

# Texas Commission on Environmental Quality

## INTEROFFICE MEMORANDUM

**To:** Commissioners **Date:** August 21, 2009

**Thru:** La Donna Castañuela, Chief Clerk

**From:** *RA* Ricky Anderson, Director, North Central and West Texas Area

**Subject:** Agenda Executive Summary for Approval of Fiscal Year (FY) 2010 Proposed Assessment for Annual Costs for Watermaster Operations in the Rio Grande Water Division Set for September 9, 2009 Uncontested Agenda; Docket No. 2009-1067-BGT

CHIEF CLERKS OFFICE  
2009 AUG 18 AM 9:15  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

### Summary of Request:

The Rio Grande Watermaster Program seeks approval of its Fiscal Year (FY) 2010 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 61<sup>st</sup> 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 Seventy Six Thousand One Hundred Seventy Six Dollars (\$676,176) will generate revenue of Six Hundred Sixty Two Thousand Six Hundred Fifty Two Dollars (\$662,652) for FY'10.

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

### Staff Recommendation:

Approval of the Rio Grande Watermaster Program FY'10 Assessment for Annual Cost of Operations

Contact: Erasmio Yarrito, Jr.: (956) 430-6056

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

**AGENDA REQUESTED:** September 9, 2009

**DATE OF REQUEST:** August 21, 2009

**NAME & NUMBER OF PERSON TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED:** Erasmo Yarrito, Jr., 956-430-6056; Tracy Miller 239-4127

**CONSIDERATION OF FISCAL YEAR 2010 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, 2009, and ending August 31, 2010, 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 \$676,176.00 as the amount to be assessed for annual costs.

**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, 2009, and ending August 31, 2010: Docket No. 2009-1067-BGT Rio Grande Watermaster

On September 9, 2009, 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, 2009, and ending August 31, 2010. 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, 2009, and ending August 31, 2010, will require the amount to be assessed in the sum of SIX HUNDRED SEVENTY SIX THOUSAND ONE HUNDRED SEVENTY SIX AND NO/100 DOLLARS (\$676,176.00).
- (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 SEVENTY SIX THOUSAND ONE HUNDRED SEVENTY SIX AND NO/100 DOLLARS (\$676,176.00) 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, 2009, and ending August 31, 2010, 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 61<sup>st</sup> 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

\_\_\_\_\_  
For the Commission

# Texas Commission on Environmental Quality

## INTEROFFICE MEMORANDUM

**To:** Commissioners, TCEQ **Date:** August 21, 2009

**Thru:**  John Sadlier, Deputy Director  
Office of Compliance and Enforcement

 Ricky Anderson, Director  
North Central and West Texas Area

**From:**  Erasmo Yarrito, Jr., Deputy Rio Grande Watermaster

**Subject:** Fiscal Year (FY) 2010 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 provided to Rio Grande WAC members on May 15, 2009 and during a public meeting on July 16, 2009, in Harlingen, Texas. The third column, "FY'10 Operating Budget Needs" indicates the projected program needs within the FY'10 appropriation, and the "FY'09 Anticipated Expenditures" (column 2) shows projected program expenditures for the current fiscal year. Also, attached to this memo is a copy of the public meeting notice for the July, 2009 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 5, 2009 to all affected water right holders regarding this budget item scheduled for the September 9, 2009 commission agenda. A copy of that notice and the mailing affidavit from the Chief Clerk's office are also attached.

WAC members have acknowledged the "FY'09 Anticipated Expenditures" in the amount of \$764,255, as provided. WAC members also agreed with staff's recommendation for the proposed "FY'10 Operating Budget Needs" in the amount of \$662,652. A copy of the WAC meeting agenda is attached for your information.

Staff recommends the "FY'10 Operating Budget Needs" in the amount of \$662,652. Using this budget amount, the program calculates its assessment based on a 98% collection rate; therefore, the total assessment amount is \$676,176 with a municipal rate of \$0.2965. This staff proposal represents a decrease of \$0.0122 from the previous year's municipal rate estimated at \$0.3087. The calculated rate for FY'10 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 31 of the FY'10-'11 General Appropriations Act.

FY'10 RGWM budget  
August 21, 2009  
Page 2

The total estimated amount of revenue in excess of the BRE for FY'10 is \$94,880. This additional revenue is necessary for the Watermaster programs to be self-sufficient and not rely on funding subsidization from TCEQ.

