APPENDIX D

EVALUATION OF WATER BASINS IN TEXAS WITHOUT A WATERMASTER

TCEQ evaluates, at least once every five years, the river basins that do not have a watermaster program to determine if one should be established, as required by Section 5.05 of House Bill 2694, the Sunset bill from the 82nd legislative session. The statute also required that the commissioners establish criteria for the evaluation.

Overview of Watermaster Programs

A TCEQ watermaster office is 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 authorized 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 Title 30, Texas Administrative Code, Chapters 295, 297, 303, and 304.

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

- Reviewing diversion notifications.
- Authorizing appropriate diversions.
- Deterring illegal diversions.
- Providing real-time monitoring of area streamflow.
- Investigating alleged violations of Chapter 11.
- Mediating conflicts and disputes among water users.

TWC Chapter 11 sets forth the mechanisms for establishing a watermaster program:

- By the executive director in a water division established by the commission under Section 11.325.
- By court appointment.
- 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.

TCEQ has an existing watermaster program in each of these areas:

- Rio Grande, which serves 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). 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 that was signed that year 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.
- Brazos, which serves the Lower Brazos River Basin including and below Possum Kingdom Lake. On April 12, 2014, the commission issued an order directing that a watermaster be appointed for this basin after receiving a petition from 25 or more water right holders. The program was fully implemented on June 1, 2015.

Criteria and Schedule

In 2011, the commissioners established the following criteria to consider during 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?
  - » The number of water right complaints received annually in each river basin?

The agency completed the first five-year cycle in Fiscal 2016. The second cycle began in Fiscal 2017 to evaluate the river basins below:

Fiscal 2017
Brazos River Basin (Upper)
Brazos–Colorado Coastal Basin
San Jacinto-Brazos Coastal Basin
Colorado River Basin
Colorado–Lavaca Coastal Basin

Fiscal 2018
Trinity River Basin
Neches–Trinity Coastal Basin
San Jacinto River Basin
Trinity–San Jacinto Coastal Basin

Fiscal 2019
Neches River Basin
Sabine River Basin

Fiscal 2020
Canadian River Basin
Red River Basin

Fiscal 2021
Sulphur River Basin
Cypress Creek Basin

Evaluation Activities in Fiscal 2019

For the Neches and Sabine River Basins:

- Updated the webpage explaining the evaluation process, inviting stakeholders in these basins to participate and get automated email updates. See: www.tceq.texas.gov/goto/basins.
- Mailed initial outreach letters on March 11, 2019 (Figure D-1), to the stakeholders in each area, including all water-right holders, county judges and extension agents, river authorities, agricultural interests, industries, environmental organizations, and other interested parties. The 2nd letter announcing stakeholder meetings was mailed on May 3, 2019. The comment period was open until June 19, 2019.
- Held three stakeholder meetings in June 2019. At each meeting, the manager of the Watermaster Section was present to deliver information and to answer questions.

Comments

Neches and Sabine—Of the 9 stakeholder comments received related to these basins:

- 9 were opposed to establishing a watermaster program.
- 0 were in favor.

Evaluation Findings

TCEQ evaluated the basins based on the established criteria. The findings are highlighted below:

- There were no court orders to appoint a watermaster for any of the basins in this cycle.
- There were no petitions to appoint a watermaster for any of the basins in this cycle.

Threats to Senior Water Rights

In evaluating whether senior water rights have been threatened, staff considered if any priority calls were received and the history of complaints and investigations related to water rights management.

Within the Neches and Sabine River Basins, we received no priority calls during the evaluation period. The TCEQ regional offices received and investigated a total of 25 complaints and completed 417 investigations related to water rights management (e.g. complaints, temporary permits, and compliance initiatives) during the five-year period. The majority of these were completed with no violations or enforcement actions.

Costs to the Agency

Estimated costs to conduct the investigation activities for Fiscal 2014 through 2018:

Neches and Sabine River Basins were $38,651 and $31,836, respectively.

The cost of the required evaluations for these basins in 2019:

- Office of Water: $75,970.27, which included salary and fringe benefits, postage, and travel.
- Office of Legal Services staff time: $104.04.
- Office of Compliance and Enforcement: $626.20, which included staff time, travel time, and equipment use.
- Staff in TCEQ's Intergovernmental Relations Division participated in the evaluation process but incurred no cost.

At the commission's agenda meeting on September 27, 2019, TCEQ personnel gave a presentation and made recommendations related to the fiscal 2019 evaluation.

Evaluation Activities in Fiscal 2020

For the Canadian and Red River Basins:

- Updated the webpage explaining the evaluation process, inviting stakeholders in these basins to participate and get automated email updates. See: www.tceq.texas.gov/goto/basins.
- Mailed initial outreach letters on February 24, 2020 (Figure D-2), to the stakeholders in each area, including all water-right holders, county judges and extension agents, river authorities, agricultural interests, industries, environmental organizations, and other interested parties. The 2nd letter announcing stakeholder meetings was mailed on May 15, 2020. The comment period was open until June 30, 2020.
- Held two electronic stakeholder meetings in June 2020. At each meeting, the manager of the Watermaster Section was present to deliver information and to answer questions.

Comments

Canadian and Red—Of the 8 stakeholder comments received related to these basins:

- 8 were opposed to establishing a watermaster program.
- 0 were in favor.

