

TCEQ Interoffice Memorandum

To: Commissioners, TCEQ

Thru: Laurie Gharis, Chief Clerk

From: Jose Davila, Manager, Watermaster Section
Water Availability Division

Date: August 19, 2022

Subject: Agenda Executive Summary for Approval of Fiscal Year (FY) 2023 Proposed Assessment for Annual Costs for Watermaster Operations in the Rio Grande Water Division and renewing the Rio Grande Watermaster Advisory Committee Set for September 7, 2022, Agenda
Docket No. 2022-0699-BGT

Summary of Request:

The Rio Grande Watermaster Program seeks approval of its FY 2023 proposed assessment. The Executive Director estimates the proposed assessment of Nine Hundred Sixty-Eight Thousand, Nine Hundred Sixty-One Dollars and Forty-One Cents (\$968,961.41) will generate revenue of Nine Hundred Forty-Nine Thousand, Five Hundred Eighty-Two Dollars and Eighteen Cents (\$949,582.18) for FY 2023. The proposed assessment is based on annual costs of operations for an operating budget that consists of a \$50.00 base fee applicable to each assessment account. A penalty of 5.0% of any delinquent fee shall be imposed on a person who fails to pay the required fee when due, and if the person fails to pay the fee within 30 days after the date the fee is due, an additional 5.0% penalty shall be imposed. Delinquent fees will accrue interest beginning on the 61st day after the due date. The yearly interest rate on all delinquent fees required under this title is the prime rate plus one percent, as published in the *Wall Street Journal* on the first day of each calendar year that is not a Saturday, Sunday, or a legal holiday. Penalties and/or interest fees may be waived by the Executive Director for good cause. The Executive Director also requests that the Rio Grande Watermaster Advisory Committee continue to exist and be continued through September 30, 2023.

Texas Government Code 2110 requires advisory committee renewal at least every four years. Staff has determined it would be more efficient to extend the existence of the Watermaster Advisory Committees for an additional year as part of the annual watermaster budget approval process.

Authority: Tex. Water Code §§ 5.107, 11.329, and 11.4531
30 Tex. Admin. Code §§ 12.1, 12.3, and 12.5

Staff Recommendation:

Approval of the Rio Grande Watermaster Program FY 2023 Assessment for Annual Cost of Operations and extend the existence of the Rio Grande Watermaster Advisory Committee.

Contact: Jose Davila, (830) 773-5059
Stephen Kinal, (512) 239-4010

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

AGENDA REQUESTED: September 7, 2022

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

Jose Davila, (830) 773-5059
Anthony Stambaugh, (956) 430-6034
Stephen Kinal, (512) 239-4010

CONSIDERATION OF FISCAL YEAR 2023 ASSESSMENT OF ANNUAL COSTS FOR WATERMASTER OPERATIONS IN THE RIO GRANDE WATER DIVISION.

Pursuant to Texas Water Code Section 11.329 and 30 Tex. Admin. Code Sections 12.1, 12.3, 12.5, and 303.71-303.73 of the Commission Rules, the Executive Director requests that the Commission consider Watermaster assessment of annual costs for the fiscal year beginning September 1, 2022 and ending August 31, 2023, for water right holders in the Rio Grande Water Division, and approve \$968,961.41 as the amount to be assessed for annual costs. The Rio Grande Water Division extends from Fort Quitman, Texas to the mouth of the Rio Grande River, excluding the watersheds of the Pecos and Devils Rivers and including that portion of the Nueces-Rio Grande Costal Basin lying in Hidalgo, Cameron, Willacy, and Starr Counties whose source of water is the Rio Grande. The Executive Director also requests that the Commission extend the existence of the Rio Grande Watermaster Advisory Committee. (Jose Davila, Cole Malley).

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

TYPE OF MATTER: Budget

COUNTY: The 16 counties within the Rio Grande Watermaster's Jurisdiction (Brewster, Cameron, Dimmit, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Kinney, Maverick, Presidio, Starr, Terrell, Val Verde, Webb, Willacy, and Zapata)

DOCKET NUMBER: 2022-0699-BGT

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER

Assessing the Annual Cost of Operation for the Rio Grande Water Division and Associated Basins for the fiscal year beginning September 1, 2022 and ending August 31, 2023 and continuing the existence of the Rio Grande Watermaster Advisory Committee: Docket No. 2022-0699-BGT; Rio Grande Watermaster

On September 7, 2022, after proper notice and public hearing as provided in Texas Water Code § 11.329, came to be considered by the Texas Commission on Environmental Quality ("Commission") the matter of cost for the Watermaster operations in the said Division for the fiscal year beginning September 1, 2022 and ending August 31, 2023. After reviewing the supporting documentation, the Commission finds as follows:

1. The area subject to the order and referred to as the "Rio Grande" herein extends from Fort Quitman, Texas to the mouth of the Rio Grande River, excluding the watersheds of the Pecos and Devils Rivers, and including that portion of the Nueces-Rio Grande Coastal Basin in Hidalgo, Cameron, Willacy, and Starr Counties whose source of water is the Rio Grande;
2. Pursuant to Texas Water Code § 11.329, the holders of water rights which are to be administered by the Watermaster may be assessed the compensation and necessary expenses of a Watermaster, an Assistant Watermaster, and other necessary employees;
3. 30 Texas Administrative Code (TAC) §§ 303.71-303.73 set forth formulas and procedures for the assessment of costs of the Watermaster operations in the Rio Grande;
4. The procedures set out in the Texas Water Code § 11.329 and 30 TAC § 303.71 were followed for this assessment;
5. The compensation and necessary expenses of a Watermaster and other necessary employees for the fiscal year beginning September 1, 2022, and ending August 31, 2023, will require the amount to be assessed in the sum of Nine Hundred Sixty-Eight Thousand, Nine Hundred Sixty-One Dollars and Forty-One Cents (\$968,961.41);
6. The charges, fees, formulas for assessment rates, and method for assessing and levying costs approved below constitute an equitable apportionment of costs, as required by Texas Water Code § 11.329;
7. All requirements of Texas Water Code § 11.329 and 30 TAC §§ 303.71-303.73 have been met.
8. Texas Water Code § 11.4531 provides for the creation of the Rio Grande Watermaster Advisory Committee; and
9. Texas Government Code § 2110.008 provides that an advisory committee is abolished on the fourth anniversary of its creation unless the state agency provides for a different abolishment date.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

1. That the amount of Nine Hundred Sixty-Eight Thousand, Nine Hundred Sixty-One Dollars and Forty-One Cents (\$968,961.41) is approved as the total amount to be assessed for annual costs of operations of the Rio Grande Watermaster during the fiscal year beginning September 1, 2022, and ending August 31, 2023, and that such amount is assessed against the water rights holders in the Rio Grande Water Division in the manner described in this order and pursuant to 30 TAC §§ 303.71-303.73;
2. That the following charges, rates, fees, formulas for assessment rates and method for assessing and levying costs are approved and shall be implemented by the Executive Director:
 - a. Except as provided for "no charge" water and excess flow permits below, a base charge for each assessment account of Fifty Dollars (\$50.00);
 - b. No base charge for "no charge" water diverted pursuant to Texas Water Code § 11.0871;
 - c. No base charge for excess flow water rights authorized under 30 TAC § 303.61;
 - d. Assessment rates for each assessment account to be calculated by the Executive Director in accordance with the procedures set forth in 30 TAC § 303.72;
 - e. Assessment of costs and levy of assessments for each account in accordance with procedures set forth in 30 TAC § 303.73;
 - f. A penalty of 5.0% of the fee due shall be imposed when the assessment is not paid on time. If the assessment is not paid within 30 days after the day on which the fee is due, an additional 5.0% penalty shall be imposed pursuant to 30 TAC Chapter 12;
 - g. Delinquent fees accrue interest beginning on the 61st day after their due date;
 - h. Penalties and/or interest under this section may be waived by the Executive Director for good cause;
3. That the Executive Director shall specify dates by which payments assessed pursuant to this order shall be paid or postmarked; and
4. The Rio Grande Watermaster Advisory Committee is continued until September 30, 2023, or until the next annual budget is approved for the Rio Grande Watermaster, whichever occurs first.

Texas Commission on
Environmental Quality

For the Commission

Date Signed

TCEQ Interoffice Memorandum

To: Commissioners, TCEQ

Thru: Josalyn McMillon, Acting Director
Office of Water

From: Kim Nygren, Deputy Director Water
Availability Division

Date: August 19, 2022

Subject: Fiscal Year (FY) 2023 Proposed Assessment of Annual Costs of Operations for the Rio Grande Watermaster Program

The Rio Grande Watermaster fund is required by Texas Water Code (TWC) § 11.329 to pay compensation and expenses of the Watermaster and to pay expenditures for equipment, facilities, and capital expenditures necessary for Watermaster operations when recommended by the Watermaster Advisory Committee (WAC) and the Executive Director and approved by the Commission.

