquent fees will accrue interest beginning on the 61st day after the due date. The yearly interest rate on all delinquent fees required under this title is the prime rate plus one percent, as published in the *Wall Street Journal* on the first day of each calendar year that is not a Saturday, Sunday, or a legal holiday. Penalties and/or interest fees may be waived by the Executive Director for good cause. The Executive Director estimates the proposed assessment of Six Hundred Forty Five Thousand, Three Hundred Ninety Dollars (\$645,390) will generate revenue of Six Hundred Thirty Two Thousand, Four Hundred Eighty One Dollars (\$632,481) for FY'08.

Authority: TWC § 11.329
TAC § 12.1; 12.3; 12.5

Staff Recommendation:

Approval of the Rio Grande Watermaster Program FY'08 Assessment for Annual Cost of Operations

Contact: Carlos Rubinstein: (956) 430-6018

CHIEF CLERKS OFFICE

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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST**

AGENDA REQUESTED: September 19, 2007
DATE OF REQUEST: July 17, 2007

NAME & NUMBER OF PERSON TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Carlos Rubinstein, 956-430-6019; Tracy Miller 239-4127

CONSIDERATION OF FISCAL YEAR 2008 ASSESSMENT OF ANNUAL COSTS FOR WATERMASTER OPERATIONS IN THE RIO GRANDE WATER DIVISION. Pursuant to TWC Section 11.329; and TAC Sections 12.1; 12.3; 12.5 and 303.71 of the Commission Rules, the Executive Director requests that the Commission consider Watermaster assessment of annual costs for the fiscal year beginning September 1, 2007, and ending August 31, 2008, for appropriators in the Rio Grande Water Division which extends from Fort Quitman, Texas to the mouth of the Rio Grande River, excluding the watersheds of the Pecos and Devils Rivers; and includes that portion of the Nueces-Rio Grande Coastal Basin lying in Hidalgo, Cameron, Willacy and Starr counties and approve \$645,390.00 with a municipal rate of \$0.2807 as the amount to be assessed for annual costs, with the assessment per account to consist of a \$50.00 base charge plus a use fee and/or storage fee calculated from the authorized acre-feet and a penalty of 5.0% of any delinquent fee due imposed on a person who fails to pay the required fee when due and if the person fails to pay the fee within 30 days after the day which the fee is due, an additional 5.0% penalty shall be imposed. Delinquent fees will accrue interest beginning on the 61st day after their due date.

Chief Clerk Must Send Notice of the Application/Hearing: No

Type of Matter: Budget

County: The 16 Counties Within the Rio Grande Watermaster's Jurisdiction (Brewster, Cameron, Dimmit, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Kinney, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, Willacy, Zapata)

Uncontested: X **Contested:**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER Assessing the Annual Cost of Watermaster Operation for the Rio Grande Water Division and Associated Basins for the fiscal year beginning September 1, 2007, and ending August 31, 2008: Docket No. 2007-1149-BGT Rio Grande Watermaster

On September 19, 2007, after proper notice and public hearing as provided in Texas Water Code §11.329, came to be considered by the Texas Commission on Environmental Quality ("Commission") the matter of cost for the Watermaster operations in the said Division for the fiscal year beginning September 1, 2007, and ending August 31, 2008. After reviewing the supporting documentation, the Commission finds as follows:

- (1) The area subject to the order and referred to as the "Rio Grande" herein extends from Fort Quitman, Texas to the mouth of the Rio Grande River, excluding the watersheds of the Pecos and Devils River; and includes that portion of the Nueces-Rio Grande Coastal Basin lying in Hidalgo, Cameron, Willacy and Starr Counties;
- (2) Pursuant to Texas Water Code §11.329, the holders of water rights which are to be administered by the Watermaster may be assessed the compensation and necessary expenses of a Watermaster, assistant Watermasters and other necessary employees;
- (3) 30 Texas Administrative Code (TAC), §§303.71-303.73 set forth formulas and procedures for the assessment of costs of the Watermaster operations in the Rio Grande;
- (4) The procedures set out in Texas Water Code §11.329 and 30 TAC §303.71 were followed for this assessment;
- (5) The compensation and necessary expenses of a Watermaster, assistant Watermasters, and other necessary employees for the fiscal year beginning September 1, 2007, and ending August 31, 2008, will require the amount to be assessed in the sum of SIX HUNDRED FORTY FIVE THOUSAND, THREE HUNDRED NINETY AND NO/100 DOLLARS (\$645,390.00).
- (6) The charges, fees, formulas for assessment rates, and method for assessing and levying costs approved below constitute an equitable apportionment of costs, as required by Texas Water Code §11.329;
- (7) All requirements of Texas Water Code §11.329, and 30 TAC §§303.71-303.73 have been met.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

