



TCEQ Interoffice Memorandum

To: Commissioners

Thru: Bridget Bohac, Chief Clerk

 Toby Baker, Executive Director

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

 Ramiro Garcia, Deputy Director, Office of Compliance and Enforcement

From:  Kim Nygren, Director, Water Availability Division

Date: July 22, 2019

Subject: Evaluation of whether a Watermaster Program should be appointed in the following basins: Neches River and Sabine River Basins

The Texas Commission on Environmental Quality (TCEQ) currently has four watermaster programs in 10 of Texas' 23 river basins¹ that actively manage water.² The Executive Director (ED) is required by statute³ to evaluate basins *without* a watermaster at least every five years⁴ to determine if a watermaster should be appointed. The ED's evaluation is based on the criteria and risk factors determined by the Commission.⁵ The ED is required to report the findings of that evaluation and make recommendations to the Commission.⁶ The Commission then includes those evaluation findings in the TCEQ's biennial report to the Texas Legislature.⁷

2019 Basin Evaluations

In 2019, the ED evaluated the Neches and Sabine River Basins for the five-year period of Fiscal Years (FY) 2014-2018. The total estimated cost for the ED's 2019 evaluation

¹ See Appendix A: Watermaster Programs

² See Appendix B: Current Water Rights Management

³ Texas Water Code (TWC) § 11.326

⁴ See Appendix C: Basin Evaluation Schedule

⁵ TWC § 11.326(h)(1)

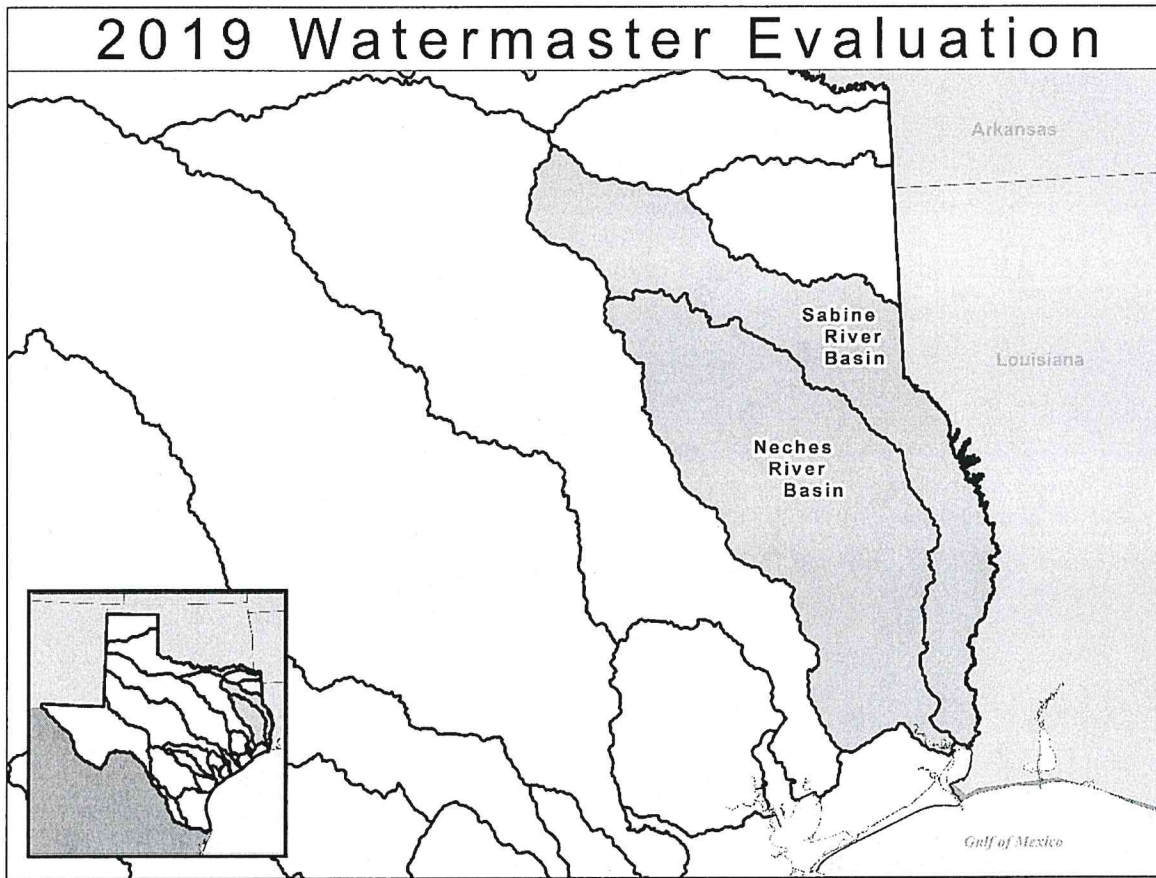
⁶ TWC § 11.326(g)(2)

⁷ TWC § 11.326(h)(2)

TCEQ Interoffice Memorandum

activities is \$76,700.51.⁸ This is the second evaluation of these basins by the ED. The previous evaluation of these basins occurred in 2014.⁹ This memorandum begins with a general discussion of the evaluation criteria and the evaluation process followed by the evaluations of the specific basins.

Figure 1. Map of the Neches and Sabine River Basins



⁸ See Appendix D: 2019 Watermaster Evaluation Costs. This cost includes all 2019 evaluation costs for the following basins: Neches and Sabine River Basins.

⁹ In 2014, the Neches-Trinity Coastal Basin was included along with the Neches and Trinity River Basins evaluations. However, for the second evaluation cycle, the Neches-Trinity Coastal Basin was evaluated with the Trinity River Basin because of the inter-relationships between water rights in this coastal basin and water rights in the Trinity River Basin.

TCEQ Interoffice Memorandum

Evaluation Criteria

The Commission outlined the following evaluation criteria in the September 28, 2011 Work Session:

1. *Is there a court order to create a watermaster?*
2. *Has a petition been received requesting a watermaster?*
3. *Have senior water rights been threatened, based on:*
 - a. *either the history of senior calls or water shortages within the basin or*
 - b. *the number of water right complaints received on an annual basis in each basin?*

Is There a Court Order to Create a Watermaster?

Court orders to create a watermaster are considered in the evaluation.

Has a Petition Been Received Requesting a Watermaster?

In evaluating this criterion, the ED considers petitions that meet statutory and rule requirements. Twenty-five 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.¹⁰

Who may Petition the Commission Requesting a Watermaster?

Holders of water rights that have been determined and adjudicated may petition for the creation of a watermaster, whereas domestic and livestock users (D&L) may not. D&Ls are individuals that “directly divert and use water from a stream or watercourse for domestic and livestock purposes . . . without obtaining a permit”.¹¹ While D&Ls are protected in watermaster areas because they are considered to be superior to appropriated water rights, they are not required to register with the Commission and are not assessed a watermaster fee.¹² Only holders of water rights that have been “determined or adjudicated and are to be administered by the watermaster” are

¹⁰ TWC § 11.451

¹¹ 30 Tex. Admin. Code (TAC) § 297.21(a)

¹² See TWC § 11.329(a) and 30 TAC § 297.21(a)

TCEQ Interoffice Memorandum

required to reimburse the Commission for the compensation and expenses of a watermaster - and D&Ls are not “determined or adjudicated” rights.¹³

How are Undivided Water Rights Considered?

The term “water right holder” is defined as “[a] person or entity that owns a water right. In the case of divided interests, this term will apply to each separate owner.”¹⁴ Accordingly, for undivided water rights, the term “water right holder” does not grant a right separately to each owner. Therefore, each owner of an undivided water right should not be counted as a separate petitioner. For example, a married couple who owns an undivided water right should be counted as one water right holder, not as two separate water right holders.

Have Senior Water Rights Been Threatened?

Definition of a Threatened Water Right

A definition for “threat” is required in order to evaluate whether senior water rights have been threatened. During the September 14, 2012 Commission work session discussing the watermaster evaluation process, the Commission directed the ED to utilize the definition of “threatened water right” from a 2004 Commission Order appointing a watermaster for the Concho River.¹⁵ The 2004 Commission Order was issued in response to petitions for the appointment of a watermaster in the Concho River watershed. The Commission officially approved use of the definition in the ED’s evaluations at the October 31, 2012 agenda. The definition adopted by the Commission is as follows:

“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

¹³ TWC § 11.329(a)

¹⁴ 30 TAC § 304.3(18)

¹⁵ Order Appointing a Watermaster for the Concho River Segment, TCEQ Docket No. 2000-0344-WR, Aug. 17, 2004.

TCEQ Interoffice Memorandum

*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.*¹⁶

Evaluation Process

As part of the evaluation process, the Commission directed the ED to develop information (in addition to the evaluation criteria) to support implementation considerations. The Commission also directed the ED to involve stakeholders in the evaluation process. An explanation of the implementation considerations and stakeholder involvement follows.

Implementation Considerations

The Commission identified specific implementation considerations at the September 28, 2011 Work Session. These considerations include river compacts, environmental flows, the geographic reach of river basins, the number of permitted water rights within the basin, and cost factors for both current water management and potential watermaster programs. Implementation considerations specific to the basins in this evaluation are discussed in detail in later sections below. In this section, the development of the implementation criteria is discussed more generally.

