

# TCEQ Interoffice Memorandum

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**To:** Commissioners

**Thru:** Bridget Bohac, Chief Clerk

*TB* Toby Baker, Executive Director

*EL* Earl Lott, Deputy Director, Office of Water

Ramiro Garcia, Acting Deputy Director, Office of Compliance and Enforcement

**From:** *KN* Kim Nygren, Director, Water Availability Division

**Date:** July 29, 2020

**Subject:** Evaluation of whether a Watermaster Program should be appointed in the following basins: Canadian River and Red River Basins

The Texas Commission on Environmental Quality (TCEQ) currently has four watermaster programs in 10 of Texas' 23 river basins<sup>1</sup> that actively manage water.<sup>2</sup> The Executive Director (ED) is required by statute<sup>3</sup> to evaluate basins *without* a watermaster at least every five years<sup>4</sup> to determine if a watermaster should be appointed. The ED's evaluation is based on the criteria and risk factors determined by the Commission.<sup>5</sup> The ED is required to report the findings of that evaluation and make recommendations to the Commission.<sup>6</sup> The Commission then includes those evaluation findings in the TCEQ's biennial report to the Texas Legislature.<sup>7</sup>

## 2020 Basin Evaluations

In 2020, the ED evaluated the Canadian and Red River Basins for the five-year period of Fiscal Years (FY) 2015-2019. The total estimated cost for the ED's 2020 evaluation

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<sup>1</sup> See Appendix A: Watermaster Programs

<sup>2</sup> See Appendix B: Current Water Rights Management

<sup>3</sup> Texas Water Code (TWC) § 11.326

<sup>4</sup> TWC § 11.326(g)(1); also see Appendix C: Basin Evaluation Schedule

<sup>5</sup> TWC § 11.326(h)(1)

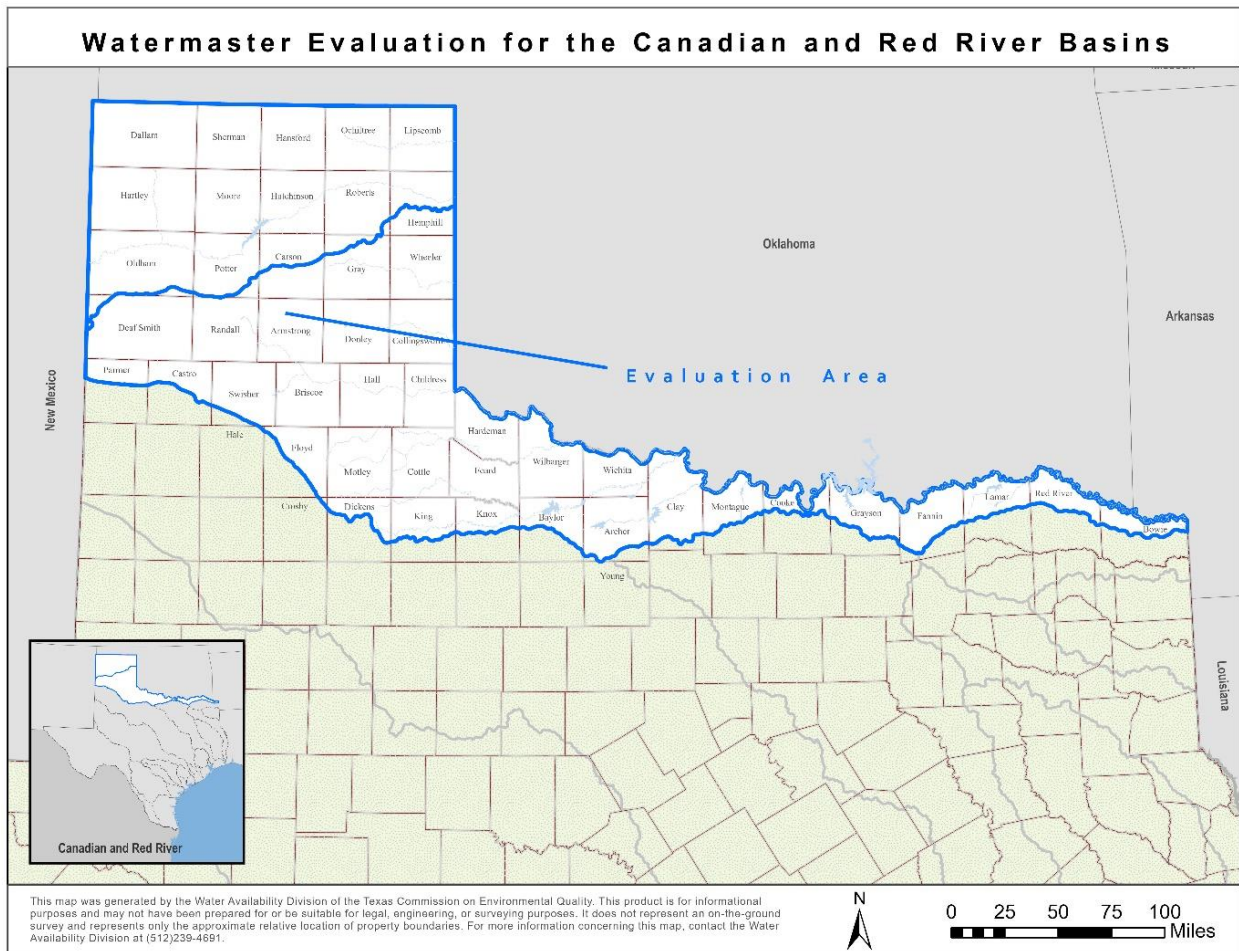
<sup>6</sup> TWC § 11.326(g)(2)

<sup>7</sup> TWC § 11.326(h)(2)

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activities is \$27,721.<sup>8</sup> This is the second evaluation of these basins by the ED. The previous evaluation of these basins occurred in 2015. 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 Canadian and Red River Basins**



<sup>8</sup> See Appendix D: 2020 Watermaster Evaluation Costs. This cost includes all 2020 evaluation costs for the following basins: Canadian and Red River Basins.