- (1) That the amount of SIX HUNDRED FORTY FIVE THOUSAND, THREE HUNDRED NINETY AND NO/100 DOLLARS (\$645,390.00) is approved as the total amount to be assessed for annual costs of the Rio Grande Watermaster operations during the fiscal year beginning September 1, 2007, and ending August 31, 2008, and that such amount is assessed against the water rights holders in the Rio Grande Water Division and associated basins in the manner described in this order and pursuant to 30 TAC §§303.71-303.73;
- (2) That the following charges, rates, fees, formulas for assessment rates and method for assessing and levying cost are approved and shall be implemented by the Executive Director:
 - (a) Except as provided for "no charge" water and excess flow permits below, a base charge for each assessment account of FIFTY AND NO/100 DOLLARS (\$50.00);
 - (b) No base charge for "no charge" water diverted pursuant to Texas Water Code §11.0871;
 - (c) No base charge for excess flow water rights authorized under 30 TAC §303.61;
 - (d) Assessment rates for each assessment account to be calculated by the Executive Director in accordance with the procedures set forth in 30 TAC §303.72;
 - (e) Assessment of costs and levy of assessments for each account in accordance with the procedures set forth in 30 TAC §303.73;
 - (f) A penalty of 5.0% of the fee due shall be imposed when the assessment is not paid on time. If the assessment is not paid within 30 days after the day on which the fee is due, an additional 5.0% penalty shall be imposed pursuant to 30 TAC Chapter 12;
 - (g) Delinquent fees accrue interest beginning on the 61st day after their due date;
 - (h) Penalties and/or interest under this section may be waived by the Executive Director for good cause;
- (3) That the Executive Director shall specify dates by which payments assessed pursuant to this order shall be paid or postmarked.

ISSUED THIS DATE: _____

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners, TCEQ

Date: August 20, 2007

Thru: *JS* John Sadlier, Deputy Director
8/27 Office of Compliance and Enforcement

JAS Jennifer A. Sidnell, Director
8-24 Field Operations Support Division

From: *CR* Carlos Rubinstein, Rio Grande Watermaster, Texas Border Area Director
8-24

Subject: Fiscal Year (FY) 2008 Proposed Assessment of Annual Costs of Operations for the Rio Grande Watermaster Program

The Rio Grande Watermaster fund is required by Texas Water Code (Code)§11.329 to pay compensation and expenses of the Watermaster and to pay expenditures for equipment, facilities, and capital expenditures necessary for Watermaster operations when recommended by the Watermaster Advisory Committee (WAC) and the Executive Director and approved by the Commission.

The attached document, "Rio Grande Watermaster Operations", was presented to the Rio Grande WAC during a public meeting on June 18, 2007, in Harlingen, Texas. The third column, "FY '08 Operating Budget Needs" indicates the projected program needs within the FY'08 appropriation, and the "FY'07 Anticipated Expenditures" (column 2) shows projected program expenditures for the previous fiscal year. Also, attached to this memo is a copy of the public meeting notice for the June, 2007 Rio Grande WAC meeting that provided thirty (30) day notice of the budget hearing as required by the Code. An additional public meeting notice was mailed on August 10, 2007 to all affected water right holders regarding this budget item scheduled for the September 19, 2007 commission agenda. A copy of that notice and the mailing affidavit from the Chief Clerk's office are also attached.

During their meeting, the WAC acknowledged the "FY'07 Anticipated Expenditures" in the amount of \$525,748, as presented. The WAC also agreed with staff's recommendation for the proposed "FY'08 Operating Budget Needs" in the amount of \$632,481. A copy of a letter from the chair of the Rio Grande WAC is attached for you information.