This memorandum requests Commission approval of the Rio Grande Watermaster Program operating budget and assessment for FY'10. If I can be of further assistance or should you have any questions regarding this matter, please contact me at 1-956-430-6056 or Tracy Miller, Watermaster Liaison, at 239-4127.

# Rio Grande Watermaster Operations

## Annual Appropriation Information

	FY08	FY09	FY10
Legislative Appropriation Amount	541,992.00	541,992.00	579,025.59
Anticipated Rider Funding	33,106.06	63,457.92	0.00
Estimated Fringe and SWCAP (not in Appropriation)	57,383.68	76,172.00	83,627.00
<b>Estimated Total Fund Obligation</b>	<b>\$632,481.74</b>	<b>\$681,621.92</b>	<b>\$662,652.59</b>

### FY09 Budget/Anticipated Expenditures Compared to FY10 Operating Budget Needs

Budget Categories		FY09 Adjusted Budget	FY09 Anticipated Expenditures	FY10 Operating Budget Needs	Difference from FY09 to FY10 Budget
Salaries		429,614.12	429,614.12	430,420.60	806.48
Longevity		12,321.00	12,321.00	15,036.00	2,715.00
Salary Enhancements	(1)	11,850.00	33,369.94	11,044.00	(806.00)
Fringe	(2)	123,582.56	123,582.56	82,250.00	(41,332.56)
SORM	(3)	940.00	940.00	1,051.00	111.00
SWCAP	(4)	1,880.00	1,880.00	1,377.00	(503.00)
LAR Capital	(5)	0.00	0.00	0.00	0.00
Professional/Temp Services	(6)	50,971.00	50,971.00	0.00	(50,971.00)
Travel In-State	(7)	6,028.00	6,027.94	15,000.00	8,972.00
Travel Out-of-State		2,100.00	2,100.00	2,100.00	0.00
Training		1,609.00	1,609.00	1,500.00	(109.00)
Rent - Building	(8)	43,430.00	43,430.00	42,900.00	(530.00)
Postage		7,150.00	7,150.00	8,425.00	1,275.00
Phone/Utilities		10,222.00	10,222.00	10,130.00	(92.00)
Supplies - Consumables		1,246.00	1,245.91	2,965.99	1,719.99
Other Operating Expenses	(9)	6,143.00	6,143.00	2,113.00	(4,030.00)
Fuels/Lubricants		15,500.00	15,500.00	18,000.00	2,500.00
Rent - Machine & Other		5,341.00	5,341.00	5,340.00	(1.00)
Facilities, Furniture & Equip	(10)	12,808.00	12,808.00	13,000.00	192.00
Capital Equipment - Non LAR	(11)	0.00	0.00	0.00	0.00
<b>TOTAL</b>		<b>\$742,735.68</b>	<b>\$764,255.47</b>	<b>\$662,652.59</b>	<b>(\$80,083.09)</b>

#### 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 (FFE) 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

### FY10 Proposed Assessment Calculation

FY10 Operating Budget Needs	\$662,652.59
<b>Assessment Necessary Based on 98% Collection Rate</b>	<b>\$676,176.00</b>

### Historical Assessment Comparison

	FY08	FY09	FY10
<b>Total Assessment</b>	\$645,390.00	\$702,703.00	\$676,176.00
<b>Municipal Rate</b>	0.2807	0.3087	0.2965

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

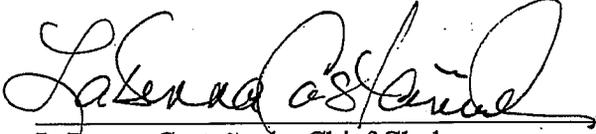


STATE OF TEXAS §

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 5<sup>th</sup> day of August, 2009, to the persons on the attached mailing list.

Given under my hand and the seal of the Texas Commission on Environmental Quality, this 5<sup>th</sup> day of August, 2009.

  
LaDonna Castañuela, Chief Clerk  
Texas Commission on Environmental Quality

(SEAL)

Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Mark R. Vickery, P.G., *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, 2009 through August 31, 2010 (TCEQ Fiscal Year 2010), 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 9, 2009**

This item is Docket No. 2009-1067-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 Sixty Two Thousand Six Hundred Fifty Two Dollars (**\$662,652.00**). Of this amount, Five Hundred Thirty Eight Thousand Seven Hundred Fifty Dollars (**\$538,750.00**) are needed for program staff base salaries and benefits (including longevity, salary enhancements, and fringe) and the remaining One Hundred Twenty Three Thousand Nine Hundred Two Dollars (**\$123,902.00**) are needed for program operating costs. Based on a 97% collection rate, these necessary expenses require a total assessment of Six Hundred Seventy Six Thousand One Hundred Seventy Six Dollars (**\$676,176.00**) with a municipal rate of **\$0.2965**.