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## Evaluation Criteria

The Commission outlined the following evaluation criteria in the Commission's 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?*

A brief discussion of each evaluation criterion follows.

### ***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.<sup>9</sup>

### ***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."<sup>10</sup> 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.<sup>11</sup> Only holders of water rights that have been

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<sup>9</sup> TWC § 11.451

<sup>10</sup> 30 Tex. Admin. Code (TAC) § 297.21(a)

<sup>11</sup> See TWC § 11.329(a) and 30 TAC § 297.21(a)

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“determined or adjudicated and are to be administered by the watermaster” are required to reimburse the Commission for the compensation and expenses of a watermaster - and D&Ls are not “determined or adjudicated” rights.<sup>12</sup>

## *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.”<sup>13</sup> 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.<sup>14</sup> 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 Commission’s 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*

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<sup>12</sup> TWC § 11.329(a)

<sup>13</sup> 30 TAC § 304.3(18)

<sup>14</sup> Order Appointing a Watermaster for the Concho River Segment, TCEQ Docket No. 2000-0344-WR, Aug. 17, 2004.

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*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.*<sup>15</sup>

## **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 during the September 28, 2011 Work Session. 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 Canadian River and Red River Compacts are the interstate compacts that apply 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.<sup>16</sup> Water rights for new appropriations of water in the basins covered in this evaluation will include appropriate permit special conditions that are adequate to protect any adopted standards. A watermaster in basins with environmental flow standards

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<sup>15</sup> *Id.* (emphasis added).

<sup>16</sup> 30 TAC § 298.10

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administers 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:

- **Webpage:** The ED maintained a public webpage exclusively dedicated to the watermaster evaluation process. The webpage 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.

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- **Outreach Letters:** Initial outreach letters were sent to all stakeholders providing information about the evaluation process and seeking initial comments.<sup>17</sup>
- **Stakeholder Meetings:** Stakeholder meetings were held electronically. Notification of stakeholder meetings were posted on the evaluation webpage and mailed to all stakeholders.<sup>18</sup> At stakeholder meetings, staff from the Office of Water 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 to 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 February 24, 2020. The comment period for this evaluation closed on June 30, 2020.

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

The ED's evaluation findings for the Canadian and Red 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***

Currently, there are no court orders to create a watermaster program within the basins under consideration.

### ***History of Petitions Requesting a Watermaster***

Currently, there are no active or approved petitions to create a watermaster program within the basins under consideration.

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<sup>17</sup> See Appendix F: TCEQ Letters to Stakeholders

<sup>18</sup> Ibid.

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## *Have Senior Water Rights been Threatened?*

### *History of Priority Calls or Water Shortages*

There were no priority calls received from FY 2015 to FY 2019.

### *History of Complaints*

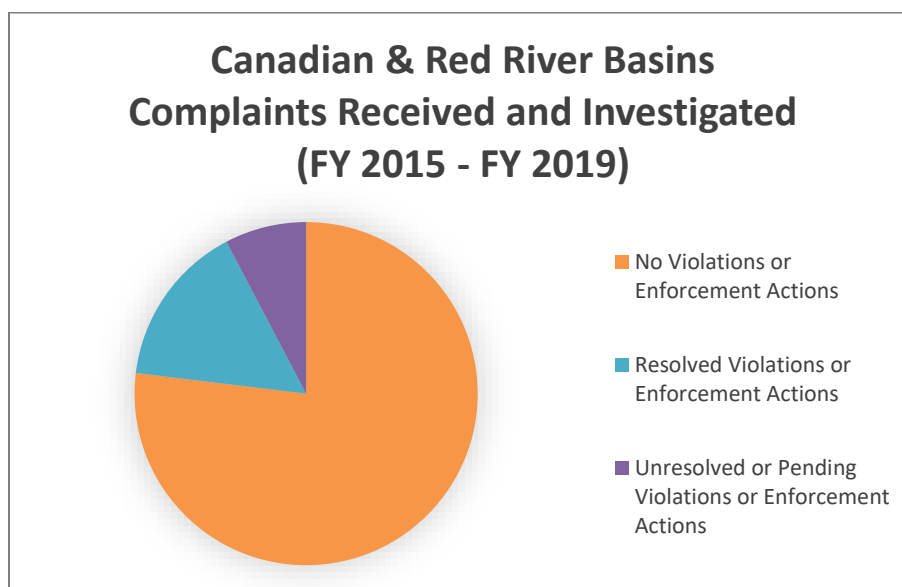
See the following table for a summary of complaints by year.

**Table 1. Summary of Complaints from FY 2015 to FY 2019**

Basin	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	Total
Canadian River	0	0	1	0	0	1
Red River	3	1	1	3	4	12

From FY 2015 to FY 2019, the TCEQ Regional Offices received and investigated a total of 1 water right complaint in the Canadian River Basin and 12 water rights complaints in the Red River Basin. The 1 complaint in the Canadian River Basin resulted in no violations or enforcement actions. Of the 12 complaints in the Red River Basin, 9 resulted in no violations, 2 resulted in resolved violations, and 1 is currently an unresolved/pending violation. The graph below summarizes complaints in the Canadian River and Red River Basins.