Staff recommends the "FY'08 Operating Budget Needs" in the amount of \$632,481. Using this budget amount, the program calculates its assessment based on a 98% collection rate; therefore, the total assessment amount is \$645,390 with a municipal rate of \$0.2807. This staff proposal represents an increase of \$0.0058 from the previous year's municipal rate of \$ 0.2749. The calculated rate for FY'08 is expected to generate revenue in excess of the Comptroller's Biennial Revenue Estimate (BRE) when combined with the revenue estimates for the Concho River Watermaster Program and the South Texas Watermaster Program. This combined excess revenue collection will provide access to the contingency Watermaster appropriations as authorized in Rider 33 of the FY'08-'09 General Appropriations Act. The total estimated amount of revenue in excess of the BRE for FY'08 is \$57,184. This additional revenue is necessary for the Watermaster programs to be self-sufficient and not rely on funding subsidization from TCEQ.

FY'08 RGWM budget

August 20, 2007

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This memorandum requests Commission approval of the Rio Grande Watermaster Program operating budget and assessment for FY'08. If I can be of further assistance or should you have any questions regarding this matter, please contact me at 1-956-430-6018 or Tracy Miller, Watermaster Liaison, at 238-4127.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

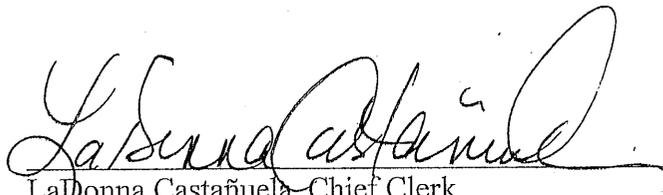


STATE OF TEXAS §

COUNTY OF TRAVIS §

I, LaDonna Castañuela, Chief Clerk of the Texas Commission on Environmental Quality, do hereby certify that the Notice of Consideration of the Proposed Assessment of Annual Costs for the Rio Grande Watermaster Program was mailed on the 10th day of August, 2007, to the persons on the attached mailing list.

Given under my hand and the seal of the Texas Commission on Environmental Quality, this 13th day of August, 2007.


LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality

(SEAL)

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

NOTICE OF CONSIDERATION OF PROPOSED ASSESSMENT OF ANNUAL COSTS FOR THE RIO GRANDE WATERMASTER PROGRAM

The Commissioners of the Texas Commission on Environmental Quality will consider the Rio Grande Watermaster Operation's budget and proposed assessment for costs for September 1, 2007 through August 31, 2008 (TCEQ Fiscal Year 2008), during a public meeting at:

**9:30 A.M. in Building E, Room 201S
located at 12100 Park 35 Circle
in Austin, Texas on
September 19, 2007**

This item is Docket No. 2007-1149-BGT, Consideration of an Order assessing costs of Watermaster operations in the Rio Grande Water District and associated basins which extends from Fort Quitman, Texas to the mouth of the Rio Grande River, excluding the watersheds of the Pecos and Devils Rivers; and includes that portion of the Nueces-Rio Grande Costal Basin lying in Hidalgo, Cameron, Willacy and Starr Counties.

The compensation and necessary expenses of the Rio Grande Watermaster Operations for the fiscal year is Six Hundred Thirty Two Thousand Four Hundred Eighty One Dollars (**\$632,481.00**). Of this amount, Five Hundred Seventeen Thousand Two Hundred Thirty Eight Dollars (**\$517,238.00**) are needed for program staff base salaries and benefits (including longevity, salary enhancements, and fringe) and the remaining One Hundred Fifteen Thousand Two Hundred Forty Three Dollars (**\$115,243.00**) are needed for program operating costs. Based on a 98% collection rate, these necessary expenses require a total assessment of Six Hundred Forty Five Thousand Three Hundred Ninety Dollars (**\$645,390.00**) with a municipal rate of **\$0.2807**.

This notice is provided to all holders of water rights as required by the Texas Water Code Section 11.329. You may attend this meeting and provide comments to the Commission concerning this item. Persons with disabilities who have special communication or other accommodation needs who are planning to attend this meeting should contact the Office of Administrative Services Facilities Liaison at (512) 239-0080. Requests should be made as far in advance as possible.

The Rio Grande Watermaster Advisory Committee (WAC) discussed and approved the proposed assessment and budget during a public meeting in Harlingen, Texas, on June 18, 2007. The public was invited to attend this WAC meeting via notice dated May 17, 2007.

