

APPENDIX D

Evaluation of Water Basins in Texas Without a Watermaster



Section 5.05 of House Bill 2694, the TCEQ’s Sunset bill from the 82nd legislative session, requires the agency to evaluate at least once every five years the water basins that do not have a watermaster program to determine whether one should be established. The statutory language requires that the commissioners establish criteria to be considered for the evaluation.

Overview of Watermaster Programs

A watermaster office is a TCEQ office headed by a watermaster and staffed with personnel who regulate and protect *water rights* under the provisions of Chapter 11 of the Texas Water Code (TWC). Watermaster programs are created and autho-

riized to take actions under TWC Sections 11.326, 11.3261, 11.327, 11.3271, 11.329, and 11.551–11.559. Rules governing this program are under 30 Texas Administrative Code Chapters 303, 304, 295, and 297.

Watermasters and their staffs have the authority to protect water rights by:

- reviewing diversion notifications,
- authorizing appropriate diversions,
- deterring illegal diversions,
- providing real-time monitoring of area streamflows,
- investigating alleged violations of Chapter 11, and
- mediating conflicts and disputes among water users.

TWC, Chapter 11, provides the mechanisms by which a watermaster program can be established. The mechanisms are:

- by the executive director in a *water division* established by the commission under Section 11.325;
- by court appointment; and
- by the commission, upon receipt of a petition of 25 or more *water right holders* in a river basin or segment of a river basin; or on its own motion, if the commission finds that senior water rights have been threatened.

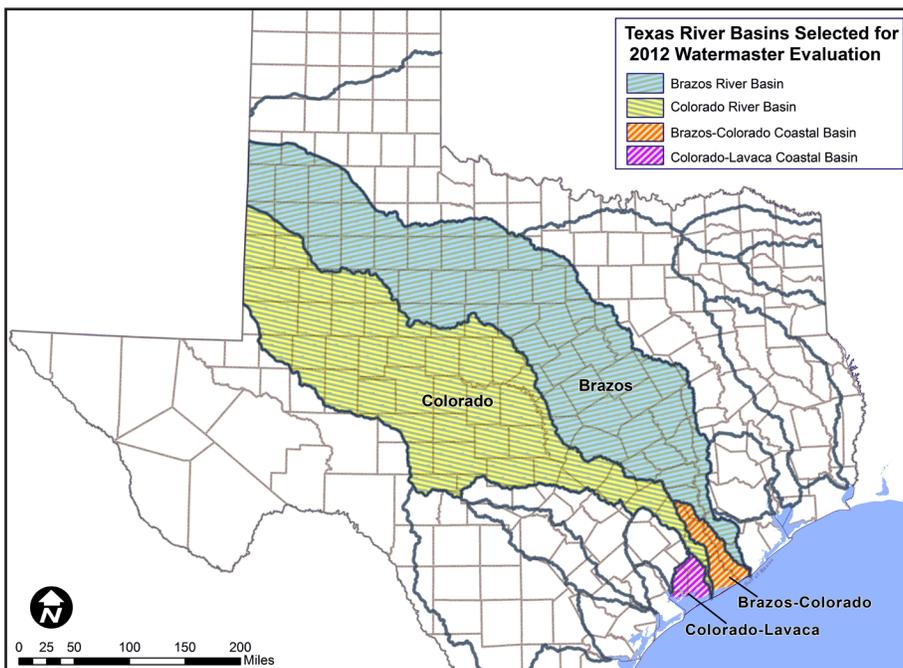
In addition, the Legislature has the authority to create a watermaster.

The TCEQ has an existing watermaster program in each of these river basins:

- **Rio Grande**, which serves the Rio Grande River Basin and coordinates releases from the Amistad and Falcon reservoir systems. Established by a 1956 court appointment.
- **South Texas**, which serves the Lavaca, Nueces, San Antonio, and Guadalupe river basins, as well as the adjacent coastal basins. Established in 1988, based on a water division creation order in 1988 and amended in 1998.
- **Concho River**, which serves a portion of the Concho River segment of the Colorado River Basin. Created by the Legislature in 2005.