At this time, staff recommends and seeks Commission approval of an FY23 operational budget of \$949,582.18. Using this budget amount, the program calculates its assessment based on a 98% collection rate; therefore, the total assessment amount would be \$968,961.41 with a municipal rate of 0.4214. This staff proposal represents an increase of \$0.0450 from the previous year's municipal rate of \$0.3764.

Attached to this memo are copies of the following:

- **Public Notice for the July 26, 2022 Rio Grande WAC Meeting:** This notice was mailed to all water right holders within the Rio Grande Watermaster Program on June 10, 2022. The notice is listed at the bottom of their monthly report statement. An example report is included.
- **Public Notice for the September 7, 2022 Commission Agenda:** This was mailed to all water right holders in the Rio Grande Watermaster Program on August 5, 2022. This notice satisfies the thirty (30) day notice of the budget hearing required by TWC §11.329(b).
- **Mailing affidavit for the September 7, 2022 Public Notice**
- **"Rio Grande Watermaster Operations: FY22 Approved Assessment Compared to FY23 Budget Needs":** This document outlines the FY22 approved assessment compared to the FY23 budget needs at current Rio Grande Watermaster Program staffing levels. The Rio Grande WAC members were provided with this document via Email on July 7, 2022. The document was discussed during the July 26, 2022 meeting.

If I can be of further assistance, or should you have any questions regarding this matter, please contact me at (512) 239-4644, or Jose Davila, Watermaster Section Manager at (830) 773-5059.

Rio Grande Watermaster Operations

Annual Appropriation Information

Rio Grande Fund Balance as of 9/1/21: \$691,868.65

FY22 Assessment Compared to Proposed FY23 Assessment

Budget Categories	FY22 Assessment	Proposed FY23 Assessment	Difference between FY23 to FY22
Salaries	\$484,545.84	\$521,110.29	\$36,564.46
Longevity	\$5,304.74	\$4,629.35	(\$675.39)
Salary Enhancements	(1) \$14,536.38	\$23,449.96	\$8,913.59
Fringe	(2) \$165,724.51	\$178,212.76	\$12,488.25
Additional Insurance and Retirement	(3) \$7,565.80	\$8,237.84	\$672.04
SORM	(4) \$808.96	\$646.73	(\$162.23)
SWCAP	(5) \$4,151.10	\$4,210.35	\$59.25
LAR Capital	(6) \$0.00	\$0.00	\$0.00
Professional/Temp Services	(7) \$59,579.93	\$63,198.15	\$3,618.22
Travel In-State	(8) \$15,000.00	\$21,000.00	\$6,000.00
Travel Out-of-State	\$0.00	\$0.00	\$0.00
Training	\$4,000.00	\$2,000.00	(\$2,000.00)
Rent - Building	(9) \$47,118.65	\$47,118.65	\$0.00
Postage	\$2,550.00	\$2,550.00	\$0.00
Phone/Utilities	\$19,168.00	\$18,526.09	(\$641.91)
Supplies - Consumables	\$1,500.00	\$1,500.00	\$0.00
Other Operating Expenses	(10) \$1,000.00	\$1,000.00	\$0.00
Fuels/Lubricants	\$18,000.00	\$26,500.00	\$8,500.00
Rent - Machine & Other	\$4,142.00	\$4,142.00	\$0.00
Facilities, Furniture & Equip	(11) \$15,000.00	\$21,550.00	\$6,550.00
Capital Equipment - Non LAR	(12) \$0.00	\$0.00	\$0.00
TOTAL	\$869,695.92	\$949,582.18	\$79,886.27

FY23 Proposed Assessment Calculation

FY23 Operating Budget Needs:	\$949,582.18
Assessment Needed Based on Collection Rate:	98.0%
	\$968,961.41

Historical Assessment Comparison

	FY21	FY22	FY23
Total Assessment:	\$918,291.35	\$874,066.25	\$968,961.41
Municipal Rate (per A-F):	\$0.3971	\$0.3764	\$0.4214
Irrigation Rate (per A-F):	\$0.3177	\$0.3011	\$0.3371

Notes:

- (1) Salary Enhancements are calculated at 4.5% of FY23 budgeted salaries. These are projections only; actual expenditures will vary based on salary actions approved by management.
- (2) Fringe includes employee benefits such as health insurance, social security insurance, and retirement. Fringe is calculated at 32.5% of total salaries. Fringe will vary year-to-year based on actual costs.
- (3) Additional Health Insurance (1%) and Retirement (0.5%) as required under Article IX, Sections 17.04 and 17.08 of the General Appropriations Act.
- (4) State Office of Risk Management (SORM) is a fee that is charged annually to the TCEQ. The amount is estimated during budget development and actual expenditure may vary.
- (5) Statewide Cost Allocation Plan (SWCAP) is a fee that is charged annually to the TCEQ for central services. The amount is estimated during budget development and actual expenditure may vary.
- (6) Legislative Appropriation Request (LAR) Capital includes all items exceeding \$100,000 in total agency cost (for example: vehicles, computers, monitoring equipment), and must have legislative approval.
- (7) Professional/Temp Services includes but is not limited to software development costs, summer interns, and temporary employees.
- (8) Travel In-State maximum amounts are established at an agency level; an increase in WM travel funding cannot be accommodated without a corresponding decrease in travel funding in another agency program.
- (9) A proportionate share of the annual TCEQ Regional Office building rent is charged to the Watermaster Program.
- (10) Other Operating Expenses includes items designated by the Texas Comptroller's Office that do not fall into any remaining budget category (for example: annual vehicle inspection fees, vehicle decals, etc.).
- (11) Facilities, Furniture & Equipment (FFE) includes but is not limited to non-LAR equipment less than \$5,000 in cost, non-consumable supplies, vehicle maintenance and repairs, etc.
- (12) Capital Equipment - Non LAR includes capital items with a cost between \$5,000 and \$24,999.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Laurie Gharis, Chief Clerk of the Texas Commission on Environmental Quality, do hereby certify that the Notice of Consideration of Proposed Assessment of Annual Costs for the Rio Grande Watermaster Program was mailed on August 5, 2022. Given under my hand and the seal of the Texas Commission on Environmental Quality, this the 3rd day of August, 2022.

Laurie Gharis

Laurie Gharis, Chief Clerk
Texas Commission on Environmental Quality

SEAL



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

NOTICE OF CONSIDERATION OF PROPOSED ASSESSMENT OF ANNUAL COSTS FOR THE RIO GRANDE WATERMASTER PROGRAM

The Commissioners of the Texas Commission on Environmental Quality will consider the Rio Grande Watermaster Operation's budget and proposed assessment for costs for September 1, 2022 through August 31, 2023 (TCEQ Fiscal Year 2023), during a public meeting at:

**9:30 A.M. in Building E, Room 2015
Located at 12100 Park 35 Circle
In Austin, Texas on
September 7, 2022**

This item is Docket No. 2022-0699-BGT, Consideration of an Order assessing costs of Watermaster operations in the Rio Grande Water Division and associated basins, which extends from Fort Quitman, Texas to the mouth of the Rio Grande River, excluding the watersheds of the Pecos and Devils Rivers, and including that portion of the Nueces-Rio Grande Coastal Basin in Hidalgo, Cameron, Willacy, and Starr Counties whose source of water is the Rio Grande.

The compensation and necessary expenses of the Rio Grande Watermaster Operations for the 2023 fiscal year is Nine Hundred Forty-Nine Thousand, Five Hundred Eighty-Two Dollars and Eighteen Cents (**\$949,582.18**). Of this amount, Seven Hundred Twenty-Seven Thousand, Four Hundred Two Dollars and Thirty-Six Cents (**\$727,402.36**) are needed for program staff base salaries and benefits (including longevity, salary enhancements, and fringe) and Two Hundred Twenty-Two Thousand, One Hundred Seventy-Nine Dollars and Eighty-Two Cents (**\$222,179.82**) are needed for program operating costs. Based on a 98% collection rate, these necessary expenses require a total assessment of Nine Hundred Sixty-Eight Thousand, Nine Hundred Sixty-One Dollars and Forty-One Cents (**\$968,961.41**) with a municipal rate of **\$0.4214**.

This notice is provided to all holders of water rights as required by the Texas Water Code Section 11.329. You may attend this meeting and provide comments to the Commission concerning this item. Persons with disabilities who have special communication or other accommodation needs who are planning to attend this meeting should contact the Office of Administrative Services Facilities Liaison at (512) 239-0080. Requests should be made as far in advance as possible.

The Rio Grande Watermaster Advisory Committee (WAC) was provided the proposed assessment and budget, and on July 26, 2022 a meeting was held. The public was invited to attend this WAC meeting via mailed notice dated June 10, 2022 with a meeting date on July 12, 2022; however, the meeting was re-scheduled and water right holders were notified of this date change through the June monthly report and the WAC members were notified on July 7, 2022.

If you have any questions or would like a copy of the proposed budget, please contact the Rio Grande Watermaster's Office at (956) 430-6054 or (800) 609-1219, via fax at (956) 430-6052, or via email at anthony.stambaugh@tceq.texas.gov.

