

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

**AGENDA REQUESTED:** August 19, 2015

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

Amy Settemeyer, (512) 239-2588  
Kim Wilson, (512) 239-4644

**CONSIDERATION OF THE EXECUTIVE DIRECTOR'S FINDINGS AND RECOMMENDATIONS ON WHETHER A WATERMASTER SHOULD BE APPOINTED FOR THE RED RIVER BASIN OR THE CANADIAN RIVER BASIN.** Texas Water Code, Section 11.326(g) requires that in river basins where no watermaster has been appointed, the executive director shall evaluate the river basin at least once every 5 years to determine whether a watermaster should be appointed, and report the findings and make recommendations to the commission. The commission shall include the findings and recommendations in the commission's biennial report to the Legislature.

**CHIEF CLERK MUST SEND NOTICE OF THE APPLICATION/HEARING:** No

**TYPE OF MATTER:** Miscellaneous

**COUNTY:** Archer, Armstrong, Baylor, Bowie, Briscoe, Carson, Castro, Childress, Clay, Collingsworth, Cooke, Cottle, Crosby, Dallam, Deaf Smith, Dickens, Donley, Fannin, Floyd, Foard, Gray, Grayson, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, King, Knox, Lamar, Lipscomb, Montague, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Red River, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, and Young

**DOCKET NUMBER:** 2015-0999-MIS

# TCEQ Interoffice Memorandum

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**To:** Commissioners

**Thru:** Bridget Bohac, Chief Clerk  
Richard A. Hyde, P.E., Executive Director

**From:** L'Oreal W. Stepney, P.E., Deputy Director  
Office of Water

**Date:** July 31, 2015

**Subject:** Evaluation of the Canadian and Red River Basins for the Need of a Watermaster Program

## Background

Section 5.05 of House Bill (HB) 2694 of the 82<sup>nd</sup> Legislature added the following language to Chapter 11, Subchapter G, §11.326(g) and (h) of the Texas Water Code (TWC, or Water Code).

- (g) For a water basin in which a watermaster is not appointed, the executive director shall:
  - (1) evaluate the water basin at least once every five years to determine whether a watermaster should be appointed; and
  - (2) report the findings and make recommendations to the Commission.
- (h) The Commission shall:
  - (1) determine the criteria or risk factors to be considered in an evaluation under Subsection (g); and
  - (2) include the findings and recommendations under Subsection (g) in the Commission's biennial report to the legislature.

Consistent with the schedule approved at a Commissioners' Work Session on September 28, 2011, staff is in the fourth year of performing evaluations on the need for a watermaster. In 2012, staff evaluated the Brazos River Basin, the Brazos-Colorado Coastal Basin, the Colorado River Basin, and the Colorado-Lavaca Coastal Basin, and in 2013, staff evaluated the Trinity River Basin, the Trinity-San Jacinto Coastal Basin, the

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San Jacinto River Basin, and the San Jacinto-Brazos Coastal Basin. In 2014, staff evaluated the Sabine River Basin, Neches River Basin, and Neches-Trinity Coastal Basin. For 2015, staff is evaluating the Canadian and Red River Basins.

## Current Practices

Chapter 11 of the Water Code provides three mechanisms by which a watermaster program can be established:

1. The ED may appoint a watermaster to an established water division.
2. A watermaster may be court-appointed.
3. Upon receipt of a petition of 25 or more water right holders in a river basin or segment of a river basin, or on its own motion, the Commission may appoint a watermaster if it finds that senior water rights have been threatened.

The TCEQ currently has four watermaster programs:

1. **Rio Grande**, which serves the Rio Grande Basin below Fort Quitman, Texas (excluding the Pecos and Devils Rivers),
2. **South Texas**, which serves the Nueces, San Antonio, Lavaca, and Guadalupe River Basins, as well as the adjacent coastal basins,
3. **Concho River**, currently a division of the South Texas Watermaster, which serves the Concho River segment of the Colorado River Basin, and
4. **Brazos**, which serves the Brazos River Basin, downstream of Possum Kingdom reservoir, including said reservoir.

Watermasters and their staff protect water rights in accordance with the provisions of the Water code by analyzing and evaluating diversion and storage requests, authorizing appropriate diversion amounts and storage levels, and curtailing illegal diversions. They also monitor streamflows in real-time and address conflicts and disputes among water users. Watermasters are able to allocate available water according to water right priorities on a real-time operational basis. The authority provided in TWC § 11.327

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allows the watermaster to manage surface water resources in a way that protects senior and superior rights while balancing the needs of all water right holders under their jurisdiction.

In accordance with state law, the TCEQ is responsible for protection of senior and superior water rights, regardless of whether a watermaster program has been established in the affected area. In the absence of a watermaster program, the TCEQ utilizes multi-office staff resources to address water right issues as they arise.

## **Who pays for a watermaster program?**

Permitted water right holders pay the fees for watermaster programs. While domestic and livestock (D&L) users exempt from permitting are considered superior rights and may make a priority call on other water right holders, those D&L users do not pay watermaster program fees.

## **Differences between watermaster and non-watermaster areas**

### **1. Day-to-day water rights management**

#### Watermaster Areas

Watermasters proactively manage water rights in their areas by continuously monitoring streamflows, reservoir levels, and water use on a real-time basis.