Figure D-1

2012 Watermaster Evaluations



Criteria and Schedule

At an agency work session on Sept. 28, 2011, the commissioners established the following criteria to consider in performing the evaluations:

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

The commissioners also approved an evaluation schedule:

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

Evaluation Activities in FY 2012

For the fiscal 2012 evaluation, the agency performed the following:

- Created a Web page exclusively for the evaluation process, with an opportunity for stakeholders to receive automated updates by e-mail. (See www.tceq.texas.gov/permitting/water_rights/wmaster/evaluation)

- Mailed initial outreach letters (Figure D-2) to the stakeholders in each area on Feb. 17, 2012, and accepted comments until March 31, 2012. Stakeholders included all water right holders, county judges and extension agents, river authorities, agricultural interests, industries, environmental organizations, and other interested parties.
- Mailed information on May 22, 2012, announcing public meetings and providing the preliminary evaluation, which included four possible options for each basin. The letter (Figure D-3) also solicited additional input.
- Held nine stakeholder meetings between June 4 and June 21, 2012, in Rosenberg, San Saba, Lubbock, Big Spring, San Angelo, Wharton, Waco, Fredericksburg, and College Station. Approximately 250 people attended. In each meeting, the manager of the Watermaster Section, the South Texas watermaster, and either the director of the Water Availability Division or the manager of the Water Rights Permitting and Availability Section were present to deliver information and answer questions.

Below is a summary of the 305 comments received through Sept. 26, 2012, as part of the agency's stakeholder process.

- Of the 245 comments received from the Colorado stakeholders on the establishment of a watermaster program:
 - 214 were opposed,
 - 27 were in favor, and
 - 4 were neutral.
- Of the 60 comments received from the Brazos stakeholders on the establishment of a watermaster program:
 - 42 were opposed,
 - 14 were in favor, and
 - 4 were neutral.
- Some of the reasons stated for opposing establishment of a watermaster program included:
 - the required fee assessment;
 - addition of a watermaster program would only bring more regulation

and bureaucracy, with little or no benefit;

- if a watermaster program is to be created, it should be done by the petition process; and
- many indicated that the TCEQ handled the 2009 and 2011 droughts very well, with no additional costs to the water right holders.
- Some of the reasons stated for supporting the establishment of a watermaster program included:
 - the desire for more active oversight that a watermaster would provide,
 - excessive withdrawals upstream impacting downstream users,
 - seniors needing to purchase water to meet their permitted demand, and
 - watermasters proactively manage river basins.
- Some Concho area stakeholders initially had concerns about the creation of the watermaster program in that area. Legislation creating the program included a provision in TWC, Section 11.559, allowing for a referendum on the continuation of the watermaster program upon petition by at least 50 percent of the water right holders. To date, none of the water right holders has exercised this option; in fact, each year the budget is approved by a near unanimous vote of the Concho Watermaster Advisory Committee.

Drought-related Activities in 2009 and 2011

In 2009, the TCEQ received a *priority call* that resulted in the suspension of water rights with a priority date of 1980 and later, except for municipal and power generation uses, in the lower Brazos River Basin. That call resulted in the suspension of 88 water rights.

In 2011, the TCEQ received a priority call for water that resulted in suspension of water rights with a priority date of 1960 and later, except for municipal and power

generation uses, in the lower Brazos River Basin. That call resulted in suspension of 600 water rights.

In addition to the call in the lower Brazos River Basin, two calls were made by *domestic and livestock (D&L) users* in the upper Brazos River. While there were no suspensions associated with these calls, they were included in the evaluation.

In 2011, the TCEQ received eight priority calls for water in the Colorado Basin. In the San Saba watershed, there were six calls from D&L users that resulted in the suspension of 65 water rights. There was one priority call on the Llano River that resulted in the suspension of 69 water rights, and one call on the main stem of the Colorado River that resulted in the suspension of 14 water rights. A total of 148 water rights were suspended in 2011.

Agency Costs to Respond to Drought-related Activities

To appropriately respond to the increasing demands associated with the droughts of 2009 and 2011, resources were assembled from across the agency. The TCEQ's drought response was the top priority. This agencywide response affected personnel in the Office of Water (OW), Office of Compliance and Enforcement (OCE), and Office of Legal Services. Also the divisions of Intergovernmental Relations (IGR), Small Business and Environmental Assistance (SBEA), and Agency Communications, as well as Sunset review staff.