There are five interstate river compacts: Canadian River Compact; Pecos River Compact; Red River Compact; Sabine River Compact; and Rio Grande Compact. The Sabine River Compact is the only interstate compact that applies to the basins considered in this evaluation and will be further discussed later.

TCEQ's adopted environmental flow standards apply to new appropriations of water.¹⁷ Water rights for new appropriations of water in the basins covered in this evaluation will include permit special conditions that are adequate to protect the adopted standards.¹⁸ A watermaster in basins with environmental flow standards administers

¹⁶ *Id.* (emphasis added).

¹⁷ 30 TAC § 298.10

¹⁸ 30 TAC §§ 298.285

TCEQ Interoffice Memorandum

permits with special conditions to protect environmental flow standards in the same manner as water rights are administered in non-watermaster basins. TCEQ does not have authority to restrict diversions by water right holders to protect streamflow solely for the environment, unless the water right includes such a requirement.

The remaining implementation considerations: the geographic reach of river basins, the number of permitted water rights within the basin, and cost factors for both current water management and potential watermaster programs, are fully discussed later in this memorandum.

Stakeholder Involvement

The ED's evaluation included a robust stakeholder process consistent with Commission direction. Stakeholders included:

- all water right holders in the basins evaluated (including river authorities, cities, agricultural interests, and industries);
- county judges;
- county extension agents; and
- other interested parties in the basin (including environmental interests and domestic and livestock users that requested to participate in the evaluation).

The ED facilitated stakeholder activities and involvement with the following:

- **Webpages:** The ED maintained public webpages exclusively dedicated to the watermaster evaluation process. Webpages provided information about watermaster programs, the evaluation process, stakeholder letters, and other information developed during the evaluation.
- **Email Notifications:** Stakeholders were provided the opportunity to sign-up to receive automated updates by email. These notifications included any updates to evaluation webpages, notices, and any other communications.

TCEQ Interoffice Memorandum

- **Outreach Letters:** Initial outreach letters were sent to all stakeholders providing information about the evaluation process and seeking initial comments.¹⁹
- **Stakeholder Meetings:** Stakeholder meetings were held at locations throughout the basins evaluated. Notification of stakeholder meetings were posted on the evaluation webpage and mailed to all stakeholders.²⁰ At stakeholder meetings, staff from the Office of Water and Office of Compliance and Enforcement presented information about water management practices, evaluation requirements, the evaluation process, the processes for establishing watermaster programs, the functions of a watermaster, and evaluation options considered. Additionally, staff addressed stakeholder questions.
- **Public Comments:** Stakeholders were provided with the opportunity to provide comments at stakeholder meetings or submit comments in writing (including via email) during the public comment period. The public comment period opened with the mailing of initial outreach letters on March 11, 2019. The comment period for this evaluation closed on June 19, 2019.

Evaluation of the Neches and Sabine River Basins

The ED's evaluation findings for the Neches and Sabine River Basins are discussed below, including the criteria established by the Commission, the implementation considerations, and a discussion of stakeholder involvement.

History of Court Orders to Create a Watermaster

At this time, there are no court orders to create a watermaster program in the basins under consideration.

History of Petitions Requesting a Watermaster

At this time, there are no active or approved petitions to create a watermaster program in the basins under consideration.

¹⁹ See Appendix F: TCEQ Letters to Stakeholders

²⁰ Ibid.

TCEQ Interoffice Memorandum

Have Senior Water Rights been Threatened?

History of Priority Calls or Water Shortages

There were no priority calls received from FY 2014 to FY 2018.

History of Complaints

See the following table for a summary of complaints by year.

Table 1. Summary of Complaints from FY 2014 to FY 2018

Basin	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	Total
Neches River	6	2	3	1	2	14
Sabine River	4	3	3	0	1	11

From FY 2014 to FY 2018, the TCEQ Regional Offices received and investigated a total of 14 water rights complaints in the Neches River Basin and 11 water rights complaints in the Sabine River Basin.

Of the 14 complaints in the Neches River Basin, 12 resulted in no violations or enforcement actions. Of the remaining, two complaints resulted in violations or enforcement actions that have since been resolved.

Of the 11 complaints in the Sabine River Basin, no complaint resulted in violations or enforcement actions.

The graphs below summarize complaints in the Neches River and Sabine River Basins.

TCEQ Interoffice Memorandum

Figure 2. Graph of Complaints Investigated in the Neches River Basin

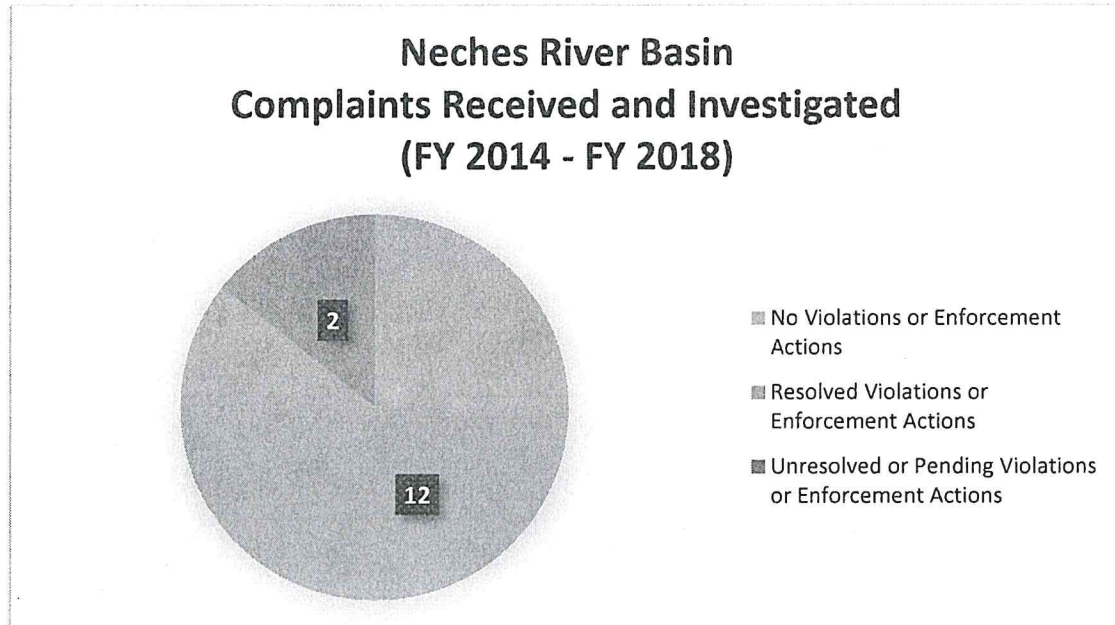
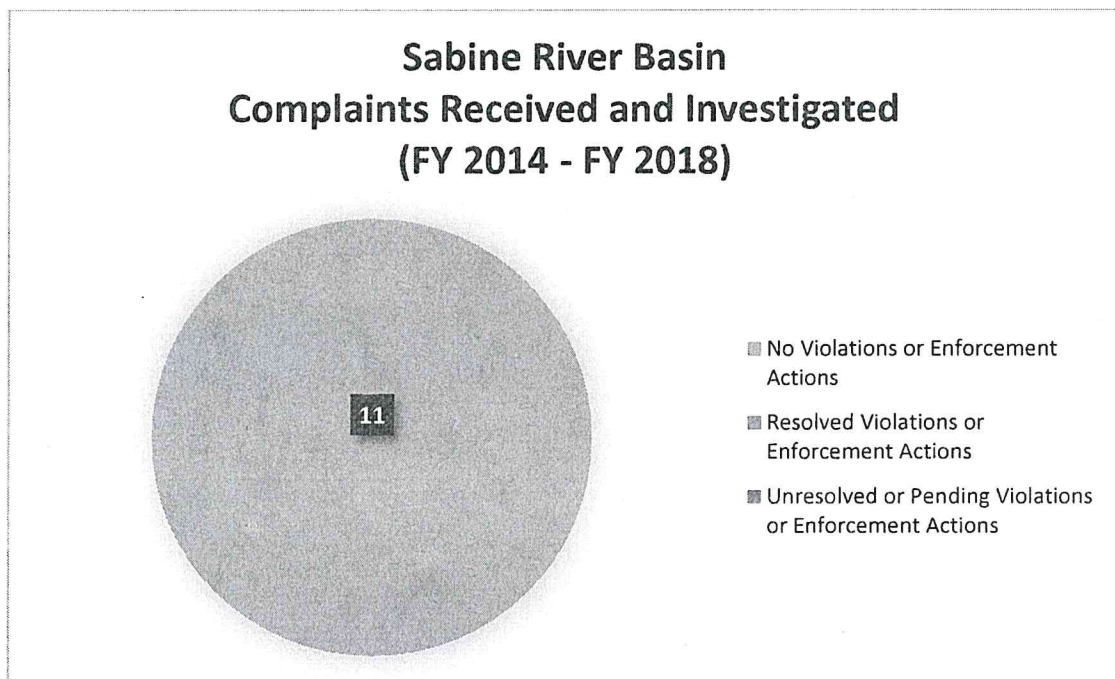


Figure 3. Graph of Complaints Investigated in the Sabine River Basin



TCEQ Interoffice Memorandum

Table 2. Summary of Investigations* from FY 2014 to FY 2018

Basin	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	Total
Neches River	35	35	68	23	46	207
Sabine River	61	44	27	57	21	210

*Investigation types include complaints, temporary permits, and compliance initiatives.