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

June 10, 2022

PUBLIC MEETING NOTICE

RIO GRANDE WATERMASTER ADVISORY COMMITTEE

DATE: Tuesday, July 12, 2022

TIME: 1:30 PM

LOCATION: Texas Commission on Environmental Quality Regional Office
1804 West Jefferson, Harlingen, Texas 78550
Microsoft Teams

Section 11.3261(e) of the Texas Water Code requires the Watermaster Advisory Committee (WAC) to review and provide comments to the executive director of the TCEQ on the annual budget for watermaster operations. The Rio Grande WAC will hold a hybrid meeting on July 12, 2022 at 1:30 PM to discuss the proposed Rio Grande Watermaster budget for fiscal year 2023. The public, including all water right holders in the watermaster area, are invited to attend and participate in this meeting, as well as, to provide comments.

To join the meeting, use the following link or dial:

<https://bit.ly/3H9JUOo>

Toll Number: +1 512-826-8070

Conference ID: 962 263 681#

We suggest joining the electronic meeting by 1:15 PM on July 12, 2022. Although not required, the Rio Grande Watermaster Program asks that you RSVP by emailing Anthony.Stambaugh@tceq.texas.gov no later than July 8, 2022, so that we have a head count for the meeting and can help with any potential technical difficulties.

You will also receive another notice after the WAC meeting is held. Section 11.329(b) of the Water Code requires the executive director to provide notice to water right holders at least 30 days prior to the Commission holding a public hearing on the proposed fiscal year budget. That public notice will be mailed following the completing of the WAC meeting and at least 30 days before the date of the proposed budget being considered during a Commission agenda meeting.

Notice Date: June 10, 2022

Anthony Stambaugh, Rio Grande Watermaster

For questions please feel free to contact the Rio Grande Watermaster at (956) 430-6034 or via email at Anthony.Stambaugh@tceq.texas.gov.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
 RIO GRANDE WATER DIVISION - LOWER
 MONTHLY REPORT STATEMENT
 FOR THE PERIOD OF 05/29/2022 - 06/25/2022

Adjudication Certificate: 0841-005

Class: A

Authorized Water Right: 151,536.1500

Owner name: CC I.D. # 2

Storage Limit: 213,665.9715

Diverter name: CC I.D. # 2

Use Type: IRR

CC I.D. # 2
 PO BOX 687
 SAN BENITO TX 78586-0687

Previous Month Summary

UB: 40,367.5752 YTD: 13,415.0208
 CB: 0.0000 YTD: 6,094.6369
 SB: 40,367.5752 NC YTD: 913.3430
 SOLD: 0.0000

New Balances

	Useable	Storage	Contract	AWR Ytd	NC Ytd	Sold Ytd	Cntrct Ytd
	33,650.4647	33,650.4647	0.0000	20,132.1313	1,848.8780	0.0000	6,253.6369

Transactions

Code	Useable	Storage	Contract	AWR Wtr	NC Wtr	Sold Wtr	Cntrct Wtr
ADJUST	1,015.3500	1,015.3500	0.0000	-1,015.3500	0.0000	0.0000	0.0000
BUY	159.0000	159.0000	159.0000	0.0000	0.0000	0.0000	0.0000
DIVERT	-7,891.4605	-7,891.4605	-159.0000	7,732.4605	935.5350	0.0000	159.0000
Totals:	-6,717.1105	-6,717.1105	0.0000	6,717.1105	935.5350	0.0000	159.0000

Falcon and Amistad Reservoir Information

In Falcon and Amistad Reservoirs (26.39%)	895,135.0000 AF
Dead Storage	4,600.0000 AF
Reserved for Municipal / Domestic /Industrial	225,000.0000 AF
Reserved for Lower Rio Grande	561,762.4296 AF
Allocation for Lower Rio Grande	0.0000 AF
Reserved for Middle Rio Grande	83,680.9002 AF
Allocation for Middle Rio Grande	0.0000 AF
Reserved for Operational Uses	20,091.6702 AF
Unallocated Water	-0.0000 AF

Comments

***** PRACTICE WATER CONSERVATION *****

Update: Rio Grande WAC Meeting will be held on July 26, 2022 at 9:00 AM, at 1804 West Jefferson Avenue, Harlingen, Texas and via Microsoft Teams. Link: <https://bit.ly/3H9JUOo>. Toll Number: +1 512-826-8070, Conference ID: 962 263 681#

CLASS A & B ACCOUNT NOTICE: The operational reserve (OR) was reduced by 54,908.3298 acre-feet. Please be aware, if the OR reduces below zero acre-feet, a negative allocation will occur. Please refer to 30 TAC §303.22.

The next monthly report period ends on July 30, 2022.

Anthony Stambaugh
 Rio Grande Watermaster