Watermasters allocate water between water right holders on the basis of priority and maximize beneficial use of water. Watermaster staff may also monitor water usage downstream of a release to ensure that any sold water reaches the buyer.

Before diverting water in a watermaster area, a water right holder must notify the watermaster of how much water they plan to divert. After receiving a declaration of intent to divert water (DOI) the watermaster determines whether a diversion will remove water that rightfully belongs to another user. As needed, the watermaster will notify the user with lower priority to reduce pumping, or to stop pumping altogether if necessary.

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Day-to-day activities performed by watermaster staff include monitoring rivers, taking stream flow measurements, setting stream flow markers, meeting with water right holders and other interested persons, investigating complaints, writing notices of violations and in some cases notices of enforcement, collecting water use data, and recording their activities.

Watermasters maximize the beneficial use of surface water and minimize the potential risk to senior water rights. With their real-time monitoring of local stream flows, watermasters can respond quickly to identify and stop illegal diversions. Also, because watermasters have information on which water is being diverted under a water right at any given moment, they are able to better anticipate a shortage before it reaches a critical situation, thus enabling the watermaster and local users to work together to develop a strategy that will best meet everyone's water needs.

## Non-Watermaster Areas

TCEQ regional offices conduct water management to increase agency awareness of potential impacts to surface water and to provide information critical for the agency's evaluation and determination of priority calls. This water management includes monitoring United States Geological Survey (USGS) gages, using flow data from applicable TCEQ Surface Water Quality Monitoring sites, and coordinating with and reaching out to impacted parties.

The regional offices conduct water rights-related initiatives (including flow monitoring, stream assessments, and on-site investigations) when necessary. Other than these initiatives, water rights investigations are complaint driven, unless conducted to ensure compliance with a priority call.

## 2. **Water rights management during senior or priority calls**

### Watermaster Areas

When stream flows diminish, a watermaster allocates available water among the users according to priority dates, consistent with TWC §11.027. For superior D/L

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rights, the watermaster will respond to a priority call or complaints. If a water right holder does not comply with the water right or with TCEQ rules, the ED may direct a watermaster to adjust the water right holder's control works, including pumps, to prevent them from diverting, taking, storing, or distributing water until they comply.

### Non-Watermaster Areas

In order to provide the best possible response to drought conditions and facilitate response to water right priority calls, the agency created the Drought Response Task Force. The Task Force includes staff with water rights expertise from multiple offices and is focused on responding to priority calls. The Task Force developed the "Water Right Priority Response Process," which was presented at Commission Agenda on October 31, 2012. See Attachment A for a detailed explanation of this process.

### 3. **Handling illegal diversions**

#### Watermaster areas

Watermaster staff work in the field on a day-to-day basis checking on authorized diversions. This consistent presence enables the watermaster office to more readily identify potential illegal diversions. If found, watermaster offices handle illegal diversions by issuing field citations or notices of violation, or may refer the matter directly to enforcement based on the nature of the violation(s).

#### Non-Watermaster areas

Investigations of possible illegal diversions within non-watermaster areas occur most often as a result of complaints. Suspected illegal water diversions outside watermaster areas are currently addressed by OCE based on one of the following two scenarios:

1. Normal Conditions – No Curtailment in Effect in Response to a Priority Call: Water diversions outside watermaster areas are currently addressed by regional field staff on a complaint response basis. No daily information

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on diversions are currently received or reviewed by OCE field staff.

Investigations of water right holders are currently non-routine and are initiated only in response to reported conditions.

2. **Priority Call Conditions – Curtailment in Effect Due to Active Priority Call:**  
Tools used by OCE during times of curtailment in response to a priority call include frequent tracking of available flow gages, observations by flyovers and “boots on the ground” to monitor river conditions, and coordination with sister agencies to obtain and track information. OCE tracks flow gages during these priority call conditions using the “follow the water” concept, and is able to identify specific segments of a river to more closely monitor for potentially illegal diversions. In doing so, staff may perform investigations of water right holders as well as non-permitted persons.

Whether in normal conditions or in priority call conditions, OCE addresses potentially illegal diversions and may issue field citations or notices of violation and/or enforcement based on the nature of the violation(s).

## **Evaluation of the Canadian and Red River Basins**

### **Coordination of Agency Programs**

- TCEQ’s Office of Water (OW) staff worked with OCE and the Office of Legal Services (OLS) to create the letters and information that were provided to stakeholders ahead of holding three stakeholder meetings. This information was also included on the watermaster evaluation webpage.
- OW and OCE Regional staff involved in water rights investigations provided presentations at the stakeholder meetings regarding water rights administration/enforcement within and outside of a watermaster program.
- OW, OCE, and OLS reviewed the 13 comments and all other information (costs, complaints, threats, etc.) received during the stakeholder process.

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Intergovernmental Relations (IGR), Agency Communications, and SBEA provided support and input as needed.

## **Action Plan for 2015 Evaluations**

As noted earlier in the Commissioner's Work Session on September 28, 2011, the ED proposed a five-year schedule for evaluating basins. In accordance with the proposed schedule, the ED evaluated the following basins in Year 4 (calendar year 2015):

1. Canadian River Basin
2. Red River Basin

For the above basins, the Water Availability Division (WAD) considered the following evaluation criteria, based on the plan presented during the September 28, 2011 Work Session:

***1. Is there a court order to create a watermaster?***

At this time, there are no court orders to appoint a watermaster for the basins under consideration.