From FY 2014 to FY 2018, the TCEQ Regional Offices conducted a total of 207 water-rights related investigations in the Neches River Basin and 210 water-rights related investigations in the Sabine River Basin.

Of the 207 investigations in the Neches River Basin, 203 resulted in no violations or enforcement actions. Of the remaining, four resulted in violations or enforcement actions that have since been resolved.

Of the 210 investigations in the Sabine River Basin, 206 resulted in no violations or enforcement actions. Of the remaining, four resulted in violations or enforcement actions that have since been resolved.

The graphs below summarize investigations conducted in the Neches River Basin and the Sabine River Basin.

TCEQ Interoffice Memorandum

Figure 4. Graph of Investigations Conducted in the Neches River Basin

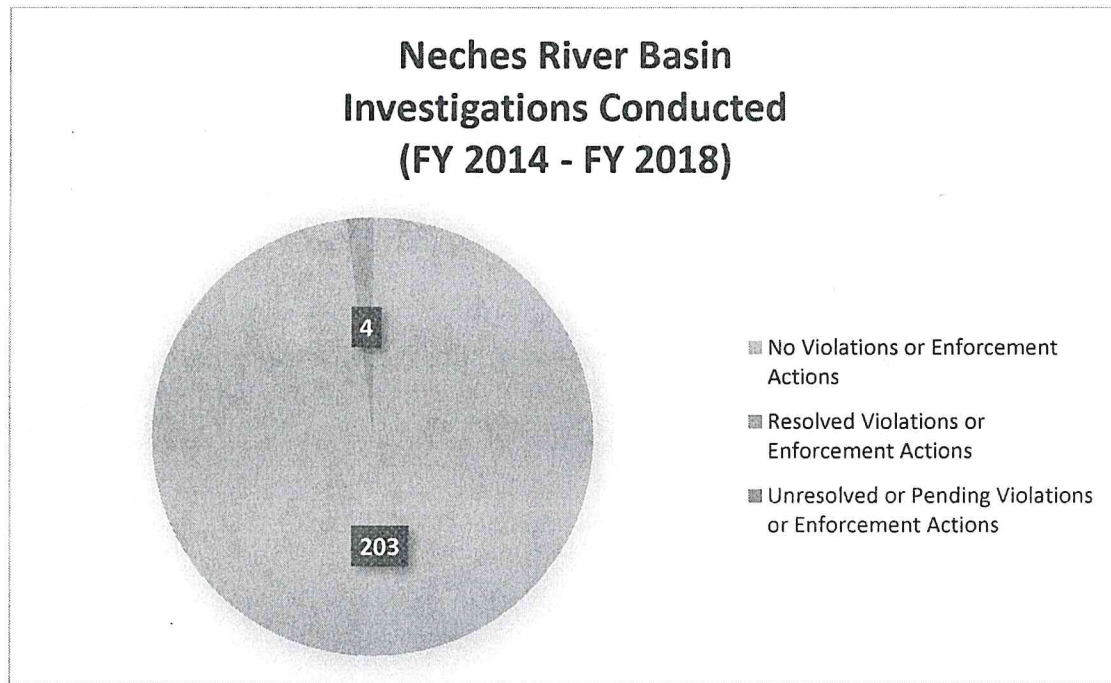
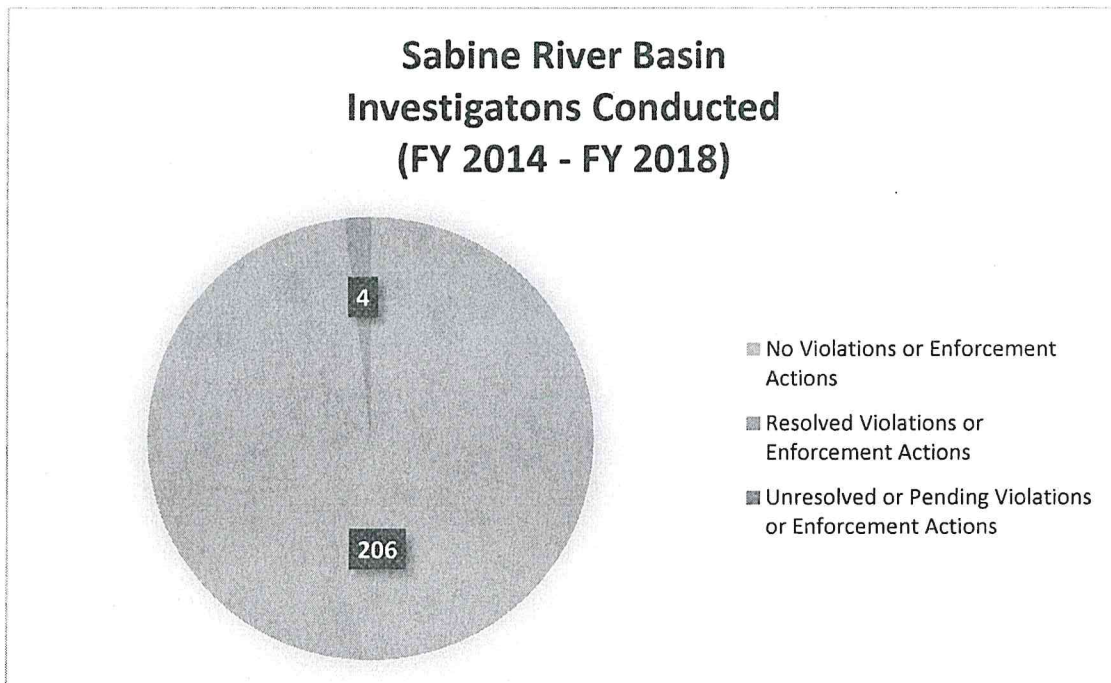


Figure 5. Graph of Investigations Conducted in the Sabine River Basin



TCEQ Interoffice Memorandum

Implementation Considerations

A summary of implementation considerations is provided below.²¹

Geographic Reach of the Basin and Water Right Information

The Neches River Basin includes all or a portion of 21 counties with 245 water rights.

The Sabine River Basin includes all or a portion of 21 counties with 203 water rights.

Existence of River Compacts

The State of Texas is a member of an interstate river compact in the Sabine River basin. Interstate river compact commissions have been established to administer each of the compacts. The primary function of the compact commissions 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 the Sabine River Compact are met.

Environmental Flows

TCEQ adopted environmental flow standards for the Neches and Sabine River Basins in 2011.²²

Cost Factors

The total estimated costs for the ED to manage water rights for FY's 2014 – 2018 in the Neches River Basin was \$38,651, and the Sabine River Basin was \$31,836.

The ED considered four options when evaluating watermaster program costs for the Neches and Sabine River Basins. These options were presented to stakeholders at meetings held throughout the basins. A more detailed discussion of costs is included in Appendix E.

²¹ See Appendix E: Implementation Considerations for the Neches and Sabine River Basins

²² 30 TAC Chapter 298, Subchapter C

TCEQ Interoffice Memorandum

Option 1: No watermaster recommended for the Neches and Sabine River Basins.

Option 2: Create a Watermaster Program encompassing the Neches and Sabine River Basins. Year 1 has an estimated cost of \$516,354 with a cost of \$409,866 for subsequent years.

Option 3: Create a Watermaster Program encompassing solely the Neches River Basin. Year 1 has an estimated cost of \$384,379 with a cost of \$308,530 for subsequent years.

Option 4: Create a Watermaster Program encompassing solely the Sabine River Basin. Year 1 has an estimated cost of \$382,685 with a cost of \$306,779 for subsequent years.

Stakeholder Involvement

On March 11, 2019 the initial outreach letter was mailed to stakeholders initiating the comment period for the evaluation. On May 3, 2019, a letter announcing stakeholder meetings was mailed to the stakeholders. Stakeholder meetings were conducted in Beaumont, Lufkin and Tyler between June 11, 2019 and June 13, 2019. Written comments were received during the evaluation period. All comments received during the comment period were also made available on the TCEQ external web page.

Table 3. Summary of Written Comments for Neches and Sabine River Basins

Basin	Comments Received				
	Total	In Favor		Opposed	
		Water Right Holders	Other	Water Right Holders	Other
Neches	3	0	0	3	0
Sabine	6	0	0	6	0

Executive Director's Recommendation

As detailed in this document, the ED considered the evaluation criteria outlined by the Commission in the September 28, 2011 work session and addressed implementation considerations for the establishment of a watermaster. For the evaluated basins, there

TCEQ Interoffice Memorandum

were no court orders to create a watermaster and no petitions from water right holders requesting a watermaster. There were no priority calls in the Neches River Basin or Sabine River Basin. Complaints and investigations in both basins were relatively few in number and a significant majority did not result in violations or enforcement actions.

The Executive Director does not believe that the criteria for recommending the creation of a watermaster have been met. As a result, at this time the ED does not recommend that the Commission move forward on its own motion with the creation of a watermaster program for the Neches and Sabine River Basins.

Twenty-five or more holders of water rights in a river basin or segment of a river basin may petition the Commission to appoint a watermaster. The Commission may refer a valid petition to the State Office of Administrative Hearings for a complete administrative hearing and recommendation to the Commissioners for consideration.