**Figure 2. Graph of Complaints Investigated in the Canadian and Red River Basins**





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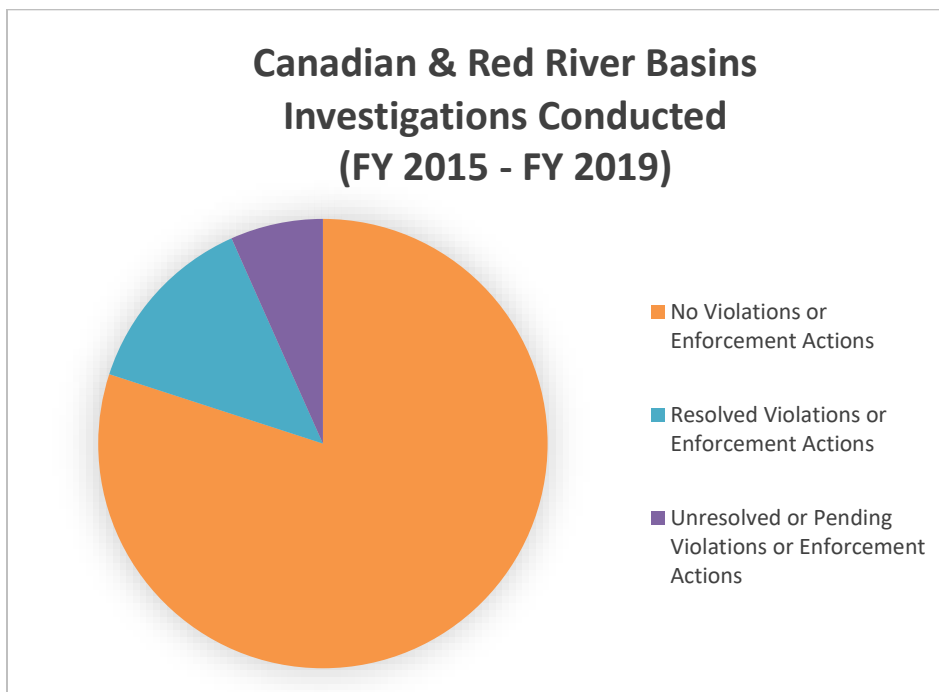
**Table 2. Summary of Investigations\* from FY 2015 to FY 2019**

Basin	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	Total
Canadian River	0	0	1	0	0	1
Red River	5	1	1	3	4	14

\*Investigation types do not include temporary permits.

From FY 2015 to FY 2019, the TCEQ Regional Offices conducted a total of 1 water-rights related investigation in the Canadian River Basin and 14 water-rights related investigations in the Red River Basin. Of the 15 investigations in the Canadian and Red River Basins, 12 resulted in no violations or enforcement actions. Of the remaining, 2 resulted in violations or enforcement actions that have since been resolved, and 1 is currently unresolved/pending. The graph below summarizes investigations conducted in the Canadian River and the Red River Basins. Although the numbers are not included in Table 2 or Figure 3, in the Canadian River Basin, 5 investigations were conducted for temporary permits, whereas in the Red River Basin, 11 investigations were conducted for temporary permits.

**Figure 3. Graph of Investigations Conducted in the Canadian and Red River Basins**



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## ***Implementation Considerations***

A summary of implementation considerations is provided below.<sup>19</sup>

## ***Geographic Reach of the Basin and Water Right Information***

The Canadian River Basin includes all or a portion of 16 counties with 38 water rights. The Red River Basin includes all or a portion of 41 counties with 291 water rights.

## ***Existence of River Compacts***

The State of Texas is a member of an interstate river compact in both the Canadian and Red River basins. 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 Canadian and Red River Compacts are met.

## ***Environmental Flows***

TCEQ has not adopted environmental flow standards specifically for the Canadian and Red River Basins.<sup>20</sup>

## ***Cost Factors***

The total estimated costs for the ED to manage water rights for FY's 2015 – 2019 in the Canadian River Basin was \$658, while the Red River Basin was \$14,522.

The ED considered three options when evaluating potential watermaster program costs for the Canadian and Red River Basins. These options were presented to stakeholders at meetings held electronically. A more detailed discussion of costs is included in Appendix D.

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<sup>19</sup> See Appendix E: Implementation Considerations for the Canadian and Red River Basins

<sup>20</sup> 30 TAC Chapter 298

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**Option 1:** No watermaster recommended for the Canadian and Red River Basins.

**Option 2:** Create a Watermaster Program encompassing the Canadian and Red River Basins. Year 1 has an estimated cost of \$491,035 with a cost of \$380,806 for subsequent years.

**Option 3:** Create a Watermaster Program encompassing solely the Red River Basin. Year 1 has an estimated cost of \$487,722 with a cost of \$377,447 for subsequent years.

## ***Stakeholder Involvement***

On February 24, 2020 the initial outreach letter was mailed to stakeholders initiating the comment period for the evaluation. On May 15, 2020, a letter announcing stakeholder meetings was mailed to the stakeholders. Due to COVID concerns, stakeholder meetings were conducted electronically on June 2 and June 4, 2020. Written comments were received during the evaluation period. All comments opposed implementing a watermaster program; comments primarily focused on the lack of need as well as the added expense of a watermaster program.

**Table 3. Summary of Written Comments for Canadian and Red River Basins**

Basin	Comments Received				
	Total	In Favor		Opposed	
		Water Right Holders	Other	Water Right Holders	Other
Canadian	2	0	0	1	1
Red	6	0	0	5	1

\*The Other comments were from one interested party addressing both river basins.

## **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 were no court orders to create a watermaster and no petitions from water right holders

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requesting a watermaster. There were no priority calls in the Canadian River or Red River Basins. Complaints and investigations in both basins were relatively few, and the 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, currently the ED does not recommend that the Commission move forward on its own motion with the creation of a watermaster program for the Canadian River and Red 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.