***2. Has a petition been received requesting a watermaster?***

At this time, there are no active or approved petitions to appoint a watermaster for the basins under consideration.

***3. Have senior water rights been threatened, based on either the history of senior calls or water shortages within the basin or the number of water right complaints received on an annual basis in each basin?***

There is no history of senior calls. However, at times each of these basins has experienced water shortages; and during recent drought conditions most cities within these basins implemented water use restrictions.

The following complaints were received and investigations conducted in each basin:



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**Table 1.** Summary of Complaints and Investigations Between FY 2012 and 2014

Basin	FY 2012		FY 2013		FY 2014	
	Complaints	Investigations	Complaints	Investigations	Complaints	Investigations
Canadian	0	2	0	1	1	0
Red	9	12	1	9	4	17

Investigation types included complaints, temporary permits, and compliance initiatives.

### *Definition of Threatened Water Right*

In 2004, the Commission issued an order in response to petitions in the Concho River watershed. During the September 13, 2012 work session, the Commission directed staff to utilize the definition of threatened water right from this 2004 Commission Order for the evaluation process. The language below was presented to the Commission at the October 31, 2012 agenda, and the Commissioners approved the updated definition for use in the evaluations:

“Threat” to the rights of senior water rights holders as used in Chapter 11, Subchapter I, of the Water Code implies a set of circumstances creating the possibility that senior water rights holders may be unable to fully exercise their rights – not confined to situations in which other people or groups convey an actual intent to harm such rights. Specifically, in time of water shortage, the rights of senior water rights holders in the basin are threatened by the situation of less available water than appropriated water rights; the disregard of prior appropriation by junior water rights holders; the storage of water; and the diversion, taking, or use of water in excess of the quantities to which other holders of water rights are lawfully entitled.

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## *Geographic Reach of River Basins*

The Canadian River Basin includes all or a portion of 16 counties and the Red River Basin includes all or a portion of 40 counties (Table 2).

The following possible scenarios were considered during this evaluation. While this evaluation does not include a recommendation to establish a watermaster at this time; staff is providing three scenarios to the Commission to aid in its review, two of which would include a watermaster program.

- Scenario 1 would include one watermaster program for both basins and would include approximately 323 water rights in the combined areas.
- Scenario 2 would include one watermaster program in the Red River Basin, which would include approximately 284 water rights.
- Scenario 3 would be no appointment of a watermaster in either basin.

If a watermaster were appointed, the watermaster areas would not be limited to only those counties with currently permitted water rights, but would include all counties and portions of counties in the designated areas that are part of the watershed (see Figures 1, 2 and 3).

**Table 2.** Geographic Reach of the Basins and Number of Water Rights by County

<b>Canadian</b>		<b>Red</b>	
<b>County</b>	<b>No. of Water Rights</b>	<b>County</b>	<b>No. of Water Rights</b>
Carson*	0	Archer	9
Dallam	1	Armstrong	0
Deaf Smith*	0	Baylor	3
Gray*	1	Bowie	14
Hansford	7	Briscoe	11
Hartley	1	Carson*	5
Hemphill*	2	Castro	3
Hutchinson	6	Childress	4
Lipscomb	2	Clay	18
Moore	6	Collingsworth	13

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Ochiltree	1	Cooke	4
Oldham*	1	Cottle	2
Potter*	8	Crosby	0
Randall*	0	Deaf Smith*	4
Roberts*	1	Dickens	1
Sherman	2	Donley	5
		Fannin	28
		Foard	0
		Floyd	1
		Gray*	4
		Grayson	33
		Hale	0
		Hall	7
		Hardeman	8
		Hemphill*	2
		King	3
		Knox	3
		Lamar	20
		Montague	7
		Motley	4
		Oldham*	0
		Parmer	1
		Potter*	0
		Randall*	13
		Red River	7
		Roberts*	0
		Swisher	12
		Wheeler	13
		Wichita	15
		Wilbarger	7
<b>16</b>	<b>39</b>	<b>40</b>	<b>284</b>

\* Counties located in both basins.

### *Number of Permitted Water Rights*

Tables 3 through 6 summarize the number of permitted water rights in each basin and in each of the areas being evaluated for the possible need of a watermaster program. The number of total water rights compared to the water rights by county may differ slightly as some water rights are authorized in multiple counties.

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**Table 3.** Number of Permitted Water Rights by Basin

	<i>Canadian River Basin</i>	<i>Red River Basin</i>	<b>Total</b>
No. of Water Rights	39	284	<b>323</b>

Note: Temporary permits issued by the TCEQ’s Central and Regional Offices were not considered during this evaluation because the number of temporary permits is not significant and may fluctuate during the evaluation period.

**Table 4.** Scenario 1 – area covering both the Canadian and Red River Basins:

- Number of permitted water rights in the subject area: 323
- There are a total of 50 counties in the subject area, 44 of which currently have permitted water rights. Counties with an asterisk (\*) are located in both basins.