Activities conducted as part of the agencywide response included:

- drought meetings
- review of water right permits
- GIS work
- field investigations
- stream-flow measurements
- outreach and workshops
- legal reviews
- Sunset staff work
- response to media inquiries

- outreach to state and local officials
- public drinking water system assistance

Estimated the costs to the agency by year and basin are as follows:

- 2009, Brazos Basin: \$283,328
- 2011, Brazos Basin: \$513,874
- 2011, Colorado Basin: \$280,895

Staffing hours associated with the agency's drought response in 2009 and 2011:

- 2009, Brazos Basin: 4,708
- 2011, Brazos Basin: 10,318
- 2011, Colorado Basin: 4,049

The number of investigations conducted by OCE, as part of the staffing commitments:

- 2009, Brazos Basin: 372
- 2011, Brazos Basin: 325
- 2011, Colorado Basin: 144

The costs to conduct the required evaluations of four water basins in 2012:

- Office of Water: \$131,012, which included salary and fringe benefits, postage, and travel.
- Representatives from OCR, IGR, and the executive director's Sunset review staff attended the stakeholder meetings but incurred no travel costs.

Most of the agency's appropriations are funded from fees. To support the agency's activities associated with the 2009 and 2011 drought responses, the TCEQ used appropriations from Accounts #153, #549, #550, and #551, as well as general revenue.

Another type of cost to the agency is the ability to meet required *Legislative Budget Board (LBB) performance measures*. Using staff from across the agency to work on drought-related activities required a shift in priorities. That shift presented a challenge to the agency to meet various performance measures related to activities associated with permit timeframes, application reviews, investigations and inspections, and so forth.

The TCEQ will continue to carefully monitor these performance numbers in an effort to meet the requirements over the fiscal year, as well as determine whether discussions with the LBB are needed.

Work Session Presentation

At the commission's work session on Sept. 14, 2012, TCEQ staff provided a presentation on the activities related to the evaluation of the four water basins conducted in fiscal 2012. Included was a list of considerations for the commissioners to discuss, as outlined below.

Considerations:

- No watermaster program be established in either the Brazos or the Colorado river basins or associated coastal basins.
- A watermaster program that includes the portion of the Brazos River from Possum Kingdom Reservoir and below, plus the Brazos-Colorado Coastal Basin. Approximate first-year cost: \$595,977. Approximate costs for subsequent years: \$449,768.
- A watermaster program that includes the portion of the Colorado River Basin above Lake Buchanan, plus the Llano River watershed prior to its confluence with the main stem of the Colorado River. This proposal would not include the Colorado-Lavaca Coastal Basin in a watermaster program. Approximate first-year cost: \$610,977. Approximate costs for subsequent years: \$464,768.
- A watermaster program that includes the entire Colorado or Brazos river basins and the associated coastal basins. Approximate first-year cost for this option in the Brazos Basin is \$674,431; in the entire Colorado Basin, \$729,064. Approximate costs for subsequent years: \$500,709 in the Brazos Basin area, and \$492,329 in the Colorado Basin area.
- A watermaster program that includes only the San Saba watershed in the Colorado River Basin. Approximate first-year cost: \$112,554. Approximate costs for subsequent years: \$77,041.
- A program with no more than three or four staff positions for the entire Brazos or Colorado Basin, which could be centrally located and have no requirement for ongoing regularly scheduled investigations. A program of this scale would

likely monitor diversions and streamflows from a central location and would act in the event of low flows to adjust diversion and manage priority calls. Approximate first-year cost: \$227,197 to \$292,880 (depending on a staff of three or four). Approximate costs for subsequent years: \$232,897 to \$300,139.

- Expand the Concho watermaster to the Upper Colorado. Approximate first-year cost: \$152,587 to \$228,832 (depending on the addition of two or three staff positions). Approximate costs for subsequent years: \$99,361 to \$148,993.
- The commission could create a water division for the purpose of administering water rights. Creation of a water division allows the executive director to appoint a watermaster for that division. In a water division for which the office of watermaster is vacant, the executive director has the power of a watermaster.
- Dedicate additional staff to OCE to work on conditions when water rights are threatened and continue to monitor actions taken.

It was noted that if the agency were to establish a watermaster program, the commission would be required to call and hold a hearing to determine whether the need exists. Other methods to establish a watermaster program are:

- 25 or more water right holders can petition the commission to establish a watermaster program, or
- the Legislature may create a watermaster program, as it did for the Concho River watershed.