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## **List of Appendices**

Appendix A: Watermaster Programs

Appendix B: Current Water Rights Management

Appendix C: Basin Evaluation Schedule

Appendix D: 2020 Watermaster Evaluation Costs

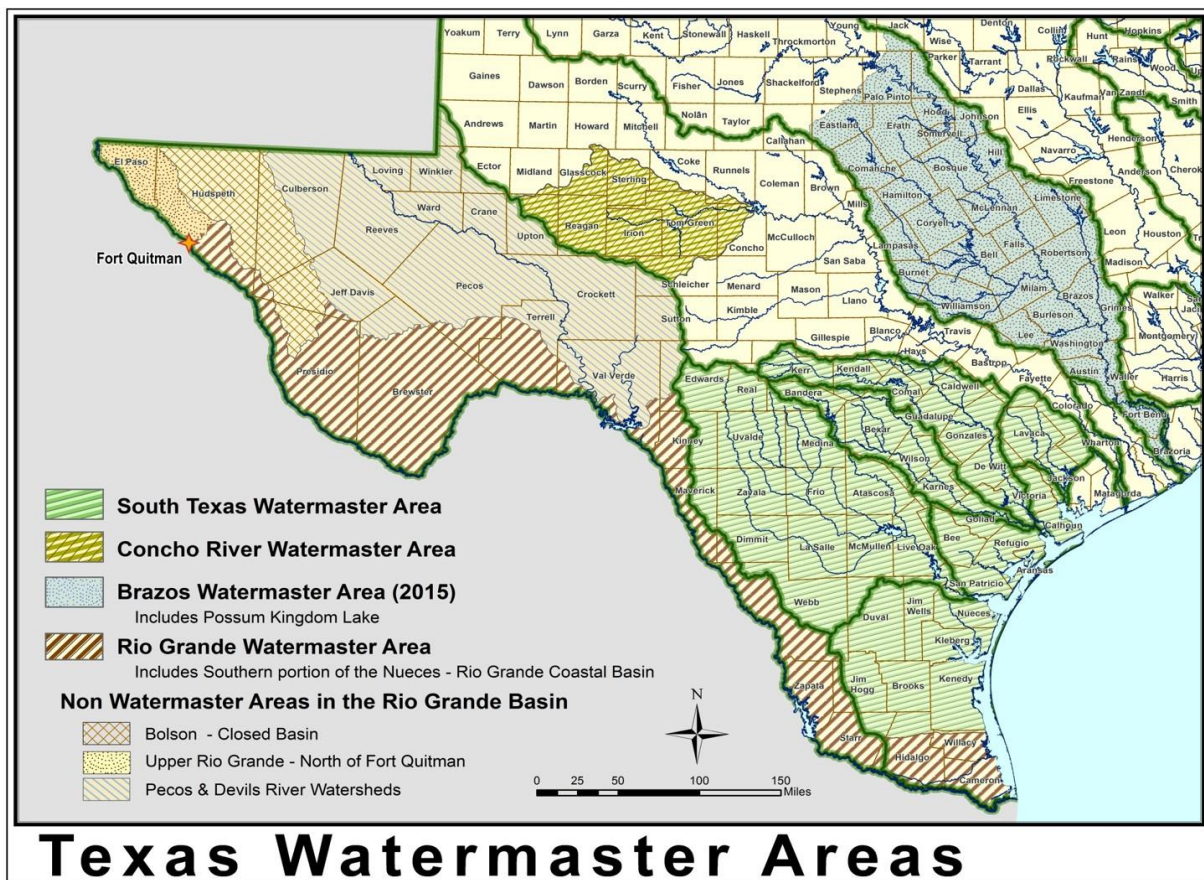
Appendix E: Implementation Considerations

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**

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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 the 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 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 to 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**

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### ***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 complaint. 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**

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### **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 by referring 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 to 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

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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 and will go through 2021.

### 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: 2020 Watermaster Evaluation Costs**

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

### ***Costs Associated to the Evaluation***

Total Estimated Costs for TCEQ Evaluation Activity: \$27,721

#### **Office of Water Costs**

- OW Staff time: \$26,817
  - Multiple staff participated in this evaluation for a portion of their time, equating to .5 full time equivalents for the duration of the project.
  - Calculated salaries for 1.0 FTEs from February 2020 through July 2020 (6 months).
  - Assumed level B17 with approximately 1 year of experience.
  - Fringe (32% of base salary)
- Postage: \$465
- Travel: \$0
- Total: \$27,282

#### **Office of Legal Services Costs**

- OLS staff time: \$31
  - Calculated staff attorney review time of 0.5 hours
  - Assumed mid-point for level B25
  - Fringe (32% of base salary)
- Total: \$31

#### **Office of Compliance and Enforcement Costs**

- OCE staff time: \$408
  - Time spent preparing information for the evaluation as well as reviewing the final document (calculated using regular labor): 10 hours
  - Assumed mid-level B19

## **Appendix D: 2020 Watermaster Evaluation Costs**

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- Fringe (32% of base salary)
- State equipment use (vehicle): \$0
- Total: \$408