<i>County Name</i>	<i>Number of Water Rights</i>
Archer	9
Armstrong	0
Baylor	3
Bowie	14
Briscoe	11
Carson*	5
Castro	3
Childress	4
Clay	18
Collingsworth	13
Cooke	4
Cottle	2
Crosby	0
Dallam	1
Deaf Smith*	4
Dickens	1
Donley	5
Fannin	28
Floyd	1
Foard	0
Gray*	5
Grayson	33
Hale	0
Hall	7
Hansford	7
Hardeman	8

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Hartley	1
Hemphill*	4
Hutchinson	6
King	3
Knox	3
Lamar	20
Lipscomb	2
Montague	7
Moore	6
Motley	4
Ochiltree	1
Oldham	1
Parmer	1
Potter	8
Randall	13
Red River	7
Roberts	1
Sherman	2
Swisher	12
Wheeler	13
Wichita	15
Wilbarger	7
Young	0
<b>TOTAL</b>	<b>323</b>

**Table 5.** Scenario 2 - area covering only the Red River Basin:

- Number of permitted water rights in the subject area: 284
- There are a total of 40 counties in the subject area, 33 of which currently have permitted water rights. Counties with an asterisk (\*) are located in more than one basin.

<i>County Name</i>	<i>Number of Water Rights</i>
Archer	9
Armstrong	0
Baylor	3
Bowie	14
Briscoe	11
Carson*	5
Castro	3
Childress	4
Clay	18
Collingsworth	13
Cooke	4
Cottle	2
Crosby	0

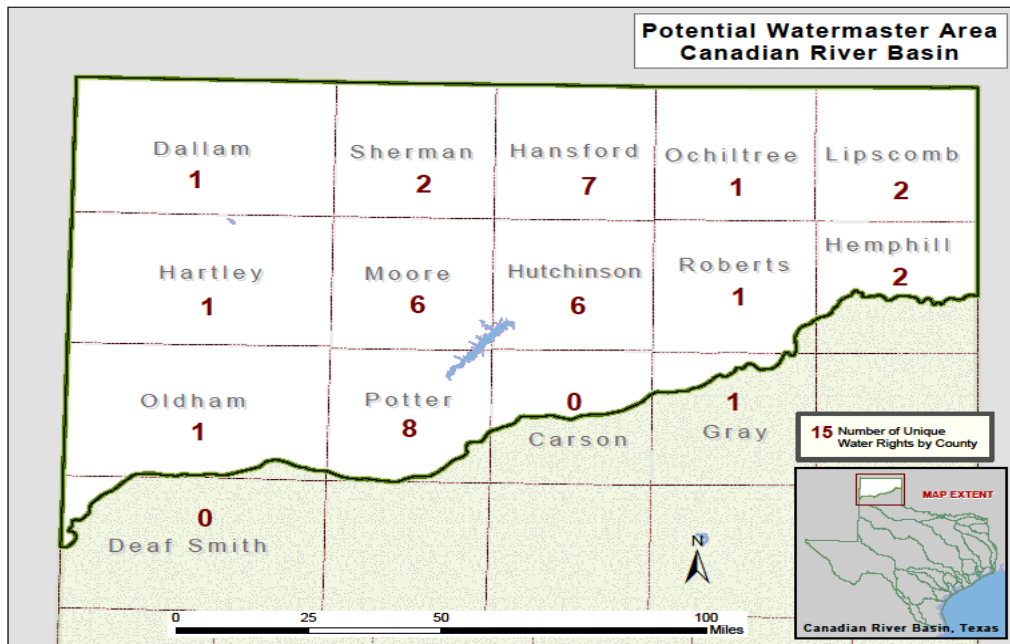
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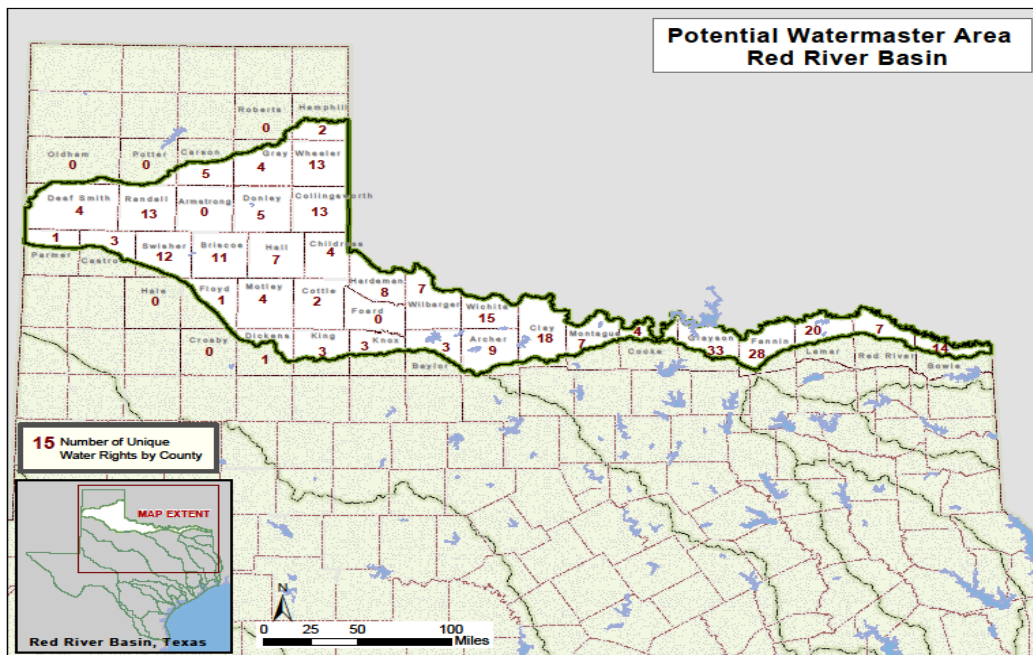
Deaf Smith*	4
Dickens	1
Donley	5
Fannin	28
Foard	0
Floyd	1
Gray*	4
Grayson	33
Hale	0
Hall	7
Hardeman	8
Hemphill*	2
King	3
Knox	3
Lamar	20
Montague	7
Motley	4
Oldham	0
Parmer	1
Potter	0
Randall	13
Red River	7
Roberts	0
Swisher	12
Wheeler	13
Wichita	15
Wilbarger	7
Young	0
<b>TOTAL</b>	<b>284</b>

