

TCEQ Interoffice Memorandum

To: Commissioners

Thru: Bridget Bohac, Chief Clerk

From: John Gillen, Manager, Watermaster Section, Water Availability Division

Date: August 31, 2012

Subject: Agenda Executive Summary for Approval of Fiscal Year 2013 Proposed Assessment for Annual Costs for Watermaster Operations in the Rio Grande Water Division Set for September 19, 2012 Agenda
Docket No. 2012-1414-BGT

Summary of Request:

The Rio Grande Watermaster Program seeks approval of its Fiscal Year (FY) 2013 proposed assessment for annual costs of operations based on its operating budget which consists of a \$50 base fee applicable to each assessment account. A penalty of 5.0% of any delinquent fee 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 date 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 Seven Hundred Seventy-Nine Thousand Seven Hundred Ninety-Four Dollars and Fifty-Six Cents (\$779,794.56) will generate revenue of Seven Hundred Sixty-Four Thousand One Hundred Ninety-Eight Dollars and Sixty-Six Cents (\$764,198.66) for FY 2013.

Authority: Tex. Water Code § 11.329
30 Tex. Admin. Code §§ 12.1, 12.3, and 12.5

Staff Recommendation:

Approval of the Rio Grande Watermaster Program FY 2013 Assessment for Annual Cost of Operations.

Contact: John Gillen, (512) 239-4761
Cindy Hooper, (210) 403-4080

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

AGENDA REQUESTED: September 19, 2012

DATE OF REQUEST: August 8, 2012

NAME & NUMBER OF PERSON TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED:

Erasm0 Yarrito, Jr., (956)430-6056

Cindy Hooper, (210) 403-4080

CONSIDERATION OF FISCAL YEAR 2013 ASSESSMENT OF ANNUAL COSTS FOR WATERMASTER OPERATIONS IN THE RIO GRANDE WATER DIVISION. Pursuant to Texas Water Code Section 11.329 and 30 Tex. Admin. Code 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, 2012, and ending August 31, 2013, 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 including that portion of the Nueces-Rio Grande Costal Basin lying in Hidalgo, Cameron, Willacy, and Starr Counties and approve \$779,794.56 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, and Zapata)

DOCKET NUMBER: 2012-1414-BGT

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER

Assessing the Annual Cost of Operation for the Rio Grande Water Division and Associated Basins for the fiscal year beginning September 1, 2012, and ending August 31, 2013; Docket No. 2012-1414-BGT; Rio Grande Watermaster

On September 19, 2012, 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, 2012, and ending August 31, 2013. 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 Rivers; 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 the Texas Water Code § 11.329 and 30 TAC § 303.71 were followed for this assessment;
5. The compensation and necessary expenses of a Watermaster and other necessary employees for the fiscal year beginning September 1, 2012 and ending August 31, 2013 will require the amount to be assessed in the sum of Seven Hundred Seventy-Nine Thousand Seven Hundred Ninety-Four Dollars and Fifty-Six Cents (\$779,794.56).
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 Seven Hundred Seventy-Nine Thousand Seven Hundred Ninety-Four Dollars and Fifty-Six Cents (\$779,794.56) is approved as the total amount to be assessed for annual costs of operations of the Rio Grande Watermaster during the fiscal year beginning September 1, 2012 and ending August 31, 2013 and that such amount is assessed against the water rights holders in the Rio Grande Water Division 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 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 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; and
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

TCEQ Interoffice Memorandum

To: Commissioners, TCEQ

Thru: L'Oreal Stepney, P.E., Deputy Director
Office of Water

From: Kellye Rila, Director
Water Availability Division

Date: August 31, 2012

Subject: Fiscal Year (FY) 2013 Proposed Assessment of Annual Costs of Operations for the Rio Grande Watermaster Program

The Rio Grande Watermaster fund is required by Texas Water Code (TWC) § 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 June 11, 2012 and during a public meeting on July 9, 2012 in Harlingen, Texas. The second column, "FY13 Operating Budget Needs" indicates the projected program needs within the FY 2013 appropriation. Also, attached to this memo is a copy of the public meeting notice for the July 2012 Rio Grande WAC meeting. An additional public meeting notice was mailed on August 20, 2012 to all affected water right holders regarding this budget item scheduled for the September 19, 2012 commission agenda. A copy of that notice and the mailing affidavit from the Chief Clerk's office are also attached. As required by the TWC, this notice provides thirty (30) days notice of the budget hearing.

WAC members have agreed with staff's recommendation for the proposed "FY13 Operating Budget Needs" in the amount of \$764,198.66. A copy of the WAC meeting agenda is attached for your information.

