

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 Concho River Watermaster Program and renewing the Concho Watermaster Advisory Committee Set for September 7, 2022 Agenda Docket No. 2022-0701-BGT

Summary of Request:

The Concho River Watermaster Program seeks approval of its FY 2023 proposed assessment. The Executive Director estimates the proposed assessment will generate revenue of Two Hundred Twenty-Three Thousand, Eight Hundred One Dollars and Forty-Four Cents (\$223,801.44) 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 Concho 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, 11.4531 and 11.558
30 Tex. Admin. Code §§ 12.1, 12.3, and 12.5

Staff Recommendation:

Approval of the Concho River Watermaster Program FY 2023 Assessment for Annual Cost of Operations and extend the existence of the Concho 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
Angela Sander, (210) 416-3997
Stephen Kinal, (512) 239-4010

CONSIDERATION OF FISCAL YEAR 2023 ASSESSMENT OF ANNUAL COSTS FOR WATERMASTER OPERATIONS IN THE CONCHO RIVER WATERMASTER PROGRAM. Pursuant to Texas Water Code Sections 11.329 and 11.558 and 30 Tex. Admin. Code Sections 12.1, 12.3, 12.5, and 304.61 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 Concho River Watermaster Program and approve \$223,801.44 as the amount to be assessed for annual costs. The Concho River Watermaster Program consists of the Concho River segment of the Colorado River Basin that includes the Concho River and all of its tributaries, downstream on the main stem of the Concho River to a point on the Concho River prior to reaching, and upstream of the O.H. Ivie Reservoir located at and including the diversion point of Certificate of Adjudication No. 14-1393 (River Order No. 4954450000) in Concho County. The Executive Director also requests that the Commission extend the existence of the Concho Watermaster Advisory Committee. (Jose Davila, Cole Malley).

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

TYPE OF MATTER: Budget

COUNTY: The 8 counties within the Concho Watermaster's Jurisdiction (Irion, Runnels, Sterling, Coke, Reagan, Tom Green, Schleicher, and Concho)

DOCKET NUMBER: 2022-0701-BGT

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER

Assessing the Annual Cost of Operation for the Concho River Watermaster Program for the fiscal year beginning September 1, 2022, and ending August 31, 2023 and continuing the existence of the Concho Watermaster Advisory Committee:
Docket No. 2022-0701-BGT; Concho River 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 Program 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 Concho River Watermaster Program, as designated pursuant to House Bill 2815 (Chapter 11, Subchapter K of the Texas Water Code) passed in the Regular Session, 79th Legislature, 2005, consists of the Concho River segment of the Colorado River Basin that includes the Concho River and all of its tributaries, downstream of the main stem of the Concho River to a point on the Concho River prior to reaching, and upstream of the O.H. Ivie Reservoir located at and including the diversion point of Certificate of Adjudication No. 14-1393 (River Order No. 4954450000) in Concho County;
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, assistant Watermasters, and other necessary employees;
3. Pursuant to Texas Water Code § 11.558, costs of the Concho River Watermaster Program shall be assessed solely upon the water right holders subject to the Concho River Watermaster Program;
4. 30 Texas Administrative Code (TAC) §§ 304.61-304.63 set forth formulas and procedures for the assessment of costs of the Watermaster operations in the Concho River Watermaster Program;
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 Two Hundred Twenty-Three Thousand, Eight Hundred One Dollars and Forty-Four Cents (\$223,801.44).
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 and 11.558;
7. All requirements of Texas Water Code §§ 11.329 and 11.558 and 30 TAC §§ 304.61-304.63 have been met.

8. Texas Water Code § 11.4531 provides for the creation of the Concho Watermaster Advisory Committee;
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 Two Hundred Twenty-Three Thousand, Eight Hundred One Dollars and Forty-Four Cents (\$223,801.44) is approved as the total amount to be assessed for annual costs of operations of the Concho River Watermaster Program 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 Concho River Watermaster Program in the manner described in this order and pursuant to 30 TAC §§ 304.61-304.63;
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. A base charge for each assessment account of Fifty Dollars (\$50.00);
 - b. Assessment rates for each assessment account to be calculated by the Executive Director in accordance with the procedures set forth in 30 TAC § 304.63;
 - c. Assessment of costs and levy of assessments for each account in accordance with procedures set forth in 30 TAC § 304.63;
 - d. 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;
 - e. Delinquent fees accrue interest beginning on the 61st day after their due date;
 - f. 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 Concho Watermaster Advisory Committee is continued until September 30, 2023, or until the next annual budget is approved for the Concho 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 Concho River Watermaster Program

The Concho River Watermaster fund is required by Texas Water Code (TWC) §§ 11.329 and 11.558 to pay the compensation and necessary 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 \$223,801.44. Using this budget amount, the program calculates its assessment based on a 100% collection rate; therefore, the total assessment amount would be \$223,801.44 with a municipal rate of \$0.7883. This staff proposal represents an increase of \$0.0441 from the previous year's municipal rate of \$0.7442.

Attached to this memo are copies of the following:

- **Public Notice for the July 21, 2022 Concho River WAC Meeting:** This notice was mailed to all water right holders in the Concho River Watermaster Program on June 16, 2022.
- **Public Notice for the September 7, 2022 Commission Agenda:** This was mailed to all water right holders in the Concho River 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**
- **“Concho River 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 Concho River Watermaster Program staffing levels. The Concho River WAC members were provided with this document via Email on July 7, 2022. The document was discussed during the July 21, 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.