While the statute requires the ED to evaluate the need for a watermaster at least every five years; there is no prohibition against evaluating a basin sooner, on an as needed basis, if threats to senior water rights occur. The ED can also consider stakeholder input, and the ED is always open to additional information from stakeholders. It is important to have stakeholder support in articulating the threat and the need to establish a new program as water right holders will be responsible for paying a new fee to support the new regulatory program.

TCEQ Interoffice Memorandum

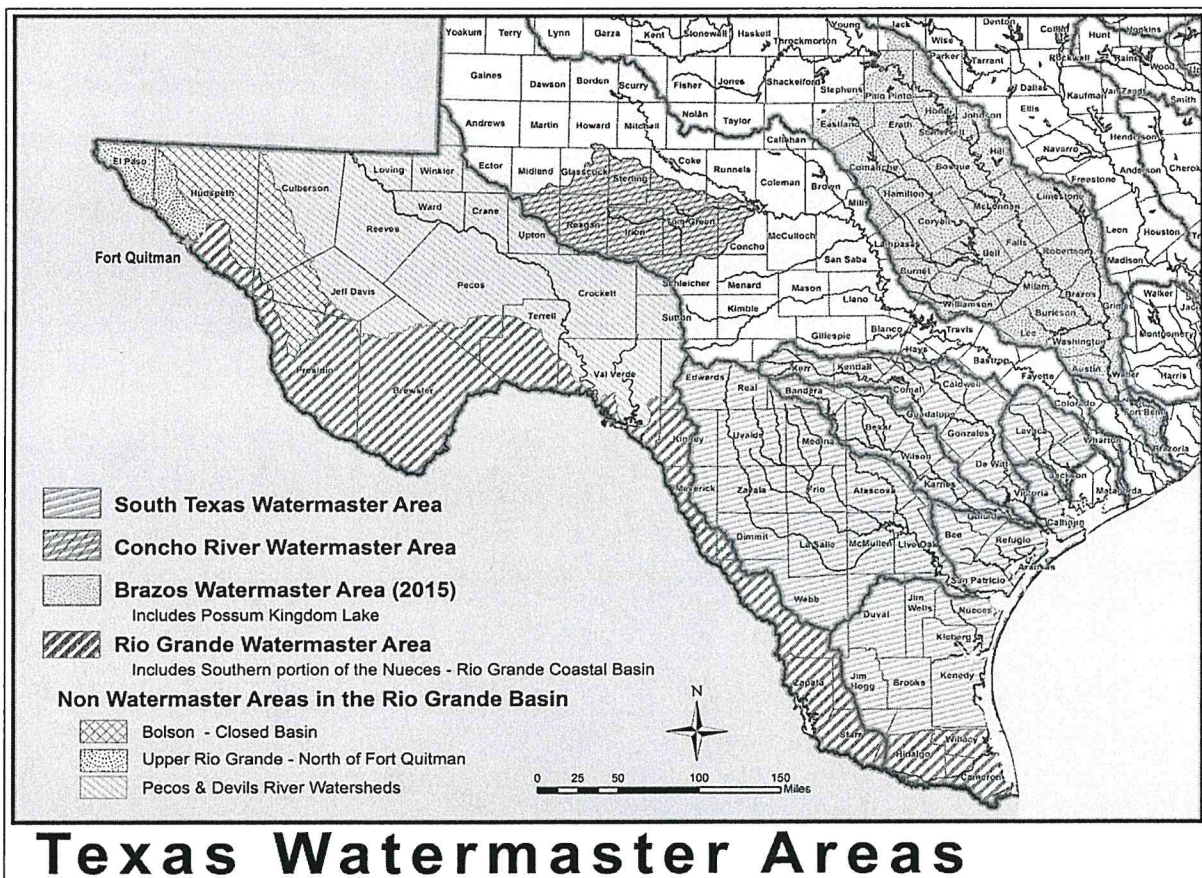
List of Appendices

- Appendix A: Watermaster Programs
- Appendix B: Current Water Rights Management
- Appendix C: Basin Evaluation Schedule
- Appendix D: 2019 Watermaster Evaluation Costs
- Appendix E: Implementation Considerations
- Appendix F: TCEQ Letters to Stakeholders

Appendix A: Watermaster Programs

There are four watermaster programs in Texas:

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 adjoining 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.



Appendix B: Current Water Rights Management

Surface water rights are managed by the TCEQ either through an established watermaster program or through one of the 16 Regional Offices in non-watermaster areas. TCEQ is responsible for protection of senior water rights regardless of whether a watermaster program has been established in the affected area.

Day-to-day Water Rights Management

Watermaster Areas

Watermasters proactively manage water rights in their areas and allocate available water according to water right priorities on a real-time operational basis. In a watermaster area, a water rights holder must notify the watermaster of how much water they plan to divert, before the water right holder diverts its authorized water. After receiving a declaration of intent (DOI) to divert water, the watermaster determines whether a diversion will remove water that rightfully belongs to another user. As needed, the watermaster will notify any users with more junior priority dates to reduce pumping or to stop pumping altogether if necessary.

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 daily investigation activities.

Watermasters can respond quickly to identify and stop illegal diversions because of their real-time monitoring of local streamflow conditions. Also, because watermasters have information on which water is being diverted under a water right at any given time, 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.

Appendix B: Current Water Rights Management

Non-Watermaster Areas

TCEQ regional offices conduct active water management activities in areas of the state outside the jurisdiction of a watermaster program 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 for surface water. 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 other TCEQ program areas and outside stakeholders.

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.

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 domestic and livestock users (D&Ls), 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 Executive Director 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 coordinates TCEQ response to priority calls and may recommend that water rights be suspended in response to a call.

Appendix B: Current Water Rights Management

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 quickly 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 the Office of Compliance and Enforcement (OCE) based on one of the following two scenarios:

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

Appendix C: Basin Evaluation Schedule

Texas Water Code (TWC) §11.326(g)(1) requires the Executive Director to evaluate basins without a watermaster at least every five years to determine if a watermaster should be appointed. The Executive Director conducted the first cycle of evaluations from 2012 through 2016. The second cycle of evaluations began in 2017.

Cycle 1

Year	Basin
2012	Brazos River Basin Brazos-Colorado Coastal Basin Colorado River Basin Colorado-Lavaca Coastal Basin
2013	Trinity River Basin Trinity-San Jacinto Coastal Basin San Jacinto River Basin San Jacinto-Brazos Coastal Basin
2014	Sabine River Basin Neches River Basin Neches-Trinity Coastal Basin
2015	Canadian River Basin Red River Basin
2016	Cypress Creek Basin Sulphur River Basin

Cycle 2

Year	Basin
2017	Brazos River Basin (Upper Only) San Jacinto-Brazos Coastal Basin Brazos-Colorado Coastal Basin Colorado River Basin Colorado-Lavaca Coastal Basin
2018	Trinity River Basin San Jacinto River Basin Trinity-San Jacinto Coastal Basin Neches-Trinity Coastal Basin
2019	Sabine River Basin Neches River Basin
2020	Canadian River Basin Red River Basin
2021	Cypress Creek Basin Sulphur River Basin

Appendix D: 2019 Watermaster Evaluation Costs

The costs for the Executive Director's evaluation of the Neches and Sabine River Basins are summarized below.

Costs Associated to the Evaluation

Total Estimated Costs for TCEQ Evaluation Activity: \$76,700.51

Office of Water Costs

- OW Staff time: \$74,244.27
 - Multiple staff participated in this evaluation for a portion of their time, equating to 1.0 full time equivalents for the duration of the project.
 - Calculated salaries for 1.0 FTEs from December 2018 through August 2019 (9 months).
 - Assumed mid-level B23.
 - Fringe (36.00 % of base salary): \$19,652.90
- Postage: \$528.00
- Travel: \$1,198.00
- Total: \$75,970.27

Office of Legal Services Costs

- OLS staff time: \$104.04
 - Calculated staff attorney review time of 3 hours
- Total: \$104.04

Office of Compliance and Enforcement Costs

- OCE staff time: \$626.20
 - Time spent preparing information and attending meetings plus travel time, calculated using regular labor: 20 hours
- State equipment use (vehicle): \$0
- Total: \$626.20