Path Forward: New Review Process

The commissioners noted during their work session that the agency did a great job responding to the worst one-year drought on record and commended the staff's efforts. Moving forward, the commissioners instructed staff to refine the priority call response process and look for efficiencies to expedite the response.

OW has worked with OCE and OLS to develop a new process that establishes a Drought Response Task Force, which will have the job of responding to senior calls as soon as possible—a goal of fewer than 10 business days. OW, OCE, and OLS will work concurrently on the major elements including technical and legal analysis, as well as field investigations. The new task force is a subgroup of the well-established agency-wide drought team that frequently includes participation by other state agencies.

OCE has also developed a pro-active surface water management process for areas outside of a watermaster program. The goals are: 1) to improve the agency's responsiveness to the potential impacts to surface water availability, and 2) to provide information critical for the agency's evaluation and determination of priority calls in areas of the state outside the jurisdiction of a watermaster program. To accomplish these goals, OCE will use existing resources by acknowledging a connection between current regional water quality efforts and field observations to provide data necessary to address surface water availability.

OCE's approach will use U.S. Geological Survey (USGS) data, as well as surface water quality monitoring data, to assist in determining impacts to flow trends. In addition, OCE will increase regional knowledge of water rights and water quantity management by enhancing water rights training for regional staff. By partnering with OW and SBEA, OCE will expand its awareness of impacts to surface water availability, such as permitted industrial uses, agricultural irrigation trends, water reuse authorizations, and drought contingency planning for public water systems.

The key to successful proactive water management—in the absence of a watermaster program—is timely and accurate communications among multiple offices across the TCEQ. By coordinating and communicating data currently captured for water quality, the agency can more efficiently address water right issues while minimizing impacts to resources required for continued success in meeting commitments and performance measures.

Definition: A Threatened Water Right

During a work session on Sept. 14, 2012, the commission directed staff to use the definition of "threatened water right" from a 2004 commission order made in response to petitions in the Concho River watershed.

The following language from the 2004 order will be used in the evaluations:

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

Senior water rights were threatened in 2009 and in 2011 in the Brazos Basin and in 2011 in the Colorado Basin.

During the work session, the commission encouraged water right holders and domestic and livestock users to exercise their rights under the TWVC to file complaints or initiate senior calls if there is a concern. Water right holders may also petition the commission for creation of a watermaster.

Water Right Reporting: Issues

One other issue discussed was the requirement in TWVC, Section 11.031, that each water right holder submit an *annual water use report* to the TCEQ by March 1 of each year. In the process of compiling information on the evaluation, it was learned that in some years up to 40 percent of water right holders

in the four basins being evaluated had not reported their water use, as required.

To address this non-reporting concern, OW, along with OCE and SBEA, will take a “find it, fix it” approach by pursuing the following steps:

- OW will send a letter to water right holders who did not submit a 2011 water use report. The letter will explain the applicable statutes and penalties for non-compliance. Blank water use reports and tips for completing the reports will be enclosed.
- OW will work with SBEA to develop an outreach strategy that:
 - develops additional tools (e.g. record-keeping forms, plain language instructions for reporting and general requirements);
 - develops a reminder postcard to be sent in early February, which could also be turned into handouts for extension agents and agency employees; and
 - partners with county extension agents to help spread the word and provide assistance to irrigators, such as the use of workshops.
- Those not responding to the first letter will receive an additional letter from the Water Availability Division specifying a deadline for submittal of the report.
- After the initial outreach and eventual completion of “find it, fix it” efforts, OCE will initiate proper enforcement action on water right holders who have failed to report water use.

TCEQ Penalty Assessment: A Possible Change

Under TWC, Section 11.031(b), the penalty for failing to file an annual report with the TCEQ is \$25, plus \$1 per day for each day after the due date of March 1, to a maximum of \$150. Failure to submit water use reports may result in water right cancellation proceedings under TWC, Section 11.174.

OW and OCE will pursue a proposal to change TWC, Section 11.031(b), to increase penalties for non-reporting. A possible recommendation would be to delete the specific penalty structure for non-reporting and allow the administrative penalty in TWC, Section 11.0842, to take precedence as the penalty structure.

Definitions

Water Rights – A right or any amendment acquired under Texas laws to impound, divert, store, convey, take, or use state water.