Staff recommends the "FY13 Operating Budget Needs" in the amount of \$764,198.66. Using this budget amount, the program calculates its assessment based on a 98% collection rate; therefore, the total assessment amount is \$779,794.56 with a municipal rate of \$0.3441. This staff proposal represents an increase of \$0.0316 from the previous year's municipal rate of \$0.3125. The calculated rate for FY 2013 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

TCEQ Interoffice Memorandum

provide access to the contingency Watermaster appropriations as authorized in Rider 24 of the General Appropriations Act.

This memorandum requests Commission approval of the Rio Grande Watermaster Program operating budget and assessment for FY 2013. If I can be of further assistance or should you have any questions regarding this matter, please contact me at 239-4612, John Gillen, Watermaster Section Manager at 239-4721, or Erasmo Yarrito, Jr, Rio Grande Watermaster at (956) 430-6056.

Rio Grande Watermaster Operations

Annual Appropriation Information

	FY11	FY12	FY13
Legislative Appropriation Amount (including SORM)	583,534.05	576,191.33	575,203.86
Anticipated Rider Funding	2,690.46	58,989.89	114,615.80
Estimated Fringe and SWCAP (not in Appropriation)	120,852.00	69,090.00	74,379.00
Estimated Total Fund Obligation	\$707,076.51	\$704,271.22	\$764,198.66

FY12 Budget/Anticipated Expenditures Compared to FY13 Operating Budget Needs

Budget Categories	FY12 Approved Budget	FY13 Operating Budget Needs	Difference from FY12 to FY13 Budget
Salaries	393,341.80	452,928.00	59,586.20
Longevity	11,244.00	11,850.00	606.00
Salary Enhancements (1)	10,030.22	11,549.66	1,519.44
Fringe (2)	66,411.00	71,757.00	5,346.00
SORM (3)	987.00	1,006.00	19.00
SWCAP (4)	2,679.00	2,622.00	(57.00)
LAR Capital (5)	0.00	0.00	0.00
Professional/Temp Services (6)	84,790.00	75,804.00	(8,986.00)
Travel In-State (7)	20,000.00	20,000.00	0.00
Travel Out-of-State	0.00	0.00	0.00
Training	1,500.00	1,500.00	0.00
Rent - Building (8)	48,857.00	48,857.00	0.00
Postage	8,275.00	8,275.00	0.00
Phone/Utilities	12,694.00	15,726.00	3,032.00
Supplies - Consumables	100.00	1,000.00	900.00
Other Operating Expenses (9)	1,624.00	1,624.00	0.00
Fuels/Lubricants	18,000.00	18,000.00	0.00
Rent - Machine & Other	6,138.00	6,200.00	62.00
Facilities, Furniture & Equip (10)	17,600.20	15,500.00	(2,100.20)
Capital Equipment - Non LAR (11)	0.00	0.00	0.00
TOTAL	\$704,271.22	\$764,198.66	\$59,927.44

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

FY13 Proposed Assessment Calculation

FY13 Operating Budget Needs	\$764,198.66
Assessment Necessary Based on 98% Collection Rate	\$779,794.56

Historical Assessment Comparison

	FY11	FY12	FY13
Total Assessment	\$721,506.00	\$718,644.00	\$779,794.56
Municipal Rate	0.3184	0.3125	0.3441

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Bridget C. Bohac, Chief Clerk of the Texas Commission on Environmental Quality, do hereby certify that the Notice of Consideration of Proposed Assessment of Annual Costs for the Rio Grande Watermaster Program, was mailed on August 20, 2012. Given under my hand and the seal of the Texas Commission on Environmental Quality, this the 20th day of August, 2012.

Bridget C. Bohac
Bridget C. Bohac, Chief Clerk
Texas Commission on Environmental Quality

SEAL

Bryan W. Shaw, Ph.D., *Chairman*
Carlos Rubinstein, *Commissioner*
Toby Baker, *Commissioner*
Zak Covar, *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, 2012 through August 31, 2013 (TCEQ Fiscal Year 2013), 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, 2012**

This item is Docket No. 2012-1414-BGT, Consideration of an Order assessing costs of Watermaster operations in the Rio Grande Water Division 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 Seven Hundred Sixty-Four Thousand One Hundred Ninety-Eight Dollars and Sixty-Six Cents (**\$764,198.66**). Of this amount, Five Hundred Forty-Eight Thousand Eighty-Four Dollars and Sixty-Six Cents (**\$548,084.66**) are needed for program staff base salaries and benefits (including longevity, salary enhancements, and fringe) and the remaining Two Hundred Sixteen Thousand One Hundred and Fourteen Dollars (**\$216,114.00**) are needed for program operating costs. Based on a 98% collection rate, these necessary expenses require a total assessment of Seven Hundred Seventy-Nine Thousand Seven Hundred Ninety-Four Dollars and Fifty-Six Cents (**\$779,794.56**) with a municipal rate of **\$0.3441**.

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 9, 2012. The public was invited to attend this WAC meeting via notice dated June 11, 2012.

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 Erasmio.Yarrito@tceq.texas.gov.