Appendix D: 2019 Watermaster Evaluation Costs

Other Agency Programs

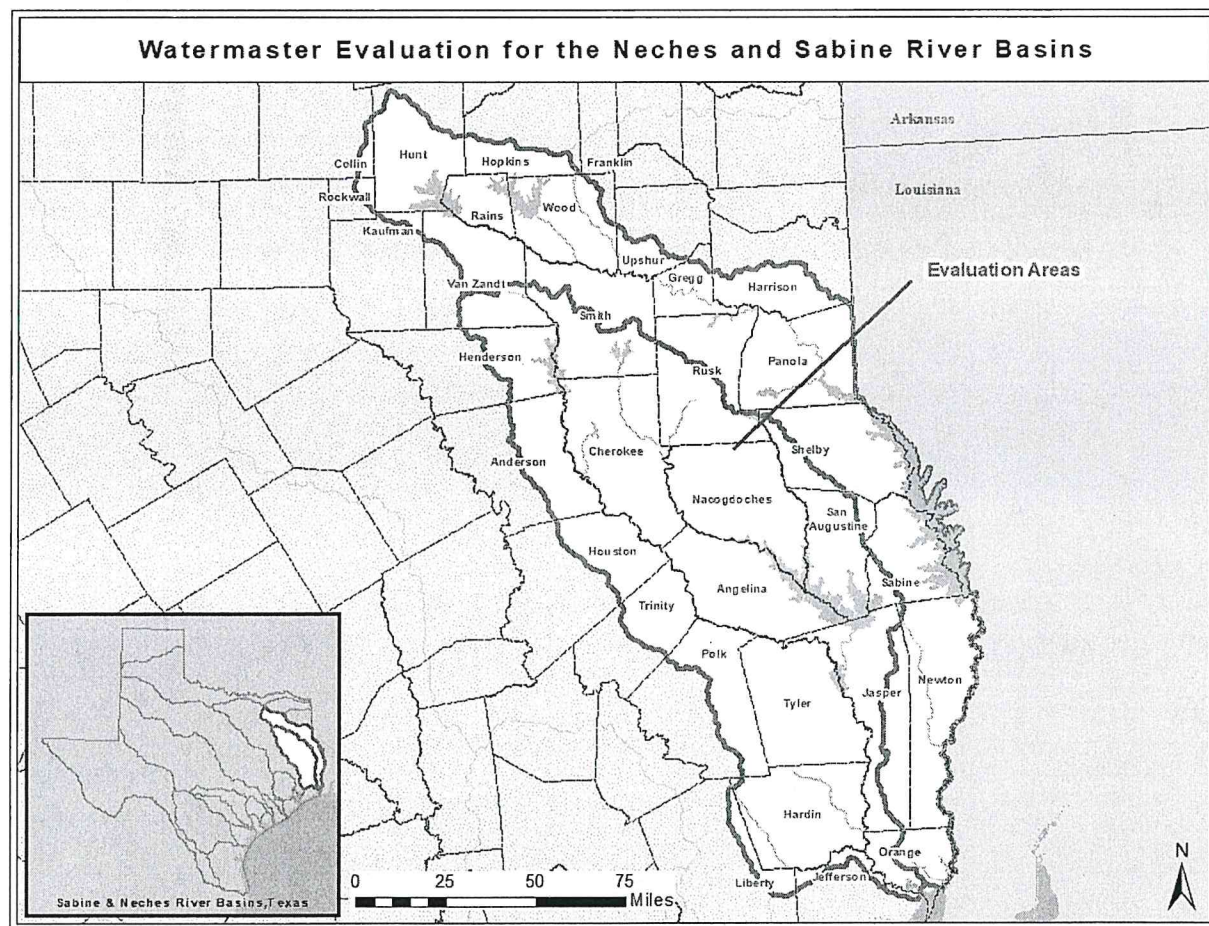
Other agency staff were provided an opportunity to participate, but no significant costs were associated with their involvement.

Appendix E: Implementation Considerations for the Neches and Sabine River Basins

Geographic Reach of the Basins and Water Right Information

The Neches River and Sabine River Basins are located in the eastern part of the state (Figure 1). The Neches River Basin includes all or a portion of 21 counties and 245 water rights, and the Sabine River Basin includes all or a portion of 21 counties and 203 water rights (Table 1). 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.

Figure 1. Neches River Basin and Sabine River Basin



Appendix E: Implementation Considerations for the Neches and Sabine River Basins

Table 1. Number of Permitted Water Rights by Basin and County

<i>Neches</i>		<i>Sabine</i>	
<i>County</i>	<i>No. of Water Rights</i>	<i>County</i>	<i>No. of Water Rights</i>
Anderson*	23	Collin*	0
Angelina	11	Franklin*	0
Cherokee	29	Gregg*	15
Hardin*	3	Harrison*	21
Henderson*	12	Hopkins*	5
Houston*	18	Hunt*	5
Jasper*	6	Jasper*	0
Jefferson*	14	Kaufman*	0
Liberty*	2	Newton*	4
Nacogdoches	30	Orange*	3
Newton*	0	Panola	17
Orange*	4	Rains	6
Polk*	6	Rockwall*	0
Rusk*	10	Rusk*	17
Sabine*	1	Sabine*	1
San Augustine*	4	San Augustine*	0
Shelby*	3	Shelby*	4
Smith*	33	Smith*	32
Trinity*	2	Upshur*	7
Tyler	19	Van Zandt*	20
Van Zandt*	15	Wood*	46

*Counties with an asterisk are located in multiple basins.

Watermaster Program Options and Costs

The ED considered four options (numbered 1, 2, 3, and 4 below) when evaluating watermaster program costs for the Neches River and Sabine River Basins. These options were presented to stakeholders at meetings held throughout the basins.

Appendix E: Implementation Considerations for the Neches and Sabine River Basins

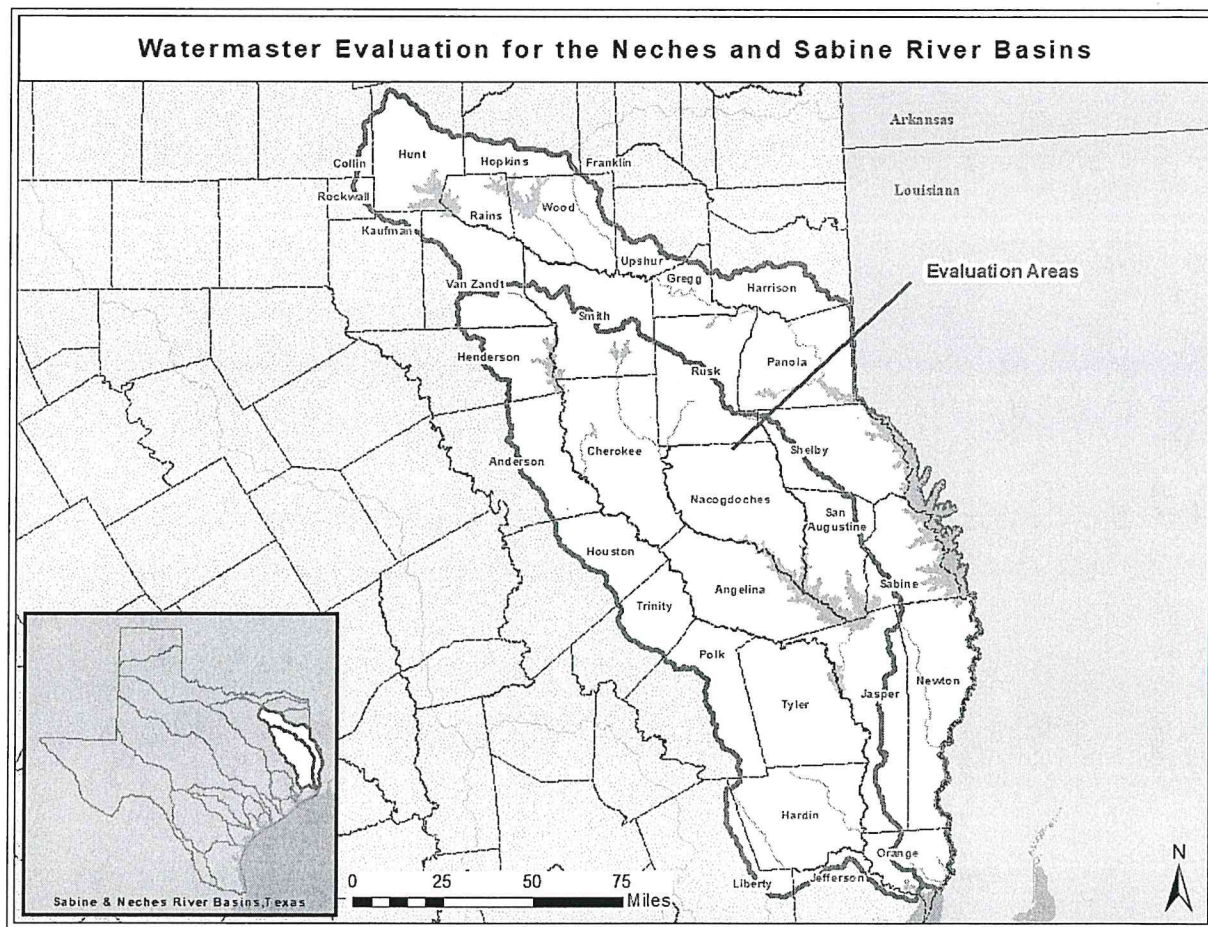
Option 1: No watermaster recommended for the Neches and Sabine River Basins.

Option 2: Create a Watermaster Program encompassing the Neches and the Sabine River Basins (Figure 2).

Number of permitted water rights: 446 (Table 2)

Counties: 33 (29 have permitted water rights)

Figure 2. Watermaster Program for the Neches and Sabine River Basins (Option 2)



Appendix E: Implementation Considerations for the Neches and Sabine River Basins

Table 2. Number of Permitted Water Rights by County (Option 2)

County Name	Number of Water Rights	County Name	Number of Water Rights
Anderson*	23	Newton*	4
Angelina	11	Orange*	7
Cherokee	29	Panola	17
Collin*	0	Polk*	6
Franklin*	0	Rains	6
Gregg*	15	Rockwall*	0
Hardin*	3	Rusk*	27
Harrison*	21	Sabine*	2
Henderson*	12	San Augustine*	4
Hopkins*	5	Shelby*	6
Houston*	18	Smith*	64
Hunt*	5	Trinity*	2
Jasper*	6	Tyler	19
Jefferson*	14	Upshur*	7
Kaufman*	0	Van Zandt*	35
Liberty*	2	Wood*	46
Nacogdoches	30		

* The number of water rights compared to the water rights by county may differ slightly as some water rights are authorized in multiple counties. Counties with an asterisk are located in multiple basins.