If you have any questions or would like a copy of the proposed budget, please contact the Rio Grande Watermaster's Office at 956-430-6056 or (800) 609-1219, via fax at (956) 430-6052, or email at crubinst@tceq.state.tx.us.

Rio Grande Watermaster Operations

Annual Appropriation Information

	FY06	FY07	FY08
Legislative Appropriation Amount	517,019.00	517,019.00	541,992.00
Anticipated Rider Funding			33,106.06
Estimated Fringe and SWCAP (not in Appropriation)	97,082.00	49,680.00	57,383.68
Estimated Total Fund Obligation	\$614,101.00	\$566,699.00	\$632,481.74

FY07 Budget/Anticipated Expenditures Compared to FY08 Operating Budget Needs

Budget Categories	FY07 Adjusted Budget	FY07 Anticipated Expenditures	FY08 Operating Budget Needs	Difference from FY07 to FY08 Budget
Salaries	341,634.90	341,634.90	434,235.12	92,600.22
Longevity	12,860.00	12,860.00	16,710.00	3,850.00
Salary Enhancements (1)	21,407.00	15,723.24	11,073.00	(10,334.00)
Fringe (2)	49,680.00	49,680.00	55,220.76	5,540.76
SORM (3)	1,473.00	1,473.00	1,473.00	0.00
SWCAP (4)	1,646.00	1,646.00	2,162.92	516.92
LAR Capital (5)	12,500.00	12,500.00	0.00	(12,500.00)
Professional/Temp Services (6)	930.00	930.00	0.00	(930.00)
Travel In-State (7)	14,838.00	14,838.00	15,000.00	162.00
Travel Out-of-State	2,100.00	2,100.00	2,100.00	0.00
Training	150.00	150.00	150.00	0.00
Rent - Building (8)	22,795.25	22,795.25	42,535.25	19,740.00
Postage	8,096.00	8,096.00	8,146.00	50.00
Phone/Utilities	5,199.85	5,199.85	10,232.10	5,032.25
Supplies - Consumables	0.00	0.00	125.00	125.00
Other Operating Expenses (9)	9,256.00	9,256.00	1,121.00	(8,135.00)
Fuels/Lubricants	16,630.00	16,630.00	16,350.00	(280.00)
Rent - Machine & Other	6,161.00	6,161.00	5,347.60	(813.40)
Facilities, Furniture & Equip (10)	4,075.00	4,075.00	10,500.00	6,425.00
Capital Equipment - Non LAR (11)	0.00	0.00	0.00	0.00
TOTAL	\$531,432.00	\$525,748.24	\$632,481.74	\$101,049.74

Notes:

- (1) Salary Enhancements are calculated based on 3.4% of 75% of total Salaries; these are projections only; actual expenditures will vary based on salary actions approved by management
- (2) Fringe includes employee benefits such as health insurance, social security insurance, and retirement
- (3) State Office of Risk Management (SORM) is a fee that is charged annually to the TCEQ; amount is estimated during budget development; actual expenditure may vary
- (4) Statewide Cost Allocation Plan (SWCAP) is a fee that is charged annually to the TCEQ for central services; amount is estimated during budget development; actual expenditure may vary
- (5) Legislative Appropriation Request (LAR) Capital includes all items exceeding \$25,000 in total agency cost (ex: vehicles, computers, monitoring equipment); must have legislative approval
- (6) Professional/Temp Services includes but is not limited to software development costs, summer interns, temporary employees
- (7) Travel In-State is capped at an agency level; an increase in WM travel funding cannot be accommodated without a corresponding decrease in travel funding in another agency program
- (8) A proportionate share of the annual TCEQ Regional Office building rent is charged to the Watermaster Program
- (9) Other Operating Expenses includes items designated by Comptrollers Office that do not fall into any remaining budget category (ex: annual vehicle inspection fees, vehicle decals, etc)
- (10) Facilities, Furniture & Equipment (FPE) includes but is not limited to non-LAR equipment less than \$5,000 in cost, non-consumable supplies, vehicle maintenance and repairs, etc
- (11) Capital Equipment - Non LAR includes capital items with a cost between \$5,000 and \$24,999