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**Figure 1.** Water Rights in the Canadian River Basin



**Figure 2.** Water Rights in the Red River Basin



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## *Location of USGS Stream Flow Gages*

Currently, there are seven USGS stream flow gages in the Canadian River Basin and 30 in the Red River Basin.

## *Existence of River Compacts*

The State of Texas is a member of interstate river compacts in both the Canadian and Red River Basins. Interstate river compact commissions have been established to administer each of these compacts. The primary function of a compact commission is to ensure that each member state receives its equitable share of the waters, as allocated by the applicable interstate compact. The TCEQ is responsible for administering water rights to ensure the provisions of both the Canadian and Red River Basins are met.

## *Environmental Flows*

TCEQ has not adopted environmental flow standards for the Red River or Canadian River Basins; however, some water rights in these basins do include permit conditions to protect the environment. A watermaster would administer any permit conditions in existing permits.

## *Stakeholder Involvement*

For this evaluation, stakeholders include all water right holders, county judges, extension agents, river authorities, agricultural interests, industries, environmental organizations, and other interested parties in the basin. Consistent with Commission direction to involve stakeholders in the evaluation process, WAD staff conducted the following activities:

1. Created a web page exclusively for the evaluation process, with an opportunity for stakeholders to receive automated updates by email.
2. Mailed initial outreach letters to the stakeholders in each affected basin on March 13, 2015, and requested initial comments by March 27, 2015.



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3. Staff from WAD and OCE facilitated three stakeholder meetings in May and June 2015, which were held in Amarillo, Wichita Falls and Texarkana. A total of 17 people attended the meetings. Comments were welcomed at the meetings and final stakeholder comments were due on June 12, 2015.

### *Breakdown of the Comments Received During the Stakeholder Process*

The following table provides information on all of the comments received during the evaluation process.

**Table 7. Comments Received**

	Canadian			Red			Total		
	WRH	Interested Parties	Total	WRH	Interested Parties	Total	WRH	Interested Parties	Total
In Favor	-	-	-	-	-	-	0	0	0
Opposed	3	1	4	5	3	8	8	4	12
Neutral	-	1	1	-	-	-	0	1	1
<b>Total</b>	<b>3</b>	<b>2</b>	<b>5</b>	<b>5</b>	<b>3</b>	<b>8</b>	<b>8</b>	<b>5</b>	<b>13</b>

### *Cost for Evaluation Activities*

Total Costs for TCEQ Evaluation Activity: \$109,973.89

### **Office of Water Costs**

The estimated cost to conduct the evaluation is approximately \$109,151.69. This includes salary, fringe, postage, and travel, with the following breakdown:

- Staff time: \$82,141.50
  - Eleven staff participated in this evaluation for a portion of their time, equating to 2.0 full time equivalents for the duration of the project.
  - Calculated salaries for 2.0 FTEs from December 2014 through August 2015 (9 months).
  - Assumed mid-level B19.
- Fringe (29.74% of base salary): \$24,428.88

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- Postage: \$443.00
- Travel: \$2,138.31
- **Total: \$109,151.69**

### Office of Legal Services Costs

- OLS staff time: \$140.00
  - Calculated staff attorney review time of 3 hours
- **Total: \$140.00**

### Office of Compliance and Enforcement Costs

- OCE staff time: \$626.20
  - Calculated regular labor plus travel time of 20 hours
- State equipment use (vehicle): \$56.00
- **Total: \$682.20**

### Other Agency Programs

Other agency staff were provided an opportunity to participate, but no significant costs were associated with their involvement.

### Cost Estimates to Implement New Programs

Two watermaster scenarios were considered in the assessment of costs:

- Scenario 1 would include both basins, with an estimated cost to implement of \$387,343.52 for Year 1 and \$298,427.89 for consecutive years (Attachment B).
  - Key provisions of Scenario 1 include:
    - One watermaster and an administrative assistant in the TCEQ Amarillo regional office

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- Two watermaster specialists/field deputies (divided between the Amarillo regional offices and Wichita Falls area)
- Scenario 2 would include only the Red River Basin. The estimated cost to implement would be \$387,343.52 for Year 1 and \$298,427.89 for consecutive years (Attachment B).
  - Key provisions of Scenario 2 include:
    - One watermaster and an administrative assistant in the TCEQ Amarillo regional office
    - Two watermaster specialists/field deputies (divided between the Amarillo regional offices and Wichita Falls area)
- Scenario 3 would be no watermaster program.