Concho Watermaster Operations

Annual Appropriation Information

Concho Fund Balance as of 9/1/21: \$ 102,381.03

FY22 Assessment Compared to Proposed FY23 Assessment

Budget Categories	FY22 Assessment	Proposed FY23 Assessment	Difference between FY23 to FY22
Salaries	\$117,231.66	\$122,032.99	\$4,801.33
Longevity	\$1,463.52	\$1,209.00	(\$254.52)
Salary Enhancements (1)	\$3,516.95	\$5,491.48	\$1,974.53
Fringe (2)	\$40,154.78	\$41,774.19	\$1,619.41
Additional Insurance and Retirement (3)	\$1,833.18	\$1,931.00	\$97.82
SORM (4)	\$194.83	\$151.60	(\$43.23)
SWCAP (5)	\$1,005.81	\$986.93	(\$18.88)
LAR Capital (6)	\$0.00	\$0.00	\$0.00
Professional/Temp Services (7)	\$12,937.11	\$13,809.72	\$872.61
Travel In-State (8)	\$4,550.00	\$4,550.00	\$0.00
Travel Out-of-State	\$0.00	\$0.00	\$0.00
Training	\$2,250.00	\$2,250.00	\$0.00
Rent - Building (9)	\$11,000.00	\$11,000.00	\$0.00
Postage	\$650.00	\$650.00	\$0.00
Phone/Utilities	\$4,350.00	\$4,257.52	(\$92.48)
Supplies - Consumables	\$400.00	\$400.00	\$0.00
Other Operating Expenses (10)	\$172.00	\$172.00	\$0.00
Fuels/Lubricants	\$4,500.00	\$7,000.00	\$2,500.00
Rent - Machine & Other	\$835.00	\$835.00	\$0.00
Facilities, Furniture & Equip (11)	\$5,000.00	\$5,300.00	\$300.00
Capital Equipment - Non LAR (12)	\$0.00	\$0.00	\$0.00
TOTAL	\$212,044.84	\$223,801.44	\$11,756.60

FY23 Proposed Assessment Calculation

FY23 Operating Budget Needs:	\$223,801.44
Assessment Needed Based on Collection Rate: 100%	\$223,801.44

Historical Assessment Comparison

	FY21	FY22	FY23
Total Assessment:	\$208,031.04	\$212,044.84	\$223,801.44
Municipal Rate (per A-F):	\$0.7290	\$0.7442	\$0.7883

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 Concho River 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 CONCHO RIVER WATERMASTER PROGRAM

The Commissioners of the Texas Commission on Environmental Quality will consider the Concho River 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. 2022-0701-BGT, Consideration of an Order assessing costs of Watermaster operations in the Concho River Watermaster Program which consists of the Concho River segment of the Colorado River Basin that includes the Concho River and all of its tributaries, downstream on the mainstream of the Concho River to a point on the Concho River prior to reaching, and upstream of the O.H. Ivie Reservoir located and including the diversion point of Certificate of Adjudication No. 14-1393 (River Order No. 4954450000) in Concho County.

The compensation and necessary expenses of the Concho River Watermaster Operations for the 2023 fiscal year is Two Hundred Twenty-Three Thousand, Eight Hundred One Dollars and Forty-Four Cents (**\$223,801.44**). Of this amount, One Hundred Seventy Thousand, Five Hundred Seven Dollars and Sixty-Six Cents (**\$170,507.66**) are needed for program staff base salaries and benefits (including longevity, salary enhancements, and fringe) and Fifty-Three Thousand, Two Hundred Ninety-Three Dollars and Seventy-Eight Cents (**\$53,293.78**) are needed for program operating costs. Based on a 100% collection rate, these necessary expenses require a total assessment of Two Hundred Twenty-Three Thousand, Eight Hundred One Dollars and Forty-Four Cents (**\$223,801.44**) with a municipal rate of **\$0.7883**.

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 Concho River Watermaster Advisory Committee (WAC) was provided the proposed assessment and budget, and on July 21, 2022 a meeting was held. The public was invited to attend this WAC meeting via mailed notice dated June 16, 2022.

If you have any questions or would like a copy of the proposed budget, please contact the Concho River Watermaster's Office at (325) 481-8069 or (866) 314-2894, via fax at (325) 658-5431, or via email at angela.sander@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

PUBLIC MEETING NOTICE

CONCHO RIVER WATERMASTER ADVISORY COMMITTEE

DATE: Thursday, July 21, 2022
TIME: 1:30 p.m.
LOCATION: 1) Texas Commission on Environmental Quality Regional Office
Dr. Ralph R. Chase State of Texas Services Center, Room 107
622 South Oakes, San Angelo, Texas 76903-7035
2) Microsoft Teams

Section 11.557(f) of the Texas Water Code requires the Watermaster Advisory Committee (WAC) to review, to hold a public hearing on, and to make recommendations to the executive director of the TCEQ on the annual budget for watermaster operations. The Concho River WAC will hold a hybrid meeting (in-person and virtual options) at the TCEQ's San Angelo Regional Office on **July 21, 2022 at 1:30 p.m.** to discuss the proposed Concho River Watermaster budget for fiscal year 2023. **The public, including all water right holders in the watermaster area, are invited to attend and to participate in this meeting as well as to provide comments.**

To join the virtual meeting, use the following link or call-in information:
<https://bit.ly/3MKFC1n>

Call-in Number: +1 512-826-8070
Phone Conference ID: 399 962 037#

We suggest joining the meeting by 1:15 p.m. on July 21, 2022. Although not required, the Concho Watermaster Program asks that you RSVP by emailing Conchowm@tceq.texas.gov no later than July 20, 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 completion 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 16, 2022

Angela Sander, Concho River Watermaster

For questions, please feel free to contact the Concho River Watermaster at (210) 416-3997 or via email at Angela.Sander@tceq.texas.gov.