Year 1 has an estimated cost of \$516,354, with a cost of \$409,866 for each subsequent year. Actual assessments would vary based on the estimated expected return rate.

Table 3 summarizes expected expenditures for Option 2. Costs include:

- Watermaster, one administrative assistant and one watermaster specialist/field deputy located in either the TCEQ Beaumont or Tyler Regional Office.
- One senior specialist/field deputy located in the TCEQ Beaumont or Tyler Regional Office.

Appendix E: Implementation Considerations for the Neches and Sabine River Basins

Table 3. Cost Estimate (Option 2)

	Year 1	Year 2	Assumptions
Salaries			
Watermaster	\$63,104	\$65,250	1 Watermaster (Program Supervisor VI, B25 with 3.4% increase by year 2)
Administrative Assistant	\$33,660	\$34,804	1 Administrative Assistant IV, A15 (\$33,660/year with 3.4% increase by year 2)
Watermaster Specialist IV	\$48,278	\$49,919	1 Watermaster Specialist IV, B21 (\$48,278/ year with a 3.4% increase by year 2)
Watermaster Specialist II	\$36,976	\$38,233	1 Watermaster Specialist II, B17 (\$36,976/year with 3.4% increase by year 2)
Watermaster Liaison	\$12,233	\$12,649	Liaison Salary determined by percentage of water rights among all watermaster programs. In this instance, assumption is 11.2% of all water rights across all watermaster programs.
Total Salaries	\$194,251	\$200,855	
Fringe	\$69,930	\$72,308	Agency Standard is 36% of Salaries
SORM fee	\$400	\$400	\$100/person. Based on average from current WM programs
SWCAP fee	\$3,060	\$3,060	\$765/person. Based on average from current WM programs
Professional/Temp Services	\$40,000	\$40,000	Higher in first two years to implement new accounting system for program.
Travel In-State	\$12,000	\$12,000	Based on current watermaster programs.
Training	\$4,000	\$4,000	\$1,000 per employee
Rent - Building	\$30,000	\$30,000	
Postage	\$1,200	\$1,200	Based on CRWM Amount
Phone/Utilities	\$4,000	\$4,000	Based on CRWM Amount
Supplies - Consumables	\$1,000	\$1,000	
Other Operating Expenses	\$9,713	\$10,043	Based on Agency Standard FTE Costs (5% of base salary)
Fuels/Lubricants	\$10,000	\$10,000	Estimated based on CRWM and higher volume of driving
Rent - Machine & Other	\$1,000	\$1,000	
Facilities, Furniture, and Equipment	\$50,000	\$20,000	Equipment Purchases
Capital Equipment - IT	\$4,800	\$0	4 computers at \$1,200
Capital - Vehicles	\$81,000	\$0	3 vehicles at \$27,000
Total	\$516,354	\$409,866	

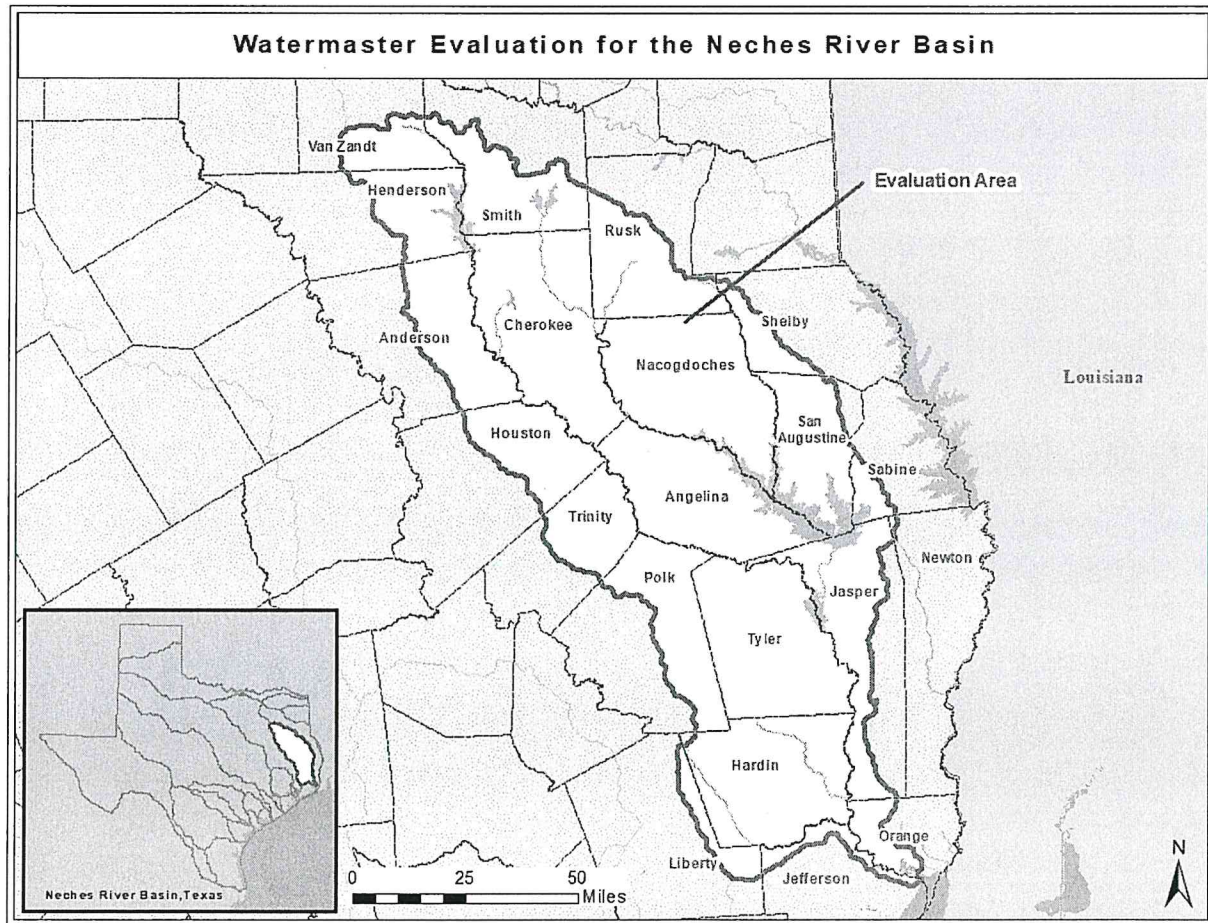
Appendix E: Implementation Considerations for the Neches and Sabine River Basins

Option 3: Create a Watermaster Program encompassing the Neches River Basin (Figure 3).

Number or permitted water rights: 245 (Table 4)

Counties: 21 (20 have permitted water rights)

Figure 3. Watermaster Program for Neches River Basin (Option 3)



Appendix E: Implementation Considerations for the Neches and Sabine River Basins

Table 4. Number of Permitted Water Rights by County (Option 3)

County Name	Number of Water Rights	County Name	Number of Water Rights
Anderson*	23	Orange*	4
Angelina	11	Polk*	6
Cherokee	29	Rusk*	10
Hardin*	3	Sabine*	1
Henderson*	12	San Augustine*	4
Houston*	18	Shelby*	3
Jasper*	6	Smith*	33
Jefferson*	14	Trinity*	2
Liberty*	2	Tyler	19
Nacogdoches	30	Van Zandt*	15
Newton*	0		

* The number of water rights compared to the water rights by county may differ slightly as some water rights are authorized in multiple counties. Counties with an asterisk are located in multiple basins.

Year 1 has an estimated cost of \$384,379, with a cost of \$308,530 for each subsequent year. Actual assessments would vary based on the estimated expected return rate.

Table 5 summarizes estimated expenditures for Option 3.

Costs include:

- Watermaster and administrative assistant located in either the TCEQ Beaumont or Tyler Regional Office.
- One watermaster specialist/field deputy located in the TCEQ Beaumont or Tyler Regional Offices.