### **Cost Differences Summary**

It is difficult to establish the cost benefits of having a watermaster versus not having one as there are differences in the benefits provided under each program. Staff took a historical view of the last three years. The following tables show the agency's costs for the previous three years to manage water rights in the basins being considered. For the years being considered the costs to TCEQ were below the estimations of the costs associated with having a watermaster.

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**Table 8.** Water Rights Management Cost Outside of Watermaster Areas

<b>Fiscal Year</b>	<b>Canadian River Basin</b>	<b>Red River Basin</b>	<b>Cost (Total)</b>
<b>2012</b>	\$383.10	\$5,724.27	\$6,107.37
<b>2013</b>	\$520.96	\$3,555.92	\$4,076.88
<b>2014</b>	\$0.00	\$5,867.18	\$5,867.18

**Note:** The table includes costs for all water right activities by OCE. During this time period there were no costs associated with responding to priority calls, i.e., TCEQ Drought Response costs.

## **Additional Information**

### *Information on Petitions for a Watermaster*

At this time, there are no active or approved petitions to appoint a watermaster for the basins under consideration.

### *Who can petition?*

Under Chapter 11, Subchapter I of the Water Code, 25 or more holders of water rights in a river basin or segment of a river basin may submit a petition to TCEQ requesting that a watermaster be appointed.

### *Water Divisions/Creation of a Water Division*

#### Statutory and Regulatory Authority

The Water Code Section 11.325 states that the Commission shall divide adjudicated segments or river basins into water divisions. The Commission must find that the divisions would secure the best protection to the holders of water rights and the most economical supervision on the part of the state. However, there are no statutory provisions setting out the process for creating these water divisions. In addition, the Commission has not adopted procedural rules for creating water divisions.

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## Prior Water Divisions

The Commission has created two water divisions under this statutory authority. The South Texas Water Division was created by order dated July 12, 1988 and the Colorado-Lavaca Water Division was created by order dated January 12, 1990.

## Potential Process

The Executive Director could file a petition with the Chief Clerk requesting the Commission to create of one or more water divisions in the state. The petition could then be considered at Commission agenda. Alternatively, the Commission, on its own motion, could direct the General Counsel to set an item on the agenda for the creation of a water division.

Seven-day notice of the Agenda item to consider the water division would be given under the Open Meetings Act. No formal notice (other than Open Meetings Act notice) or contested case hearing is required for creation of a water division or appointment of a watermaster under Chapter 11, Subchapter G of the Water Code. However, notice to the water right holders in the proposed division could be provided.

At the Agenda meeting, the Commission could approve an Order creating a water division, under Texas Water Code §11.325, upon finding that the area has been adjudicated and that the division would secure the best protection to the holders of water rights and the most economical supervision on the part of the state.

## **Executive Director's Recommendation**

As detailed in this document, the ED evaluated three main criteria for establishment of a watermaster. With no court orders or petitions to create a watermaster, or a repeated history of threatened water rights, **the ED recommends that the Commission not move forward on its own motion with the creation of a watermaster program in the Canadian River Basin nor the Red River Basin.**

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While the statute requires the agency to evaluate the need for a watermaster in those basins without a watermaster program at least every five years, there is no prohibition against evaluating a basin sooner on an as needed basis. The ED can review this decision and evaluate additional threats to senior water rights as they occur and also consider area stakeholder input. It is important to have stakeholder support in articulating the threat and the need to establish a new program as stakeholders will be responsible for paying a new fee to support the new regulatory program.

As stated above, the ED is always open to any additional information stakeholders may want to provide and 25 water right holders may petition the agency at any point to consider creation a watermaster program. Once a petition from 25 water right holders is received, the Commission may refer the issue to the State Office of Administrative Hearings for a complete administrative hearing and recommendation to the commissioners for consideration.

## Water Right Priority Calls

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*Response to a water right priority call is the highest priority for the Drought Response Task Force involved in the process.*

### Drought Response Task Force

In order to provide the best possible response to drought conditions that continue to persist state-wide and facilitate response to water right priority calls, the agency is creating the Drought Response Task Force. This is a separate subgroup of the agency-wide drought meeting. This subgroup (also multi-office) is comprised of the agency’s “go-to” staff with water rights expertise and is focused solely on responding to priority calls.

**Executive Sponsors/Co-chairs:** L’Oreal Stepney and Ramiro Garcia

**Other Members:** Kim Wilson, Ron Ellis, Randy Ammons, Susan Jablonski, Kelly Keel Linden, David Ramirez, Caroline Sweeney, Robert Martinez, Kathleen Decker, Robin Smith, and Isaac Jackson.

**Meeting Schedule:** Meetings of the Task Force will be on Tuesdays at 3:00 p.m.

### Water Right Priority Call - Response Process Timeline

The total response timeframe has a goal of 10 calendar days – steps should be completed faster when possible.

Priority Call Review Steps	Calendar days
1. OCE Receives Priority Call and is Distributed to Exec, OW, IGR, SBEA, OLS and Media Relations	Immediately
2. Concurrently, OW begins review with OCE initiating investigation, and results sent to OW/OLS	No more than 7 days
3. OW completes preliminary recommendation along with draft letters.	No more than 2 days
4. OLS will prepare draft order including working with OGC to expedite agenda setting.	
5. OW, OCE, OLS, and IGR meet to discuss preliminary recommendation. Then meet with ED/DED and a decision is made on priority call response. Signature and IGR notifications to follow.	No more than 1 day

## Water Right Priority Calls - Response Process

Each of the steps below will be prioritized and expedited.