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) was provided the proposed assessment and budget and a public meeting was held in Harlingen, Texas, on July 16, 2009. The public was invited to attend this WAC meeting via notice dated June 15, 2009.

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 [eyarrito@tceq.state.tx.us](mailto:eyarrito@tceq.state.tx.us).

May 15, 2009

**To Rio Grande Watermaster Advisory Committee Members:**

In order to comply with Texas Water Code §11.3261 and §11.329 requirements (as promulgated by Senate Bill 1406 in 1997), attached for your information are **preliminary** Rio Grande Watermaster Program (RGWM) Proposed Budgets for Fiscal Year 2010 (FY10). You are receiving two preliminary budget worksheets this year since it is undetermined at this time whether the Watermaster Fund will be approved for vehicle replacement purchases in FY10 by the Texas Comptroller of Public Accounts (TCPA). The two preliminary budgets provided are identical except one budget includes vehicle replacements. A detailed proposed budget will be presented to the committee on **July 16, 2009**. All water right holders will be notified of the Watermaster Advisory Committee meeting and public comments will be allowed.

**Time line for Budget Approval**

Month	Action	Status
May, 2008	Submit preliminary budget to WAC for 15 day comment period.	Completed via this notice
May, 2008	Set date for WAC public meeting on the budget in July and send out notices to each water right holder at least 30 days prior to the public hearing.	Meeting set for July 16, 2009. Public notice to be sent by 5/15/09.
July 16, 2009	WAC public hearing on the proposed budget.	Pending
2 weeks after WAC meeting	Submit detailed budget to TCEQ for management review and Commission consideration.	Pending
August, 2009	Send out notices to each water right holder at least 30 days prior to Commission agenda	Pending
September, 2008	Commission action on order establishing annual assessment rate.	Pending
Sept. - Oct., 2008	Send out assessment invoices to water right holders.	Pending

Preliminary calculations indicate that the total amount to be assessed will be **lower** than the \$702,703.00 assessed in FY09, if vehicle replacements are not approved. This reduction is a result of the RGWM decreasing operating costs as much as possible without impacting the level of service provided to water right holders in this area. However, if vehicle replacements are approved by the TCPA, the total amount to be assessed will be higher than the FY09 level, as a result. **Please note that the budget does not include the 10% administrative fee as a line item and the proposed assessment provides funding needed to support the Watermaster Program without additional TCEQ subsidy.**

If you have any questions or comments, please do not hesitate to call me at (956)425-6010.

Sincerely,



Erasmo Yarrito, Jr.  
Deputy Rio Grande Watermaster

**PUBLIC MEETING NOTICE**

**RIO GRANDE WATERMASTER ADVISORY COMMITTEE**

DATE: Thursday, July 16, 2009

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

TIME: 9:30 am

**PURPOSE: DISCUSS THE RIO GRANDE WATERMASTER PROGRAM  
PROPOSED BUDGET FOR FISCAL YEAR 2010. 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 2010 on July 16, 2009 at 09:30 am, said meeting to be held at TCEQ Harlingen Regional Office.

**Notice Date: June 15, 2009**

**Erasmio Yarrito, Jr.  
Deputy Rio Grande Watermaster**

**For questions or for a copy of the Rio Grande Watermaster budget for fiscal year 2010, 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 eyarrito@tceq.state.tx.us.

July 16, 2009  
Rio Grande Watermaster Office  
1804 W Jefferson Avenue  
Harlingen, Texas  
9:30 am

Agenda

- Call to order / Determination of a quorum.....Wayne Halbert
- Introductions.....Erasmus Yarrito, Jr.
- Minutes from previous meeting.....Sonny Hinojosa
- Discuss the proposed budget for fiscal year 2010.....Erasmus Yarrito, Jr.
- Discussion on nominees for WAC membership.....Wayne Halbert
- Watermaster reports.....Erasmus Yarrito, Jr.
- Update and discussion on legislative session.....Wayne Halbert
- El Morillo Drain Update/Discussion.....Sonny Hinojosa
- Public Comments and Concerns
- Future Meetings.
- Adjourn.

Wayne Halbert, Chairman