### **Other Agency Programs**

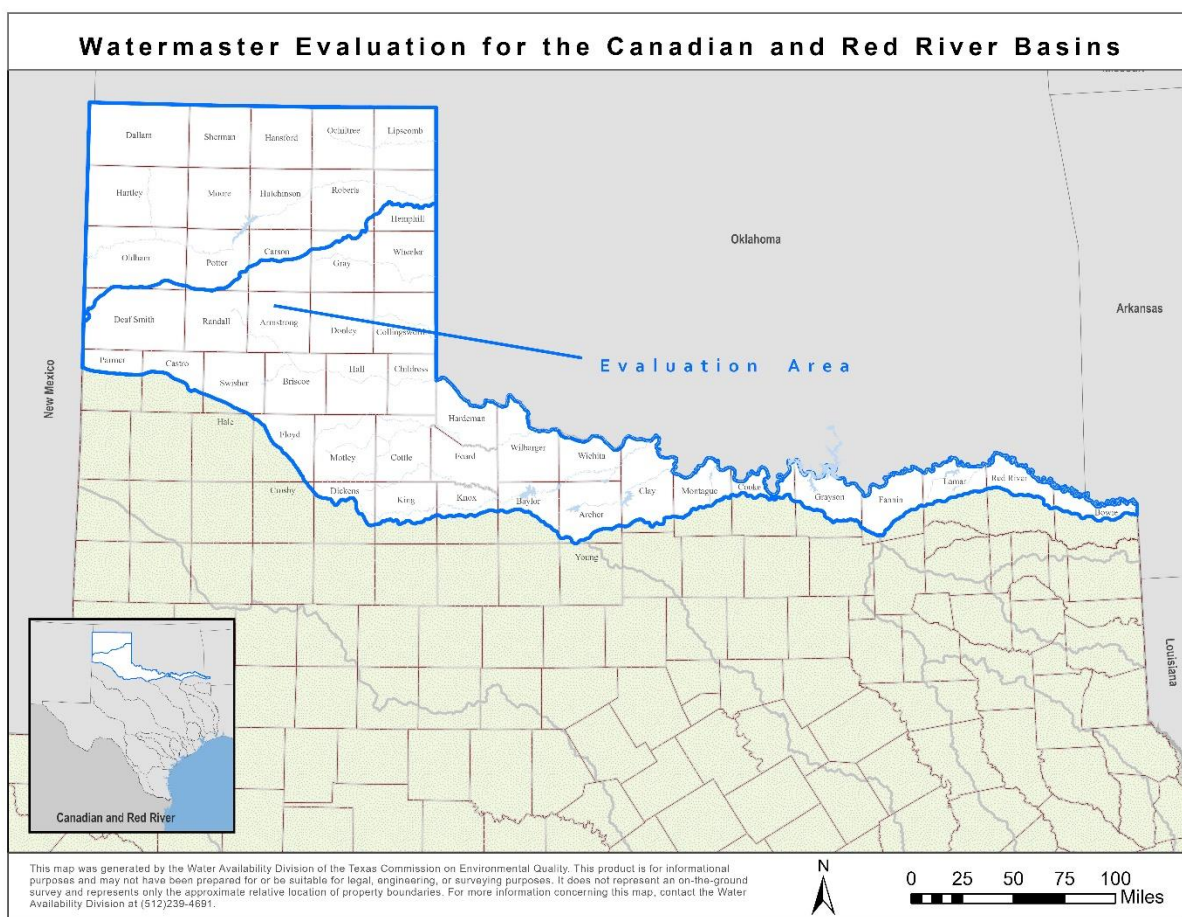
Other agency staff were provided an opportunity to participate, but no significant costs were associated with their involvement.

# Appendix E: Implementation Considerations for the Canadian and Red River Basins

## Geographic Reach of the Basins and Water Right Information

The Canadian River and Red River Basins are in the northern part of the state (Figure 1). The Canadian River Basin includes all or a portion of 16 counties and 38 water rights, and the Red River Basin includes all or a portion of 41 counties and 291 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. Canadian and Red River Basins**



## Appendix E: Implementation Considerations for the Canadian and Red River Basins

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

<i>Red River</i>		<i>Canadian River</i>	
<i>County</i>	<i>Unique WRs</i>	<i>County</i>	<i>Unique WRs</i>
Archer	9	Carson*	0
Armstrong	0	Dallam	1
Baylor	3	Deaf Smith*	0
Bowie	14	Gray*	1
Briscoe	11	Hansford	6
Carson*	5	Hartley	1
Castro	3	Hemphill*	2
Childress	4	Hutchinson	6
Clay	18	Lipscomb	2
Collingsworth	13	Moore	6
Cooke	4	Ochiltree	1
Cottle	4	Oldham*	1
Crosby	0	Potter*	8
Deaf Smith*	4	Randall*	0
Dickens	1	Roberts*	1
Donley	5	Sherman	2
Fannin	30		
Floyd	1		
Foard	0		
Gray*	4		
Grayson	34		
Hale	0		
Hall	7		
Hardeman	8		
Hemphill*	2		
King	3		
Knox	4		
Lamar	21		
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		

\*Counties with an asterisk are in multiple basins.

## Appendix E: Implementation Considerations for the Canadian and Red River Basins

### Watermaster Program Options and Costs

The ED considered three options (numbered 1, 2, and 3 below) when evaluating watermaster program costs for the Canadian River and Red River Basins. These options were presented to stakeholders at electronic meetings in June 2020.