1. **Priority Call Received:** Priority calls are received by the Office of Compliance and Enforcement (OCE). Upon receipt of a call, OCE immediately informs: Exec, OW, IGR, SBEA, OLS, and Media Relations. OCE will immediately request responses to priority call questionnaire (which can be done through email or direct discussion between investigator and person making the senior call). Upon receipt, OCE immediately forwards questionnaire responses to OW and OLS.
2. **Expedited Programmatic Evaluations** (*No more than 7 cal. days*):
  - *Permit Review (7 cal. days – concurrent with Field Investigation):* OW reviews the following:
    - drought and emergency shortage of water criteria in Chapter 36 to make assessment;
    - water right permits to identify affected permits and any special conditions effecting the call;
    - GIS tools to identify the geographic scope; creates maps of permits and reservoirs;
    - water use data, watershed information such as drainage area and losses, reservoir information, and area-specific issues;
    - any power or municipal water rights that may be affected by the call; and
    - prepares draft letter to senior water right holder(s), affected water right holders, juniors not curtailed if applicable, and any other notifications.
  - *Field Investigation (5 cal. days – concurrent with Permit Review):* Within 24 hours, OCE begins an investigation of on the ground conditions at the location of the priority call and upstream locations where stream access is immediately accessible. Receiving timely consent to access property is critical for completion of the task. OLS is available to pursue administrative search warrant (civil-not criminal) to assist in gaining access. OCE sends the results and photographs of the field investigation to OW and OLS when completed.
3. **Preliminary Recommendation** (*No more than 2 cal. days*): OW reviews investigation results and completes a preliminary recommendation. OW sends the preliminary recommendation to OCE, OLS, and IGR for review and comment. OLS prepares a draft order, if applicable, and sends copy to OW. OLS coordinates with OGC to expedite setting an agenda date and drafts the hearing notice. Media Relations prepares a draft press release if needed. If a priority call is not substantiated, OCE will conduct a complaint investigation. OCE has reduced the water rights complaint investigation timeframe from 30 days to 10 days.
4. **Finalization of Recommendation** (*No more than 1 cal. day*): OW, OCE, OLS, and IGR will meet to discuss and finalize the preliminary recommendation. Representatives of the Drought Response Task Force will meet with the ED and DED to discuss the preliminary recommendation during the same day, if possible. ED makes final decision on the priority call, signs letter/issues order (if applicable).
5. **Notifications**
  - Signed ED letters/orders are provided to IGR. IGR notifies state and local leadership and state agencies. OW notifies agriculture extension agents and county judges.
  - Media Relations issues press release and updates the TCEQ Drought Webpage with copies of all letters/notifications.
  - *Water Right Owner Notification:* OW mails letters.
6. **Enforcement (on-going):** OCE follows up with enforcement of suspensions/adjustments and with senior water right holder.
7. **Agenda:** OW, OCE, OLS participate in agenda to discuss suspension or adjustment if they occur under Chapter 36



**Scenario 1 Cost Estimate: Canadian and Red River Basins Combined**

	<b>Year 1</b>	<b>Year 2</b>	<b>Basis</b>
<b>Base Salaries**</b>			
<i>Program Supervisor III - Watermaster</i>	\$55,184.00	\$57,060.26	1 Watermaster (Program Supervisor), Pay Group B19** (mid-point of range) with 3.4% merit increase in year 2.
<i>Administrative Assistant II</i>	\$26,332.00	\$27,227.29	1 Administrative Assistant II, Pay Group A11** (entry point) with 3.4% increase by year 2.
<i>Watermaster Specialist II</i>	\$73,952.00	\$76,466.37	2 Watermaster Specialists, Pay Group B17** (entry point) with 3.4% merit increase for each FTE by year 2.
<b>Total Base Salaries</b>	<b>\$155,468.00</b>	<b>\$160,753.91</b>	4 FTEs
<b>SORM fee</b>	\$600.00	\$600.00	Estimate \$150 per FTE based on existing programs' average
<b>Professional/Temporary Services</b>	\$35,000.00	\$28,000.00	TXWAS development and maintenance – estimate 25% of full time TXWAS contractor for first year; 20% thereafter.
<b>Travel In-State</b>	\$8,000.00	\$8,000.00	Used table of standard costs for new FTEs* (\$2,000.00 per FTE)
<b>Training</b>	\$777.34	\$803.77	Used table of standard costs for new FTEs* (0.5% of base salaries)
<b>Rent – Building</b>	\$15,150.00	\$15,150.00	Assumed 3 FTEs in Amarillo regional office and one FTE in Wichita Falls. Used OAS estimates of 900 square feet at \$15/square foot (one waiting area, one office, 3 cubicles, one storage area, and one copy/file area)
<b>Other Operating Expenses (phone/utilities, supplies – consumables, rent – machine and other, postage)</b>	\$10,612.00	\$10,612.00	Used table of standard costs for new FTEs* (\$2,653.00 per FTE).
<b>Fuels/Lubricants</b>	\$13,500.00	\$13,500.00	Estimate \$4,500 per vehicle
<b>Facilities, Furniture, &amp; Equipment</b>	\$12,000.00	\$12,000.00	Used table of standard costs for new FTEs* (\$3,000.00 per FTE)
<b>LAR - IT</b>	\$4,800.00	\$0.00	Used table of standard costs for new FTEs* (\$1,200.00 per FTE)
<b>LAR - Vehicles</b>	\$84,000.00	\$0.00	3 vehicles (each a 4-wheel drive truck) @ \$28,000 each
<b>TOTAL:</b>	<b>\$339,907.34</b>	<b>\$249,419.68</b>	
<b>Fringe</b>	\$46,236.18	\$47,808.21	29.74% of the base salary using FY13 table of standard costs for new FTEs*
<b>SWCAP fee</b>	\$1,200.00	\$1,200.00	Estimate \$300 per FTE based on existing programs' average
<b>Additional Fund Obligation:</b>	<b>\$47,436.18</b>	<b>\$49,008.21</b>	
<b>TOTAL ASSEMENT:</b>	<b>\$387,343.52</b>	<b>\$298,427.89</b>	