Except for certain exempt uses, the use of surface water in Texas requires a water right permit from the commission. Water rights are granted on a “first come-first served” basis. The most common exemption is under the Texas Water Code Section 11.142, which provides an exemption from permitting for a reservoir used for domestic and livestock purposes, with an average capacity of no more than 200 acre-feet. The exempt reservoir must be built on the owner’s property and may not be located on a navigable stream. The owner may not divert water from the reservoir for any purpose other than domestic and livestock use. Domestic and livestock riparian rights also do not require a permit because they are the superior right in the stream.

Water Right Holder – A person or entity that owns a water right.

In the case of divided interests, the term will apply to each separate owner. Present day water rights are granted in permits or certificates of adjudication. The riparian domestic and livestock right is sometimes referred to as a “water right.” However, a riparian domestic and livestock user may not be considered a “water right holder” as the term is used or defined under some statutes and rules.

Water Division – A specific area of the state, designated by the commission under Texas Water Code, Section 11.325, for the purpose of administering water rights.

The term “water division” includes the entire water division and any segments. The commission is authorized to divide adjudicated segments or river basins into water divisions. A water division may be created from time to time as necessity arises. The commission must find that the divisions would secure the best protection to the holders of water rights and the most economical supervision on the part of the state.

Annual Water Use Report – A report that water right holders are required to file every year under the Texas Water Code.

In this report, water right holders provide the amount of water they have used on a monthly basis.

Performance Measure – A quantifiable indicator of achievement that measures progress toward achieving goals and objectives based upon the legislature’s funding priorities.

Measured data is used for accountability and evaluation purposes.

Penalties for non-reporting would then be calculated in accordance with the commission's penalty policy, taking into account the Palmer Drought Index level for penalty enhancements. As outlined by statute, penalties would be limited to no more than \$5,000 per day/per violation.

Executive Director's Recommendation

There are currently three successful watermaster programs in the state, which were created by various methods. The Rio Grande program was established by court action. The South Texas program was established in response to a declared water division. The Concho River program was established by both a petition (at least 25 water right holders who successfully proved in a hearing their water rights were threatened) and by legislative action.

At this time, the executive director recommends that the commission not move forward on its own motion with the creation of a watermaster program in either basin areas. Creation of a watermaster program by the commission requires a hearing be held to determine whether water rights were threatened. A follow-up consideration is the need for the creation of a new watermaster program, associated new fees, and a new regulatory structure for the impacted basins. In proving a threat to water rights, the commission on its own motion would bear the burden of proof of impact to water right holders. This burden of proof can best be articulated by those water right holders who were actually impacted. The TWC allows them to petition the commission for such action.

Terms Used in Water Rights

Domestic and Livestock Use (D&L). The right to take water from a river or stream adjoining the diverter's property for domestic and livestock use has been a riparian right since before Texas became a republic. The livestock right includes the use of water for open-range watering of livestock. Irrigation of pastureland for livestock is not included. Any irrigation use, other than that described as domestic use, requires a permit. The domestic right includes the watering of a personal lawn or garden or use of water by a household to support domestic activities, such as for drinking, washing, or cooking. D&L use is superior to all appropriative water rights.

Senior Water Right. This water right has a priority date that is earlier than the priority date of another water right.

Priority Call. This is a claim by a senior water right holder or a superior domestic and livestock user that it needs water that it is authorized but unable to use. If valid and not futile, a priority call requires that junior water right holders curtail (cut back) or suspend (not take any water under the water right) diversions of surface water until the needs of the senior water right holder or superior domestic and livestock user are met.

Appropriative Water Right. This refers to a certificate of adjudication or permit and does not include riparian domestic and livestock rights.

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

As stated above, the executive director is always open to any additional information

stakeholders may want to provide, and 25 water right holders may petition the agency at any point to consider creating a watermaster program. Once a petition from 25 water right holders is received, the commission will refer the issue to the State Office of Administrative Hearings for a complete administrative hearing and recommendation to the commissioners for consideration.

Wrap-Up

The TCEQ staff will continue to refine its activities associated with the evaluation of water basins without a watermaster program in preparation for the fiscal 2013 evaluations.