FY08 Proposed Assessment Calculation

FY08 Operating Budget Needs	\$632,481.74
Assessment Necessary Based on 98% Collection Rate	\$645,390.00

Historical Assessment Comparison

	FY06	FY07	FY08
Total Assessment	\$592,000.00	\$630,000.00	\$645,390.00
Municipal Rate	0.2524	0.2749	0.2807

PUBLIC MEETING NOTICE

RIO GRANDE WATERMASTER ADVISORY COMMITTEE

DATE: Monday, June 18, 2007

LOCATION: Texas Commission on Environmental Quality
Harlingen Regional Office
1804 West Jefferson Avenue

TIME: 1:30 P.M.

**PURPOSE: DISCUSS THE RIO GRANDE WATERMASTER PROGRAM
PROPOSED BUDGET FOR FISCAL YEAR 2008. PUBLIC IS
INVITED TO ATTEND, COMMENT AND PARTICIPATE.**

Note: Pursuant to Texas Water Code §11.329(b) the Rio Grande Watermaster is required to provide notice to water right holders, at least 30 days prior to holding a public hearing to discuss the proposed budget for the Rio Grande Watermaster operations. The Rio Grande Watermaster Advisory Committee will hold a public meeting to discuss the proposed Rio Grande Watermaster budget for fiscal year 2008 on June 18, 2007 at 1:30 p.m., said meeting to be held at TCEQ Harlingen Regional Office.

Notice Date: May 17, 2007

**Carlos Rubinstein
Rio Grande Watermaster**

For questions or for a copy of the Rio Grande Watermaster budget for fiscal year 2008, please feel free to call (956) 430-6056 or (800) 609-1219.

Special Notice

The Rio Grande Watermaster Advisory Committee, established in accordance with Texas Water Code §11.3261, serves the following purpose:

- (1) provide recommendations to the executive director regarding activities of benefit to the holders of water rights in the administration and distribution of water to holders of water rights;
- (2) review and comment to the executive director on the annual budget of the watermaster operations; and
- (3) other duties as may be requested by the executive director with regard to the watermaster operations or as requested by holders of water rights in a water division which the committee deems of benefit to the administration of water rights in water division.

The TCEQ appreciates and values input provided by the Rio Grande Watermaster Committee and is actively seeking interested participants to serve on the committee as vacancies become available. If you are interested in serving, or would like to nominate someone for appointment consideration, please contact the Rio Grande Watermaster's office at (956) 430-6056 or (800) 609-1219, via fax at (956) 430-6052, or email at crubinst@tceq.state.tx.us.

Rio Grande Watermaster Advisory Committee

Carlos Rubinstein, Watermaster
1804 W. Jefferson - Harlingen, TX 78550
956-425-6010 - Fax 956-430-6052
crubinst@nrcc.state.tx.us

Wayne Halbert, Chairman
PO Box 148 - Harlingen, TX 78551
956-423-7015 - Fax 956-423-4671
waynehalbert@hidcc1.org

Orville Ballard, Vice-chairman
PO Box 39 - Rivera, TX 78379
512-296-3340 Fax 512-883-3342
o_ballard@yahoo.com

Sonny Hinojosa, Secretary
PO Box 6 - San Juan, TX 78589
956-787-1422 Fax 956-781-7622
hcid2@sbcglobal.net

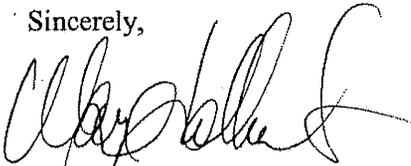
July 16, 2007

To the Honorable Commissioners of TCEQ:

On June 18, 2007, the Rio Grande Watermaster Advisory Committee conducted an official meeting to discuss the proposed budget for 2008, as well as other issues pertinent to this area. The increase in fees associated with the self-sufficiency of the program was presented to the group by Carlos Rubinstein and received a favorable recommendation from the committee to send forth the budget as presented recommending adoption by the Commission. Official minutes of this meeting will be provided once they are prepared and certified at the next WAC meeting.

As chairman of the advisory committee, I wish to commend Carlos Rubinstein and all the staff of the Rio Grande Watermaster office for their exemplary service to our area. We are proud of our program and thank you for providing excellent leadership.

Sincerely,



Wayne Halbert
Chairman