Appendix E: Implementation Considerations for the Neches and Sabine River Basins

Table 5. Cost Estimate (Option 3)

	Year 1	Year 2	Assumptions
Salaries			
Watermaster	\$63,104	\$65,250	1 Watermaster (Program Supervisor VI, B25 with 3.4% increase by year 2)
Administrative Assistant	\$33,660	\$34,804	1 Administrative Assistant IV, A15 (\$33,660/year with 3.4% increase by year 2)
Watermaster Specialist II	\$36,976	\$38,233	1 Watermaster Specialist II, B17 (\$36,976/year with 3.4% increase by year 2)
Watermaster Liaison	\$7,100	\$7,341	Liaison Salary determined by percentage of water rights among all watermaster programs. In this instance, assumption is 6.5% of all water rights across all watermaster programs.
Total Salaries	\$140,840	\$145,628	
Fringe	\$50,702	\$52,426	Agency Standard is 36% of Salaries
SORM fee	\$300	\$300	\$100/person. Based on average from current WM programs
SWCAP fee	\$2,295	\$2,295	\$765/person. Based on average from current WM programs
Professional/Temp Services	\$40,000	\$40,000	Higher in first two years to implement new accounting system for program.
Travel In-State	\$6,000	\$6,000	
Training	\$3,000	\$3,000	\$1,000 per employee
Rent - Building	\$25,000	\$25,000	
Postage	\$800	\$800	Based on CRWM Amount
Phone/Utilities	\$4,000	\$4,000	Based on CRWM Amount
Supplies - Consumables	\$800	\$800	
Other Operating Expenses	\$7,042	\$7,281	Based on Agency Standard FTE Costs (5% of base salary)
Fuels/Lubricants	\$5,000	\$5,000	Estimated based on CRWM and higher volume of driving
Rent - Machine & Other	\$1,000	\$1,000	
Facilities, Furniture, and Equipment	\$40,000	\$15,000	Equipment Purchases
Capital Equipment - IT	\$3,600	\$0	3 computers at \$1,200
Capital - Vehicles	\$54,000	\$0	2 vehicles at \$27,000
Total	\$384,379	\$308,530	

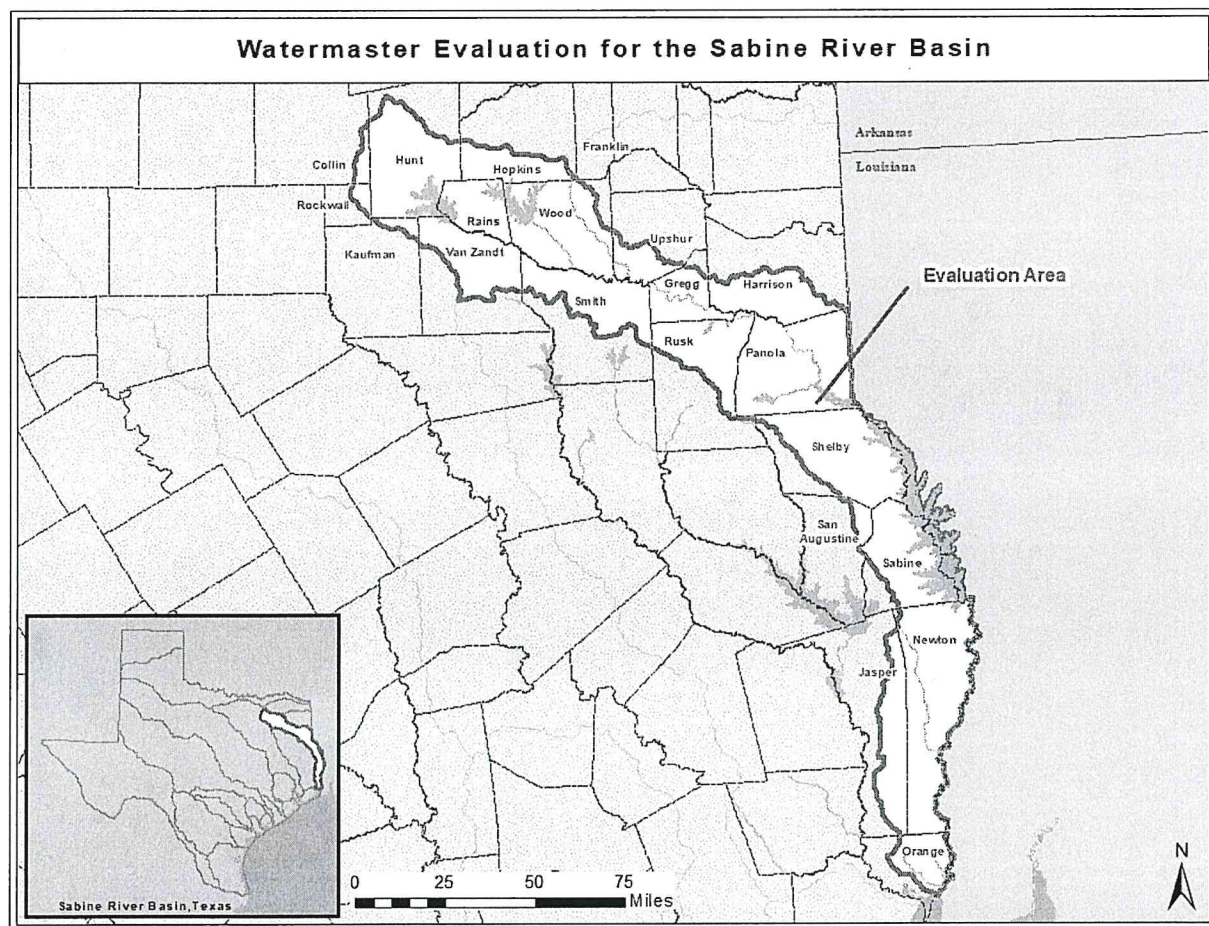
Appendix E: Implementation Considerations for the Neches and Sabine River Basins

Option 4: *Create a Watermaster Program encompassing the Sabine River Basin (Figure 4).*

Number or permitted water rights: 203 (Table 6)

Counties: 21 (15 have permitted water rights)

Figure 4. Watermaster Program for Sabine River Basin (Option 4)



Appendix E: Implementation Considerations for the Neches and Sabine River Basins

Table 6. Number of Permitted Water Rights by County (Option 4)

County Name	Number of Water Rights	County Name	Number of Water Rights
Collin*	0	Rains	6
Franklin*	0	Rockwall*	0
Gregg*	15	Rusk*	17
Harrison*	21	Sabine*	1
Hopkins*	5	San Augustine*	0
Hunt*	5	Shelby*	4
Jasper*	0	Smith*	32
Kaufman*	0	Upshur*	7
Newton*	4	Van Zandt*	20
Orange*	3	Wood*	46
Panola	17		

* The number of water rights compared to the water rights by county may differ slightly as some water rights are authorized in multiple counties. Counties with an asterisk are located in multiple basins.

Year 1 has an estimated cost of \$382,685, with a cost of \$306,779 for each subsequent year. Actual assessments would vary based on the estimated expected return rate.

Table 7 summarizes estimated expenditures for Option 4.

Costs include:

- Watermaster and administrative assistant located in either the TCEQ Beaumont or Tyler Regional Office.
- One watermaster specialist/field deputy located in the TCEQ Beaumont or Tyler Regional Offices.

Appendix E: Implementation Considerations for the Neches and Sabine River Basins

Table 7. Cost Estimate (Option 4)

	Year 1	Year 2	Assumptions
Salaries			
Watermaster	\$63,104	\$65,250	1 Watermaster (Program Supervisor VI, B25 with 3.4% increase by year 2)
Administrative Assistant	\$33,660	\$34,804	1 Administrative Assistant IV, A15 (\$33,660/year with 3.4% increase by year 2)
Watermaster Specialist II	\$36,976	\$38,233	1 Watermaster Specialist II, B17 (\$36,976/year with 3.4% increase by year 2)
Watermaster Liaison	\$5,898	\$6,099	Liaison Salary determined by percentage of water rights among all watermaster programs. In this instance, assumption is 5.4% of all water rights across all watermaster programs.
Total Salaries	\$139,638	\$144,386	
Fringe	\$50,270	\$51,979	Agency Standard is 36% of Salaries
SORM fee	\$300	\$300	\$100/person. Based on average from current WM programs
SWCAP fee	\$2,295	\$2,295	\$765/person. Based on average from current WM programs
Professional/Temp Services	\$40,000	\$40,000	Higher in first two years to implement new accounting system for program.
Travel In-State	\$6,000	\$6,000	
Training	\$3,000	\$3,000	\$1,000 per employee
Rent - Building	\$25,000	\$25,000	
Postage	\$800	\$800	Based on CRWM Amount
Phone/Utilities	\$4,000	\$4,000	Based on CRWM Amount
Supplies - Consumables	\$800	\$800	
Other Operating Expenses	\$6,982	\$7,219	Based on Agency Standard FTE Costs (5% of base salary)
Fuels/Lubricants	\$5,000	\$5,000	Estimated based on CRWM and higher volume of driving
Rent - Machine & Other	\$1,000	\$1,000	
Facilities, Furniture, and Equipment	\$40,000	\$15,000	Equipment Purchases
Capital Equipment - IT	\$3,600		3 computers at \$1,200
Capital - Vehicles	\$54,000		2 vehicles at \$27,000
Total	\$382,685	\$306,779	

Appendix F: TCEQ Letters to Stakeholders

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 11, 2019

Re: Watermaster Evaluation for the Neches River and Sabine River Basins

Dear Stakeholder:

The Texas Commission on Environmental Quality (TCEQ) is currently evaluating the Neches River and Sabine River Basins to determine whether a watermaster should be appointed. The purpose of this letter is to notify you and to seek written input on the process, which will help the agency to identify information that should be considered during our evaluation.

According to Subsections 11.326(g) and (h) of the Texas Water Code, the Executive Director (ED) must evaluate all river basins at least once every five years that do not currently have a watermaster to determine whether one should be appointed. The ED must report the findings from the evaluation and make recommendations to the TCEQ Commissioners. The Commissioners will direct the ED to move forward with the recommendation, revise the recommendation, or they may take no action on the recommendation. The evaluation findings and recommendations are to be included in the agency's Biennial Report to the Legislature.