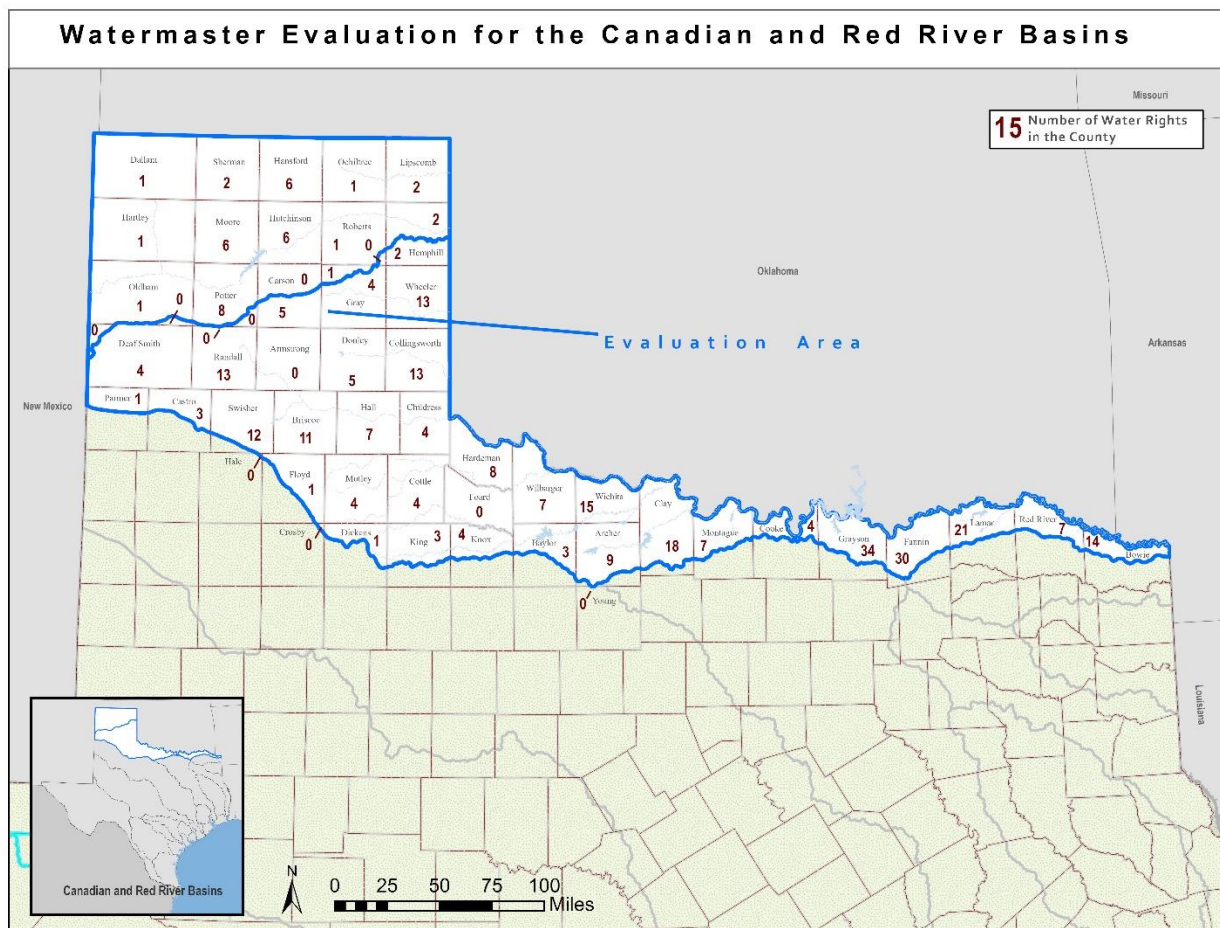
**Option 1:** No watermaster recommended for the Canadian and Red River Basins

**Option 2:** Create a Watermaster Program encompassing the Canadian and Red River Basins (Figure 2)

**Number of permitted water rights:** 329 (Table 2)

**Counties:** 49 (44 counties have permitted water rights)

Figure 2. Watermaster Program for the Canadian and Red River Basins (Option 2)



## Appendix E: Implementation Considerations for the Canadian and Red River Basins

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

<i>County</i>	<i>No. of Water Rights</i>	<i>County</i>	<i>No. of Water Rights</i>
Archer	9	Hardeman	8
Armstrong	0	Hartley	1
Baylor	3	Hemphill*	4
Bowie	14	Hutchinson	6
Briscoe	11	King	3
Carson*	5	Knox	4
Castro	3	Lamar	21
Childress	4	Lipscomb	2
Clay	18	Montague	7
Collingsworth	13	Moore	6
Cooke	4	Motley	4
Cottle	4	Ochiltree	1
Crosby	0	Oldham*	1
Dallam	1	Parmer	1
Deaf Smith*	4	Potter*	8
Dickens	1	Randall*	13
Donley	5	Red River	7
Fannin	30	Roberts*	1
Floyd	1	Sherman	2
Foard	0	Swisher	12
Gray*	5	Wheeler	13
Grayson	34	Wichita	15
Hale	0	Wilbarger	7
Hall	7	Young	0
Hansford	6		

\* 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 in multiple basins.

Year 1 has an estimated cost of \$491,035, with a cost of \$380,806 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 the TCEQ Amarillo Office.
- One senior specialist/field deputy located in a rented, field office in Wichita Falls.