**Resources:**

\*TCEQ's FY13 table of standard costs for FTEs (used regional costs):

[http://home.tceq.texas.gov/internal/admin/budget/docs/standard\\_fte\\_costs.pdf](http://home.tceq.texas.gov/internal/admin/budget/docs/standard_fte_costs.pdf)

\*\*State Auditor's Office FY15 State Salary Schedules:

<http://www.hr.sao.state.tx.us/Compensation/Schedules.html>

Schedule A (FY15): <http://www.hr.sao.state.tx.us/Compensation/schedule.aspx?schedule=2015A>

Schedule B (FY15): <http://www.hr.sao.state.tx.us/Compensation/schedule.aspx?schedule=2015B>

**Scenario 2 Cost Estimate: Red River Basin**

	<b>Year 1</b>	<b>Year 2</b>	<b>Basis</b>
<b>Base Salaries**</b>			
<i>Program Supervisor III - Watermaster</i>	\$55,184.00	\$57,060.26	1 Watermaster (Program Supervisor), Pay Group B19** (mid-point of range) with 3.4% merit increase in year 2.
<i>Administrative Assistant II</i>	\$26,332.00	\$27,227.29	1 Administrative Assistant II, Pay Group A11** (entry point) with 3.4% increase by year 2.
<i>Watermaster Specialist II</i>	\$73,952.00	\$76,466.37	2 Watermaster Specialists, Pay Group B17** (entry point) with 3.4% merit increase for each FTE by year 2.
<b>Total Base Salaries</b>	\$155,468.00	\$160,753.91	4 FTEs
<b>SORM fee</b>	\$600.00	\$600.00	Estimate \$150 per FTE based on existing programs' average
<b>Professional/Temporary Services</b>	\$35,000.00	\$28,000.00	TXWAS development and maintenance – estimate 25% of full time TXWAS contractor for first year; 20% thereafter.
<b>Travel In-State</b>	\$8,000.00	\$8,000.00	Used table of standard costs for new FTEs* (\$2,000.00 per FTE)
<b>Training</b>	\$777.34	\$803.77	Used table of standard costs for new FTEs* (0.5% of base salaries)
<b>Rent – Building</b>	\$15,150.00	\$15,150.00	Assumed 3 FTEs in Amarillo Regional office and one FTE in Wichita Falls. Used OAS estimates of 900 square feet at \$15/square foot (one waiting area, one office, 3 cubicles, one storage area, and one copy/file area)
<b>Other Operating Expenses (phone/utilities, supplies – consumables, rent – machine and other, postage)</b>	\$10,612.00	\$10,612.00	Used table of standard costs for new FTEs* (\$2,653.00 per FTE).
<b>Fuels/Lubricants</b>	\$13,500.00	\$13,500.00	Estimate \$4,500 per vehicle
<b>Facilities, Furniture, &amp; Equipment</b>	\$12,000.00	\$12,000.00	Used table of standard costs for new FTEs* (\$3,000.00 per FTE)
<b>LAR - IT</b>	\$4,800.00	\$0.00	Used table of standard costs for new FTEs* (\$1,200.00 per FTE)
<b>LAR - Vehicles</b>	\$84,000.00	\$0.00	3 vehicles (each a 4-wheel drive truck) @ \$28,000 each
<b>TOTAL:</b>	<b>\$339,907.34</b>	<b>\$249,419.68</b>	
<b>Fringe</b>	\$46,236.18	\$47,808.21	29.74% of the base salary using FY13 table of standard costs for new FTEs*
<b>SWCAP fee</b>	\$1,200.00	\$1,200.00	Estimate \$300 per FTE based on existing programs' average
<b>Additional Fund Obligation:</b>	<b>\$47,436.18</b>	<b>\$49,008.21</b>	
<b>TOTAL ASSEMENT:</b>	<b>\$387,343.52</b>	<b>\$298,427.89</b>	

**Resources:**

\*TCEQ's FY13 table of standard costs for FTEs (used regional costs):

[http://home.tceq.texas.gov/internal/admin/budget/docs/standard\\_fte\\_costs.pdf](http://home.tceq.texas.gov/internal/admin/budget/docs/standard_fte_costs.pdf)

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Schedule A (FY15): <http://www.hr.sao.state.tx.us/Compensation/schedule.aspx?schedule=2015A>

Schedule B (FY15): <http://www.hr.sao.state.tx.us/Compensation/schedule.aspx?schedule=2015B>