

EVALUATION OF WATER BASINS IN TEXAS WITHOUT A WATERMASTER

FY 2023-FY 2024

Watermaster evaluations are required by Texas Water Code (TWC) 11.326 [as enacted in House Bill 2694, Section 5.05, 82nd Legislature, Sunset, (2011)]. At least once every five years, TCEQ evaluates the river basins that do not have a watermaster program to determine if one should be established.

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:

- Reviewing diversion notifications.
- Authorizing appropriate diversions.
- Deterring illegal diversions.
- Providing real-time monitoring of area streamflow.
- Investigating alleged violations of TWC 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** – Serves the segment of the Rio Grande from Fort Quitman to the Gulf of Mexico (excluding the Pecos and Devils Rivers), and coordinates releases from the Amistad and Falcon reservoir systems. Established by a 1956 court appointment.
- **South Texas** – Serves the Lavaca, Nueces, San Antonio, and Guadalupe River Basins, as well as the adjacent coastal basins. Established by a commission order in 1988 and amended in 1998.
- **Concho River** – Serves a portion of the Concho River segment in the Colorado River Basin. Created by the Legislature in 2005.

- **Brazos** – Serves the Lower Brazos River Basin including and below Possum Kingdom Lake. In 2014, the commission directed that a watermaster be appointed for this basin after receiving a petition from 25 or more water right holders. The program was fully implemented in 2015.

Fiscal 2025

- Canadian River Basin
- Red River Basin

Fiscal 2026

- Sulphur River Basin
- Cypress Creek Basin

CRITERIA AND SCHEDULE

In 2011, the commission established a schedule to evaluate water basins and criteria considered 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 its second five-year evaluation cycle in fiscal 2021. The third cycle—begun in fiscal 2022—is following this schedule:

Fiscal 2022

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

Fiscal 2023

- Trinity River Basin
- Neches-Trinity Coastal Basin
- San Jacinto River Basin
- Trinity-San Jacinto Coastal Basin

Fiscal 2024

- Neches River Basin
- Sabine River Basin

EVALUATION ACTIVITIES IN FISCAL 2023

For the Trinity River, San Jacinto River, Trinity-San Jacinto Coastal, and Neches-Trinity Coastal Basins:

- The Evaluating Basins for New Watermaster Programs webpage (<http://www.tceq.texas.gov/goto/basins>) was updated, explaining the evaluation process and inviting stakeholders in these basins to participate in the process.
- On March 10, 2023, initial outreach letters were mailed to all water-right holders, county judges and extension agents, river authorities, agricultural interests, industries, environmental organizations, and other interested parties. A second letter, announcing stakeholder meetings, was mailed on May 12, 2023. The comment period was open until June 30, 2023.
- Two electronic and two in-person stakeholder meetings were held in June 2023, where the manager of the Watermaster Section provided information and answered questions.

Comments

Of the 24 stakeholder comments received on the Trinity River, San Jacinto River, Trinity-San Jacinto Coastal, and Neches-Trinity Coastal Basins, all were opposed except for:

- One comment in favor of establishing a watermaster program in the San Jacinto River Basin.
- One comment in favor of establishing a watermaster program in all basins.

Evaluation Findings

TCEQ evaluated the basins based on the established criteria. There were no court orders or petitions to appoint a watermaster for any of the basins in this cycle.

THREATS TO SENIOR WATER RIGHTS

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

Within the Trinity River and San Jacinto River Basins, there were no priority calls during the evaluation period. The TCEQ regional offices received and investigated a total of 47 complaints and completed 74 investigations related to water rights management (e.g., compliance initiatives, excluding temporary permit investigations) during the five-year period. Almost all of the investigations were completed with no violations or enforcement actions.

Within the Trinity-San Jacinto Coastal and Neches-Trinity Coastal Basins, there were no priority calls during the evaluation period. The TCEQ regional offices did not receive any complaints nor did they conduct any investigations related to water rights management.

Costs to the Agency

Estimated costs to conduct regional investigation activities from fiscal 2018 through fiscal 2022 were:

- **Trinity River Basin** – \$11,870.26
- **San Jacinto River Basin** – \$20,500.03
- **Trinity-San Jacinto Coastal Basin** – \$767.10
- **Neches-Trinity Coastal Basin** – \$1,103.61.

The cost to conduct the required watermaster evaluations for these basins in fiscal 2023 was:

- **Office of Water** – \$61,383.32, which includes salary and fringe benefits, postage, and travel.

- **Office of Legal Services** – \$98.74, which includes staff time.
- **Office of Compliance and Enforcement** – \$6,293.31, which includes staff time, travel time, and equipment use.
- **Intergovernmental Relations Division** – Staff participated in the process but incurred no cost.

At the commission's agenda meeting on Sept. 6, 2023, TCEQ personnel gave a presentation and made recommendations for the fiscal 2023 evaluations.

EVALUATION ACTIVITIES IN FISCAL 2024

For the Neches and Sabine River Basins:

- The Evaluating Basins for New Watermaster Programs webpage (www.tceq.texas.gov/goto/basins) was updated explaining the evaluation process and inviting stakeholders in these basins to participate in the process.
- On March 7, 2024, initial outreach letters were mailed to all water-right holders, county judges and extension agents, river authorities, agricultural interests, industries, environmental organizations, and other interested parties. A second letter, announcing stakeholder meetings, was mailed on May 7, 2024. The comment period was open until July 1, 2024.
- One electronic and three in-person stakeholder meetings were held in June 2024, where the manager of the Watermaster Section provided information and answered questions.

Comments

Of the 15 stakeholder comments received on the Neches and Sabine Basins:

- There were 13 comments opposed to establishing a watermaster program.
- There were 2 comments in favor.

Evaluation Findings

TCEQ evaluated the basins based on the established criteria. There were no court orders or petitions to appoint a watermaster for any of the basins in this cycle.

THREATS TO SENIOR WATER RIGHTS

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

Within the Neches River Basin, there were no priority calls during the evaluation period. The TCEQ regional offices received and investigated a total of 15 complaints and completed 1,033 investigations related to water rights management (excluding temporary permit investigations) during the five-year period. The majority of investigations were completed with no violations or enforcement actions.

Within the Sabine River Basin, there were no priority calls during the evaluation period. The TCEQ regional offices received and investigated a total of 12 complaints and completed 269 investigations related to water rights management (excluding temporary permit investigations) during the five-year period. Three-fourths of the investigations were completed with no violations or enforcement actions.

Costs to the Agency

Estimated costs to conduct regional investigation activities from fiscal 2019 through fiscal 2023 were:

- **Neches River Basin** – \$71,066.98
- **Sabine River Basin** – \$13,669.94

The costs to conduct the required watermaster evaluations for these basins in fiscal 2024 were:

- **Office of Water** – \$66,934.26, which includes salary and fringe benefits, postage, and travel.
- **Office of Legal Services** – \$127.68, which includes staff time.
- **Office of Compliance and Enforcement** – \$2,911.83, which includes staff time, travel time, and equipment use.
- **Intergovernmental Relations Division** – Staff participated in the process with no significant cost associated with their involvement.

At the commission's agenda meeting on September 11, 2024, TCEQ personnel gave a presentation and made recommendations for the fiscal 2024 evaluation.

EXECUTIVE DIRECTOR'S RECOMMENDATION IN FISCAL 2023 AND 2024

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 2023 and 2024.

While the statute requires the agency to evaluate the need for a watermaster in 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 any threat or need to establish one.