## Appendix E: Implementation Considerations for the Canadian and Red River Basins

**Table 3. Cost Estimate (Option 2)**

	Year 1	Year 2	Assumptions
<b>Salaries</b>			
Watermaster	\$72,789	\$75,264	1 Watermaster (Program Supervisor VI, B23 with 3.4% increase by year 2)
Administrative Assistant IV	\$33,660	\$34,804	1 Administrative Assistant IV, A15 (\$33,660/year with 3.4% increase by year 2)
Watermaster Specialist IV	\$45,158	\$46,693	1 Watermaster Specialist IV, B20 (\$45,158/ year with a 3.4% increase by year 2)
Watermaster Specialist II	\$39,521	\$40,865	1 Watermaster Specialist II, B18 (\$39,521/year with 3.4% increase by year 2)
Watermaster Liaison	\$6,712	\$6,940	Liaison Salary determined by percentage of water rights among all watermaster programs. In this instance, assumption is 7% of all water rights across all watermaster programs.
<b>Total Salaries</b>	<b>\$197,840</b>	<b>\$204,566</b>	
Fringe	\$63,309	\$65,461	FY21 expected cost is 32% of salaries
SORM fee	\$400	\$400	\$100/person. Based on average from current watermaster programs
SWCAP fee	\$2,400	\$2,400	\$600/person. Based on average from current watermaster programs
Professional/Temp Services	\$40,000	\$40,000	Higher in first two years to implement new accounting system for program
Travel In-State	\$9,000	\$9,000	Based on current watermaster programs
Training	\$4,000	\$4,000	\$1,000 per employee
Rent - Building	\$25,000	\$25,000	Office in Amarillo and potential office in Wichita Falls (\$13,000 - Amarillo; \$12,000 - Wichita Falls)
Postage	\$600	\$600	Based on current watermaster programs
Phone/Utilities	\$3,500	\$3,500	Based on current watermaster programs
Supplies - Consumables	\$400	\$400	Based on current watermaster programs
Other Operating Expenses	\$9,892	\$10,228	Based on agency standard FTE Costs (5% of base salary)
Fuels/Lubricants	\$9,250	\$9,250	Estimated based on driving 18,000 miles per year
Rent - Machine & Other	\$1,000	\$1,000	
Facilities, Furniture, and Equipment	\$17,080	\$5,000	Equipment, Maintenance, Office Furniture, PPE
Capital Equipment - IT	\$8,365	\$0	4 computers at \$1,200, 8 monitors, and 2 printers
Capital - Vehicles	\$99,000	\$0	3 vehicles at \$33,000
<b>Total</b>	<b>\$491,035</b>	<b>\$380,806</b>	



## Appendix E: Implementation Considerations for the Canadian and Red River Basins

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

<i>County</i>	<i>Unique WRs</i>	<i>County</i>	<i>Unique WRs</i>
Archer	9	Hale	0
Armstrong	0	Hall	7
Baylor	3	Hardeman	8
Bowie	14	Hemphill*	2
Briscoe	11	King	3
Carson*	5	Knox	4
Castro	3	Lamar	21
Childress	4	Montague	7
Clay	18	Motley	4
Collingsworth	13	Oldham*	0
Cooke	4	Parmer	1
Cottle	4	Potter*	0
Crosby	0	Randall*	13
Deaf Smith*	4	Red River	7
Dickens	1	Roberts*	0
Donley	5	Swisher	12
Fannin	30	Wheeler	13
Floyd	1	Wichita	15
Foard	0	Wilbarger	7
Gray*	4	Young	0
Grayson	34		

\* 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 in multiple basins.

Year 1 has an estimated cost of \$487,722, with a cost of \$377,447 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, one administrative assistant and one watermaster specialist/field deputy located in the TCEQ Amarillo Office.
- One senior specialist/field deputy located in a rented, field office in Wichita Falls.

## Appendix E: Implementation Considerations for the Canadian and Red River Basins

Table 5. Cost Estimate (Option 3)

	Year 1	Year 2	Assumptions
<b>Salaries</b>			
<b>Watermaster</b>	\$72,789	\$75,264	1 Watermaster (Program Supervisor VI, B23 with 3.4% increase by year 2)
<b>Administrative Assistant</b>	\$33,660	\$34,804	1 Administrative Assistant IV, A15 (\$33,660/year with 3.4% increase by year 2)
<b>Watermaster Specialist IV</b>	\$45,158	\$46,693	1 Watermaster Specialist IV, B20 (\$45,158/ year with a 3.4% increase by year 2)
<b>Watermaster Specialist II</b>	\$39,521	\$40,865	1 Watermaster Specialist II, B18 (\$39,521/year with 3.4% increase by year 2)
<b>Watermaster Liaison</b>	\$5,753	\$5,948	Liaison Salary determined by percentage of water rights among all watermaster programs. In this instance, assumption is 6% of all water rights across all watermaster programs.
<b>Total Salaries</b>	<b>\$196,881</b>	<b>\$203,575</b>	
<b>Fringe</b>	\$63,002	\$65,144	FY21 expected cost is 32% of Salaries
<b>SORM fee</b>	\$400	\$400	\$100/person. Based on average from current watermaster programs
<b>SWCAP fee</b>	\$2,400	\$2,400	\$600/person. Based on average from current watermaster programs
<b>Professional/Temp Services</b>	\$40,000	\$40,000	Higher in first two years to implement new accounting system for program
<b>Travel In-State</b>	\$8,000	\$8,000	Based on current watermaster programs
<b>Training</b>	\$4,000	\$4,000	\$1,000 per employee
<b>Rent - Building</b>	\$25,000	\$25,000	Office in Amarillo and potential office in Wichita Falls (\$13,000 - Amarillo; \$12,000 - Wichita Falls)
<b>Postage</b>	\$600	\$600	Based on current watermaster programs
<b>Phone/Utilities</b>	\$3,500	\$3,500	Based on current watermaster programs
<b>Supplies - Consumables</b>	\$400	\$400	Based on current watermaster programs
<b>Other Operating Expenses</b>	\$9,844	\$10,179	Based on Agency Standard FTE Costs (5% of base salary)
<b>Fuels/Lubricants</b>	\$8,250	\$8,250	Estimated based on 16,000 miles/year
<b>Rent - Machine &amp; Other</b>	\$1,000	\$1,000	
<b>Facilities, Furniture, and Equipment</b>	\$17,080	\$5,000	Equipment, Maintenance, Office Furniture, PPE
<b>Capital Equipment - IT</b>	\$8,365	\$0	4 computers at \$1,200, 8 monitors, and 2 printers
<b>Capital - Vehicles</b>	\$99,000	\$0	3 vehicles at \$33,000
<b>Total</b>	<b>\$487,722</b>	<b>\$377,447</b>	

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 24, 2020

Re: Watermaster Evaluation for the Canadian River and Red River Basins

Dear Stakeholder:

The Texas Commission on Environmental Quality (TCEQ) is currently evaluating the Canadian River and Red 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, which do not currently have a watermaster to determine whether a watermaster should be appointed. The ED must report the findings from the evaluation and make recommendations to the TCEQ Commissioners. The Commissioners may direct the ED to move forward with the recommendation, revise the recommendation, or take no action on the recommendation. The evaluation findings and recommendations are to be included in the agency's Biennial Report to the Legislature.