Figure D-2

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protectina Texas hu Reducina and Preventina Pollution

February 17, 2012

Re: Preliminary Watermaster Evaluation for the Brazos River Basin

Dear Stakeholder:

In accordance with Section 5.05 of House Bill (HB) 2694 of the 82nd Legislature (the Sunset legislation), the Texas Commission on Environmental Quality (TCEQ) is required to evaluate all river basins in the state without a watermaster program every five years to determine the need to appoint a watermaster. The authority provided in TWC § 11.327 allows the watermaster to manage surface water resources in a way that protects senior and superior rights while balancing the needs of all water right holders under their jurisdiction.

The Executive Director (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 or revise the recommendation or they can take no action on the recommendation. The evaluation findings and recommendations must be included in the agency's Biennial Report to the Legislature.

The purpose of this letter is to notify you of the evaluation process and to seek written input from stakeholders on that process as well as what the agency should consider during our evaluation of the Brazos River Basin.

Our request for written input is the first opportunity to participate in this process. As part of the evaluation process, TCEQ also plans to mail notifications to all current water right holders within the Brazos River Basin for stakeholder meetings expected to be held in the spring of 2012. Stakeholders will include all water right holders, domestic and livestock users, river authorities, agricultural, industrial and environmental organizations, and other interested parties. The input received from these stakeholder meetings will be included in the ED's presentation and recommendation to the Commissioners, tentatively scheduled for later this summer.

As a water right holder in the Brazos River Basin or a representative of the general public or environmental concerns, 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 welcome and encourage input from any interested stakeholders.

The ED 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?

Evaluation
Page 2

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 rights holders in the watermaster area. The amount assessed to each water right holder would be determined annually based on the watermaster's program budget by establishing a base fee (currently \$50) and then adding the water right permitted amount multiplied by a rate factor depending on the type of use. The enclosed fact sheet includes general information about the watermaster program as well as the evaluation process.

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 send written comments by **March 31, 2012** to my attention at the following address: TCEQ, Water Availability Division, Watermaster Section, MC-160, P.O. Box 13087, Austin, Texas 78711-3087. Alternatively, you may send an electronic mail to: waterm12@tceq.texas.gov.

If you have any questions or additional comments, please feel free to contact my staff in the Watermaster Section: Cindy Hooper at (210) 403-4080 or Michael Redda at (512) 239-4631. In addition, you may sign up at <https://public.govdelivery.com/accounts/TXTCEQ/subscriber/new> to receive email updates. Additional information on the evaluation process is available at the following 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,



Ricky Anderson, Manager
Watermaster Section
Water Availability Division

Enclosure

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Figure D-2 cont.

Watermaster Evaluation Fact Sheet - 2012

Background

On May 28, 2011, the Texas Legislature adopted the Texas Commission on Environmental Quality (TCEQ) Sunset legislation, HB 2694, which continues the agency for 12 years. Governor Perry signed the bill into law on June 17, 2011. The legislation 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 there is a need to appoint a watermaster. This assessment is required at least once every five years, and the TCEQ developed a schedule to consider several basins each year. During 2012, the TCEQ is evaluating the Brazos River Basin, the Brazos-Colorado Coastal Basin, the Colorado River Basin, and the Colorado-Lavaca Coastal Basin.

What is a Watermaster Program?

The watermaster programs typically operate where our TCEQ regional offices are located. Here is how the watermaster system typically works:

- ❖ 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 users 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. If so, the watermaster notifies the user with lower priority to reduce pumping—or, if necessary, to stop pumping altogether.
- ❖ When streamflows diminish, the watermaster allocates available water among the users 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 three watermaster programs in Texas. The Rio Grande Watermaster coordinates releases from the Amistad and Falcon reservoir system for irrigation, municipal, and industrial uses. 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, which includes the Concho River and all of its tributaries, downstream to a point on the Concho River upstream of the O.H. Ivie Reservoir.

Advantages of a Watermaster Program.

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

- ❖ 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 should 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 everyone's most basic needs.
- ❖ When disputes arise among water users, the watermaster is often able to help the users settle the matter, thereby avoiding costly litigation.
- ❖ Watermasters can provide valuable technical assistance.
- ❖ Finally, having a watermaster program in place affords a long-term solution for managing water rights in that river basin.

Program Costs and Fees.

As provided by state law, appropriated water-right holders in a watermaster area must pay the costs associated with a watermaster program through an annual fee. In accordance with Chapter 11 of the Texas Water Code, Domestic and livestock users are exempted from water rights permitting and any fees associated with water uses.