In an effort to include the public and develop the best recommendations, we are soliciting input from stakeholders, including water right holders, domestic and livestock users, river authorities, agricultural, industrial and environmental organizations, the general public, and other interested parties. As part of the evaluation, we plan to mail notifications of stakeholder meetings to all stakeholders within these basins expected to be held in June. The input received from stakeholders will be discussed at the TCEQ Commissioners' Agenda tentatively scheduled for late summer.

As a stakeholder in these basins, you are being contacted during this initial outreach. If you are aware of any other person who might be interested but did not receive this initial outreach letter, please forward this information to them.

We will consider the following criteria when evaluating a basin:

- (1) *Has there been a court order to create a watermaster?*
- (2) *Has TCEQ received a petition requesting a watermaster?*
- (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?*

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Appendix F: TCEQ Letters to Stakeholders

Re: Watermaster Evaluation

Page 2

March 11, 2019

If the establishment of a watermaster is recommended and approved, a budget would be established each year, and the watermaster program would be administered using fees collected from water right holders in the watermaster area. The enclosed fact sheet includes general information about the watermaster programs including the fees associated to a program. TCEQ requests and appreciates your input on this evaluation. In particular, we ask that you provide written input regarding the possible threat to senior water rights (item 3 above) as well as proposals for implementing a possible watermaster program.

Please include the following information in your letter:

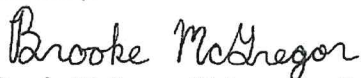
1. The river or waterbody you are discussing.
2. Your affiliation (for example, a water right holder with a water right permit (including number if known), a domestic and livestock user, an adjacent landowner, an interested party, or environmental organization).

This request for written input is your first opportunity to participate in this process. Comments will be accepted through the end of June. In order to help us plan for our June stakeholder meetings, please send written comments you have at this time by April 5, 2019. Comments should be sent to my attention at the following address: TCEQ, Water Availability Division, Watermaster Section, MC-160, P.O. Box 13087, Austin, Texas 78711-3087. You may also send an email to: watermaster@tceq.texas.gov.

If you have any questions or additional comments, please feel free to contact me at (512) 239-2025.

In addition, you may sign up to receive email updates at: <https://public.govdelivery.com/accounts/TXTCEQ/subscriber/new>. Additional information on the evaluation process is available on TCEQ's website: www.tceq.texas.gov/goto/watermaster. We value your comments on the evaluation process, including the criteria being used, as well as information to assist the agency in its evaluation of your basin. Thank you for your participation.

Sincerely,



Brooke McGregor, Watermaster Program Liaison
Water Availability Division
Texas Commission on Environmental Quality

Enclosures

Appendix F: TCEQ Letters to Stakeholders

Watermaster Evaluation Fact Sheet - 2019

Background

On May 28, 2011, the Texas Legislature adopted the Texas Commission on Environmental Quality (TCEQ) Sunset legislation, HB 2694, which includes a requirement for the TCEQ to evaluate and issue a report for all river and coastal basins that do not have a watermaster. The report will assess whether or not a watermaster should be appointed and is required at least once every five years for every basin. The TCEQ developed a schedule to consider several basins each year, resulting in the creation of a five-year cycle. The first cycle began in 2012 and was completed in 2016. In that five-year time, all basins that did not have a watermaster program were evaluated. The second cycle began in 2017. This year, the TCEQ will evaluate the Neches River and Sabine River Basins.

What is a Watermaster Program?

Watermaster programs operate from field offices within their designated basin(s) and perform the following functions:

- ❖ A watermaster continuously monitors streamflows, reservoir levels, and water use within a basin.
- ❖ As needed, holders of impoundment rights may notify the watermaster when they plan to release sold water. The watermaster can then monitor usage downstream to ensure that the released water reaches the buyer.
- ❖ Before starting their pumps, opening their sluice gates, or starting to divert water in any other way, all water right holders must notify the watermaster and state how much water they plan to divert.
- ❖ The watermaster determines whether a diversion will remove water that rightfully belongs to another user and could notify a user with more junior water rights to reduce or stop pumping if needed.
- ❖ When streamflows diminish, the watermaster allocates available water among the water right holders according to each user's priority date.
- ❖ If a water-right holder does not comply with the water right or with TCEQ rules, the executive director may direct a watermaster to adjust the control works, including pumps, to prevent the owner from diverting, taking, storing, or distributing water until the water right holder complies.

There are currently four watermaster programs in Texas:

- ❖ The Rio Grande Watermaster coordinates releases from the Amistad and Falcon reservoir system.
- ❖ The South Texas Watermaster serves the Nueces, San Antonio, Guadalupe, and Lavaca river basins, as well as the adjacent coastal basins.
- ❖ The Concho Watermaster, currently a division of the South Texas Watermaster, serves the Concho River segment of the Colorado River Basin.
- ❖ The Brazos Watermaster, covers Possum Kingdom reservoir and areas downstream of the reservoir in the Brazos River Basin.

Appendix F: TCEQ Letters to Stakeholders

Advantages of a Watermaster Program

In addition to their monitoring of river conditions, TCEQ watermasters can provide valuable services to the water users in the basins they oversee:

- ❖ Watermasters can coordinate diversions in the basin, ensuring that all water users get the best overall value from the water available to them.
- ❖ With their real-time monitoring of local streamflows, watermasters can quickly identify and stop illegal diversions.
- ❖ Watermasters may be able to anticipate a shortage before it reaches the crisis point, thus enabling local users to work together to develop a strategy that will meet the users' most basic needs.
- ❖ When disputes arise among water users, the watermaster can often help the users settle the matter, thereby avoiding costly litigation.
- ❖ Watermasters can provide valuable technical assistance.
- ❖ A watermaster program affords a long-term solution for managing water rights in a river basin.

Program Costs and Fees

According to state law, water-right holders in a watermaster area must pay the costs associated with a watermaster program through an annual fee. Certain domestic and livestock uses are exempted from water rights permitting and any fees associated with the watermaster program.

The total amount assessed per water right holder is comprised of a \$50 per account base fee and an annual use fee that is based on the volume of water that may be diverted for each authorized use. The use fee is calculated each year and is based on the proposed operating budget for each watermaster program.

In addition, users will be required to add a meter to their pumps, which may cost \$400 or more (depending on the technology of the meter). However, by using a meter, the user might find that he or she had been running the unmetered pumps longer than necessary, which may lead to water savings.

Participating in the Process

We encourage your input in this process. If you are interested in the evaluation of the Neches River or the Sabine River Basins or if you have any questions on this process, please contact:

By Letter: Watermaster Section (MC-160), P.O. Box 13087, Austin, Texas 78711-3087

By Email: watermaster@tceq.texas.gov

By Phone: Call the Watermaster Program Liaison: Brooke McGregor at (512) 239-2025

Web Site: www.tceq.texas.gov/goto/watermaster

Appendix F: TCEQ Letters to Stakeholders

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 3, 2019

Re: Stakeholder Meetings: Watermaster Evaluation for the Neches River and Sabine River Basins

Dear Stakeholder:

Under Texas Water Code §11.326 (g) and (h), the Texas Commission on Environmental Quality (TCEQ) must evaluate river basins without watermasters every five years. Evaluations are utilized to determine whether a watermaster should be appointed as well as to report the findings and to make recommendations to the Commission. In 2019, the TCEQ is evaluating the Neches and Sabine River Basins. Stakeholder input is an important part of this process. The TCEQ will be taking public comment through 5:00 p.m. on June 19, 2019.

Stakeholder Meetings

The purpose of this letter is to invite you to attend stakeholder meetings where the TCEQ will provide additional information about this process and will take public comment. Stakeholder meetings will be held as follows:

6:00 p.m. – June 11, 2019
TCEQ Region 10 Office
3870 Eastex Freeway
Beaumont, Texas 77703

6:00 p.m. – June 12, 2019
Angelina College
Community Services Bldg., Room CS104
3500 South First Street
Lufkin, Texas 75904

6:00 p.m. – June 13, 2019
TCEQ Region 5 Office
2916 Teague Drive
Tyler, Texas 75701

Information about the Process

The TCEQ mailed letters on March 11, 2019, to all water right holders, county judges, extension agents, and other interested parties providing information about the process. Information about the process is also available on the TCEQ's website: www.tceq.texas.gov/goto/watermaster.

If you have any questions about the process, please contact:

- Brooke McGregor, Watermaster Liaison, at (512) 239-2025 or
- Laurie Gharis, Watermaster Section Manager, at (512) 239-1835

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Appendix F: TCEQ Letters to Stakeholders


Stakeholder Meeting
Page 2
May 3, 2019

Additionally, you can sign up to receive email updates at:
<https://public.govdelivery.com/accounts/TXTCEO/subscriber/new>.

Public Comment

The TCEQ will be taking public comment through 5:00 p.m. on June 19, 2019. Please mail your comments to the Watermaster Section, MC 160, P.O. Box 13087, Austin, Texas 78711-3087 or by email to watermaster@tceq.texas.gov. Thank you for your participation as we go through this very important process.

Sincerely,



Brooke McGregor, Watermaster Program Liaison
Watermaster Section, MC-160
Water Availability Division
Texas Commission on Environmental Quality