To include the public and to 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, which are expected to be held in June, to all stakeholders within these basins. The input received from stakeholders will be discussed at the TCEQ Commissioners' Agenda tentatively scheduled for late summer.

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?*

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. 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 which 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)

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.

This request for written input is your first opportunity to participate in this process. Although comments will be accepted through the end of June, please consider sending written comments by April 15, 2020 to help us plan for our June stakeholder meetings. Comments should be sent to: Daniel Schroeder, Watermasters Section Liaison, Water Availability Division, TCEQ, MC-160, P.O. Box 13087, Austin, Texas 78711-3087 or by email to [watermaster@tceq.texas.gov](mailto:watermaster@tceq.texas.gov) if you choose to contact us electronically.

If you have any questions or additional comments, please feel free to contact Daniel Schroeder directly at (512) 239-0067.

You may sign up to receive email updates at:

<https://public.govdelivery.com/accounts/TXTCEQ/subscriber/new>

Information on the evaluation process is available on TCEQ's website:  
[www.tceq.texas.gov/goto/watermaster](http://www.tceq.texas.gov/goto/watermaster)

We value your comments on the evaluation process, including the criteria being used, as well as any information you provide to assist the agency in its evaluation of your basin. Thank you for your participation.

Sincerely,



Laurie Gharis, Watermasters Section Manager  
Watermasters Section  
Water Availability Division  
Texas Commission on Environmental Quality

Enclosure



# Watermaster Evaluation Fact Sheet - 2020

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## 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 to issue a report for all river and coastal basins that do not have a watermaster. The report assesses 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 Canadian River and Red 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 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, if needed, notifies a user with more junior water rights to reduce or to stop pumping.
- 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 their 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 covers the Rio Grande River segment from Fort Quitman to the Gulf of Mexico in the Rio Grande River Basin (excluding the Pecos and Devils Rivers).
- The South Texas Watermaster covers 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, covers 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.

### **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, better 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 water 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 may be able to increase efficiencies, 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 Canadian River or Red River Basins or if you have any questions on this process, please contact:

**By Letter:** Daniel Schroeder, Watermasters Section Liaison, Water Availability Division, TCEQ, MC-160, P.O. Box 13087, Austin, Texas 78711-3087

**By Email:** [watermaster@tceq.texas.gov](mailto:watermaster@tceq.texas.gov)

**By Phone:** Call the Watermaster Program Liaison, Daniel Schroeder, at (512) 239-0067

**Web Site:** [www.tceq.texas.gov/goto/watermaster](http://www.tceq.texas.gov/goto/watermaster)



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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 15, 2020

Re: Stakeholder Meetings: Watermaster Evaluation for the Canadian River and Red River Basins

Dear Stakeholder:

The Texas Commission on Environmental Quality (TCEQ) is currently evaluating the Canadian River and Red River Basins to determine whether a watermaster should be appointed. 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, which do not currently have a watermaster, to determine whether a watermaster should be appointed. The ED must report the findings from the evaluation and make recommendations to the TCEQ Commissioners. Since stakeholder input is an important part of this process, TCEQ will conduct stakeholder meetings, as well as take public comment.

### **Stakeholder Meetings**

The purpose of this letter is to invite you to attend stakeholder meetings where TCEQ will provide additional information about this process and will take additional public comment. Due to current circumstances, the stakeholder meetings will be held electronically. Individuals may attend the meetings via Skype or by conference call. Information for joining the meetings is shown below:

#### ***Tuesday, June 2, 2020 from 6-7 PM***

Skype Link: <https://meet.lync.com/tceq/laurie.gharis/php309t4>

Conference Call: 844-368-7161 (Collaboration code: 493641#)

#### ***Thursday, June 4, 2020 from 6-7 PM***

Skype Link: <https://meet.lync.com/tceq/laurie.gharis/cwjg2flv>

Conference Call: 844-368-7161 (Collaboration code: 493641#)

Although registration is not required, individuals interested in attending are requested to email Daniel Schroeder at [watermaster@tceq.texas.gov](mailto:watermaster@tceq.texas.gov) with the expected date of attendance, as well as whether attendance is expected through Skype or through conference call.

## Information about the Process

TCEQ mailed letters in late February 2020 to all water right holders, county judges, extension agents, and other interested parties to provide information about this process.

Information about the process is also available on TCEQ's website:  
[www.tceq.texas.gov/goto/watermaster](http://www.tceq.texas.gov/goto/watermaster)

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

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

- Daniel Schroeder, Watermasters Section Liaison, at (512) 239-0067 or
- Laurie Gharis, Watermasters Section Manager, at (512) 239-1835.

## Public Comment

The TCEQ will be taking public comment through **June 30, 2020**. Please mail your comments to Daniel Schroeder, Watermasters Section Liaison, MC 160, P.O. Box 13087, Austin, Texas 78711-3087 or email your comments to [watermaster@tceq.texas.gov](mailto:watermaster@tceq.texas.gov) if you choose to contact us electronically. Thank you for your participation in this important process.

Sincerely,



Laurie Gharis, Watermasters Section Manager  
Watermasters Section  
Water Availability Division  
Texas Commission on Environmental Quality