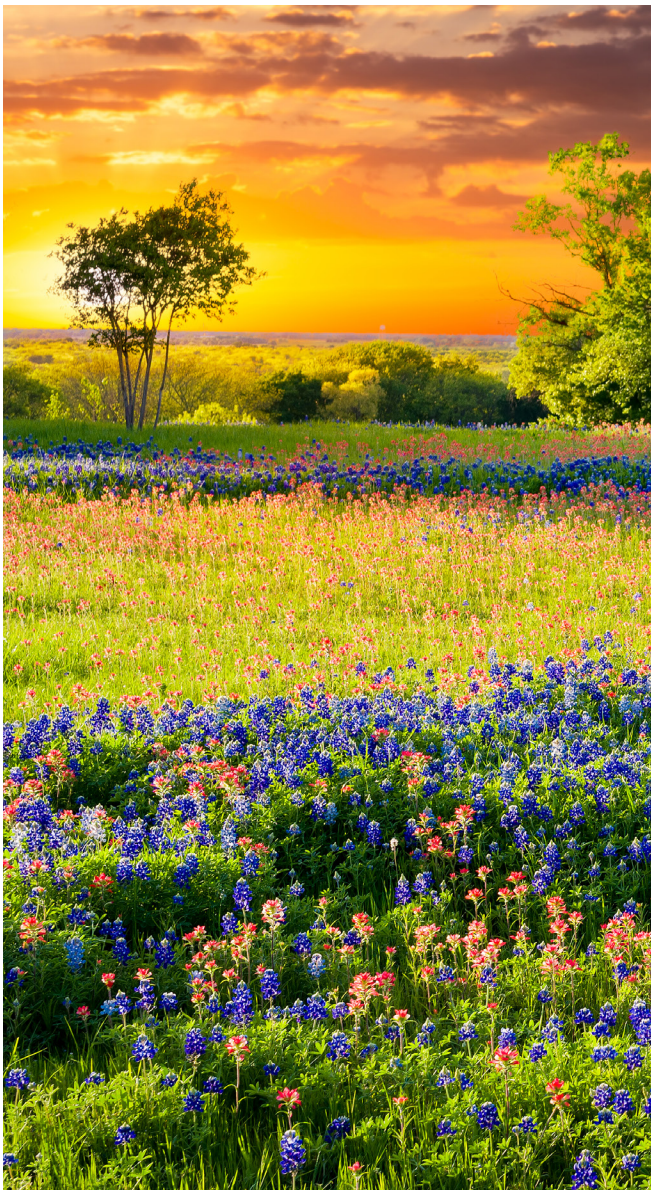
Evaluation Findings

TCEQ evaluated the basins based on the established criteria. The findings are highlighted below:

- There were no court orders to appoint a watermaster for any of the basins in this cycle.
- There were no petitions to appoint a watermaster for any of the basins in this cycle.

Threats to Senior Water Rights

- In evaluating whether senior water rights have been threatened, staff considered if any priority calls were received and the history of complaints and investigations related to water rights management.
- Within the Canadian and Red River Basins, we received no priority calls during the evaluation period. The TCEQ regional offices received and investigated a total of 13 complaints and completed 15 investigations related to water rights management (excluding temporary permit investigations) during the five-year period. The majority of these were completed with no violations or enforcement actions.



Costs to the Agency

Estimated costs to conduct these activities in fiscal years 2015 through 2019:

Canadian River Basin, $658, and Red River Basin, $14,522.

The costs to conduct the required evaluations of these basins in 2020:

- Office of Water: $27,282, which included salary and fringe benefits, postage, and travel.
- Office of Legal Services staff time: $31.
- Office of Compliance and Enforcement: $408, which included staff time, travel time, and equipment use.
- Staff from TCEQ's Intergovernmental Relations Division participated in the evaluation process but incurred minimal costs.

At the commission's agenda meeting on September 9, 2020, TCEQ personnel gave a presentation and made recommendations related to the fiscal 2020 evaluation.

Executive Director's Recommendation in Fiscal 2019 and 2020

With no court orders or petitions to create a watermaster, and no repeated history of threatened water rights, the executive director recommended that the commission not move forward on its own motion to create a watermaster program in any of the basins reviewed in fiscal 2019 and fiscal 2020.

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, as needed. The executive director can review this decision and evaluate additional threats to senior water rights as they occur and consider area stakeholder input.

Since stakeholders would be responsible for paying annual fees to support a new regulatory program, it is important to have their support in articulating the threat and the need to establish such a program.

Figure D-1. Outreach Letters to Stakeholders, FY 2019

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 11, 2019

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

Dear Stakeholder:

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

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

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

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

We will consider the following criteria when evaluating a basin:

(1) Has there been a court order to create a watermaster?

(2) Has TCEQ received a petition requesting a watermaster?

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

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Figure D-1. Outreach Letters to Stakeholders, FY 2019 *cont.*

Re: Watermaster Evaluation

Page 2

March 11, 2019

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

Please include the following information in your letter:

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

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

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

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

Sincerely,

Brooke McGregor

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

Enclosures

Figure D-1. Outreach Letters to Stakeholders, FY 2019 *cont.*

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 3, 2019

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

Dear Stakeholder:

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

Stakeholder Meetings

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

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

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

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

Information about the Process

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

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

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

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Figure D-1. Outreach Letters to Stakeholders, FY 2019 *cont.*

Stakeholder Meeting
Page 2
May 3, 2019

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

Public Comment

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

Sincerely,

Brooke McGregor

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

Figure D-2. Outreach Letters to Stakeholders, FY 2020

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.

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Figure D-2. Outreach Letters to Stakeholders, FY 2020 *cont.*

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 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

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

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

Enclosure

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Figure D-2. Outreach Letters to Stakeholders, FY 2020 *cont.*

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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** with the expected date of attendance, as well as whether attendance is expected through Skype or through conference call.

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Figure D-2. Outreach Letters to Stakeholders, FY 2020 *cont.*

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**

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** if you choose to contact us electronically. Thank you for your participation in this important process.

Sincerely,

Laurie Gharis

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

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