The total amount assessed per water right holder is comprised of both a base fee charged on each account and an annual fee based on the volume of water that may be diverted for each authorized use. The current base fee is \$50 per account and generally does not change from year to year. The use fee is calculated each year and is based on the proposed operating budget for each watermaster program.

In addition to the cost of the watermaster program itself, most users will be required to add a meter to their pumps. Depending on the specific technology, a meter may cost \$400 or more. However, metering may lead to enough of a savings in pumping costs to offset the cost of the meter. In other words, the user might find that he or she had been running the unmetered pumps longer than it took to get the volume of water they needed.

Participating in the Process

We encourage input on this process. If you are interested in the evaluation of the Brazos River Basin, the Brazos-Colorado Coastal Basin, the Colorado River Basin, or the Colorado-Lavaca Coastal Basin, or if you have any questions on this process, please contact us:

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

By Email: waterm12@tceq.texas.gov

By Phone: Call Watermaster Program Liaison: Michael Redda at (512) 239-4631 or Cindy Hooper at (210) 403-4080.

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

Figure D-3

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 22, 2012

Re: Stakeholder Meetings - Watermaster Evaluation for the Brazos River Basin, Brazos-Colorado Coastal Basin, Colorado River Basin, and Colorado-Lavaca Coastal Basin

Dear Stakeholder:

In accordance with the Section 5.05 of House Bill (HB) 2694 of the 82nd Legislature (the Sunset legislation), the Texas Commission on Environmental Quality (TCEQ) is required to evaluate all river basins in the state without a watermaster program every five years to determine the need to appoint a watermaster.

On February 17, 2012 the TCEQ sent letters requesting initial comments to all water right holders, County Judges, Extension Agents, and other interested parties in the Brazos River Basin, Brazos-Colorado Coastal Basin, Colorado River Basin, and Colorado-Lavaca Coastal Basin. Based on staff's evaluation and comments received, we developed some draft options which can be found at <www.tceq.texas.gov/goto/watermaster> for consideration and comment.

TCEQ will be holding the following stakeholder meetings to discuss these options and the watermaster program:

6:00 p.m. – June 4, 2012
Fort Bend County Fair Ground, Bldg B
4310 Highway 36 South
Rosenberg, Texas 77471

6:00 p.m. – June 6, 2012
TEEX Emergency Service Training Institute
Building No. 25 (H.D. Smith), Room 122A
1595 Nuclear Science Road
College Station, Texas 77843

6:00 p.m. – June 7, 2012
San Saba High School Cafeteria
104 South 8th Street
San Saba, Texas 76877

6:00 p.m. – June 12, 2012
First Christian Church of Lubbock
2323 Broadway
Lubbock, Texas 79401

6:00 p.m. – June 13, 2012
Dora Roberts Community Center
100 Whipkey Drive
Big Spring, Texas 79720

6:00 p.m. – June 14, 2012
C.J. Davidson Conference Center
Angelo State University
2601 West Avenue N
San Angelo, Texas 76904

6:00 p.m. – June 15, 2012
Wharton Civic Center
1924 North Fulton Street
Wharton, Texas 77488

6:00 p.m. – June 18, 2012
Texas Farm Bureau Conference & Training Center
J.W. Hammond Auditorium
7410 Fish Pond Road
Waco, Texas 76710

Stakeholder
Page 2

6:00 p.m. – June 21, 2012
Pioneer Pavilion
Lady Bird Johnson Municipal Park
164 Recreation Loop
Fredericksburg, Texas 78624

Final close of comments will be **5:00 p.m. on July 6, 2012**. Comments should be mailed to Water Availability Division MC 160, P.O. Box 13087, Austin, Texas 78711-3087 or emailed to waterm12@tceq.texas.gov.

If you have any questions, please feel free to contact my staff in the Watermaster Section: Cindy Hooper at (210) 403-4080 or Michael Redda at (512) 239-4631. In addition, you may sign up to receive email updates at <https://public.govdelivery.com/accounts/TXFTCEQ/subscriber/new>. Additional information on the watermaster evaluation process is available at www.tceq.texas.gov/goto/watermaster.

We value your input on the evaluation process, including the draft options, as well as information to assist the agency in its evaluation of your basin. Thank you for your participation as we go through this very important process.

Sincerely,



John Gillen
Assistant Director
Water Availability Division

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

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