Bryan W. Shaw, Ph.D., *Chairman*
Carlos Rubinstein, *Commissioner*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 1, 2012

Re: Preliminary Budget for Fiscal Year 2013 for the Rio Grande Watermaster

Dear Rio Grande Watermaster Advisory Committee Members:

Enclosed for your review is a preliminary Proposed Budget for Fiscal Year 2013 (FY13) Rio Grande Watermaster Program. This notice is required by the Texas Water Code to be submitted at least 60 days before the Texas Commission on Environmental Quality (Commission, or TCEQ) meets to consider a proposed order establishing the final assessment amount (Texas Water Code, Sections 11.3261 and 11.329, as promulgated by Senate Bill 1406 in 1997).

The Watermaster will present a detailed proposed budget to the Watermaster Advisory Committee (WAC) during a meeting at the TCEQ's Harlingen regional office on Monday, July 9, 2012 at 1:30 p.m. Staff will mail a notification of this meeting to all water right holders and will provide an opportunity for the public to provide comments at the meeting.

The following list includes the pending time frames for budget approval:

- **June 14:** Watermaster staff will mail notification of WAC meeting to water right holders.
- **July 9:** The WAC will meet to discuss the preliminary budget.
- **July 16-31:** TCEQ management will review the proposed budget
- **August 3:** TCEQ will mail notice of the Commission meeting to all water right holders.
- **September 5:** The Commission will meet to consider approval of the FY13 budget.
- **September - October:** The Watermaster will mail FY13 invoices to water right holders.

The proposed assessment provides funding needed to support the Watermaster Program without additional TCEQ subsidy. Preliminary calculations indicate that the total amount to be assessed for FY13 would be \$779,794.56, which would result in an increase compared to FY12. Much of this amount is the result of assessing for a staff position that had not been assessed for in FY12 and revising the amount of the watermaster program liaison positions to this program.

If you have any questions or comments, please do not hesitate to contact me at (512) 239-4721 or Erasmo Yarrito, Rio Grande Watermaster at (956) 430-6046.

Sincerely,

A handwritten signature in black ink, appearing to read "John Gillen".

John Gillen, Manager
Watermaster Section (MC-160)
Water Availability Division

Enclosure

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

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PUBLIC MEETING NOTICE

RIO GRANDE WATERMASTER ADVISORY COMMITTEE

DATE: Monday, July 9, 2012

TIME: 1:30 P.M.

LOCATION: Texas Commission on Environmental Quality,
Harlingen Regional Office
1804 West Jefferson Avenue; Harlingen, Texas 78550-5247

Section 11.3261(e) of the Texas Water Code requires the Watermaster Advisory Committee (WAC) to review and provide comments to the executive director of the TCEQ on the annual budget for watermaster operations. The Rio Grande WAC will hold a meeting at the TCEQ's Harlingen Regional Office on July 9, 2012 at 1:30 p.m. to discuss the proposed Rio Grande Watermaster budget for fiscal year 2013. **The public, including all water right holders in the watermaster area, are invited to attend and participate in this meeting as well as to provide comments.**

You will also receive another notice after the WAC meeting is held. Section 11.329(b) of the Water Code requires the executive director to provide notice to water right holders at least 30 days prior to the Commission holding a public hearing on the proposed fiscal year budget. This is a separate notice that will be mailed following the completion of the WAC meeting and at least 30 days before the date that the proposed budget being considered during a Commission agenda meeting.

Notice Date: June 11, 2012

Erasmio Yarrito, Jr., Rio Grande Watermaster

For questions or for a copy of the Rio Grande Watermaster budget for the current fiscal year 2012, please feel free to call the Rio Grande Watermaster at (956) 430-6056 or (800) 609-1219.

Special Notice – Participation on Committee

The Rio Grande WAC was established in January 1998 based on Section 11.3261 of the Texas Water Code. The WAC is required to:

- provide recommendations to the executive director of the TCEQ regarding water administration and distribution activities that would benefit water rights holders;
- review and provide comments to the executive director on the annual budget of the watermaster operations; and
- perform other duties requested by the executive director with regard to the watermaster operations, or perform other duties requested by water rights holders that the committee determines would benefit the administration of water rights.

The TCEQ values input from the Rio Grande WAC 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 e-mail at Erasmio.Yarrito@tceq.texas.gov.

July 9, 2012
Rio Grande Watermaster Office
1804 W Jefferson Avenue
Harlingen, Texas
1:30 pm

Agenda

- Call to order / Determination of a quorum.....Wayne Halbert
- Introductions.....Erasmo Yarrito, Jr.
- New WAC members.....Wayne Halbert
-
- Minutes from previous meeting.....Erasmo Yarrito, Jr.
- Discuss the proposed budget for fiscal year 2013.....Erasmo Yarrito, Jr.
Cindy Hooper
- Watermaster reports.....Erasmo 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