

## APPENDIX D

# EVALUATION OF WATER BASINS IN TEXAS WITHOUT A WATERMASTER

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 [required by House Bill 2694, Section 5.05, 82nd Legislature, Sunset, (2011)].

## 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 by commission 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.
- Brazos, which 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.

## CRITERIA AND SCHEDULE

The commission established criteria (2011) that is 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 the second five-year cycle in fiscal 2021. The third cycle—began 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

### Fiscal 2025

Canadian River Basin  
Red River Basin

### Fiscal 2026

Sulphur River Basin  
Cypress Creek Basin

## EVALUATION ACTIVITIES IN FISCAL 2021

For the **Sulphur River Basin** and **Cypress Creek**:

- Updated the webpage [Evaluating Basins for New Watermaster Programs](#), explaining the evaluation process, inviting stakeholders in these basins to participate and get automated email updates.



*Brazos River, Brazos Bend State Park. Credit: iStock.*

- Mailed initial outreach letters on March 8, 2021, to all water-right holders, county judges and extension agents, river authorities, agricultural interests, industries, environmental organizations, and other interested parties. Mailed the 2nd letter announcing stakeholder meetings on May 14, 2021. The comment period was open until June 30, 2021.
- Held two electronic stakeholder meetings in June 2021, at which the manager of the Watermaster Section was present to provide information and answer questions.

## Comments

Sulphur River and Cypress Creek—Of the 9 stakeholder comments about 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. There were no court orders or petitions to appoint a watermaster for either of the basins in this cycle.

## THREATS TO SENIOR WATER RIGHTS

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

- Within the Sulphur River Basin and Cypress Creek, there were no priority calls during the evaluation period. The TCEQ regional offices received and investigated a total of four complaints and completed six investigations related to water rights management (e.g., compliance initiatives. This excludes temporary permit investigations) during the five-year period. Half of the investigations were completed with no violations or enforcement actions.

## Costs to the Agency

Estimated costs to conduct regional investigation activities for fiscal 2016 through 2020 were \$2,417 and \$1,939 for the Sulphur River Basin and Cypress Creek, respectively.

The cost to conduct the required watermaster evaluation for these basins in calendar 2021 was:

- Office of Water: \$57,033, which included salary and fringe benefits, postage, and travel.
- Office of Legal Services staff time: \$139.40.
- Office of Compliance and Enforcement: \$143.89, which included staff time, travel time, and equipment use.
- Staff in TCEQ’s Intergovernmental Relations Division participated in the process but incurred no cost.

At the commission’s agenda meeting on September 8, 2021, TCEQ personnel gave a presentation and made recommendations for the fiscal 2021 evaluation.



*Rio Grande, Santa Elena Canyon. Credit: iStock.*

## EVALUATION ACTIVITIES IN FISCAL 2022

For the **Upper Brazos River, San Jacinto-Brazos Coastal, Brazos-Colorado Coastal, Colorado River, and Colorado-Lavaca Coastal** basins:

- Updated the webpage [Evaluating Basins for New Watermaster Programs](#) explaining the evaluation process and inviting stakeholders in these basins to participate.
- Mailed initial outreach letters on March 11, 2022, to all water-right holders, county judges and extension agents, river authorities, agricultural interests, industries, environmental organizations, and other interested parties. Mailed the 2nd letter announcing stakeholder meetings on May 13, 2022. The comment period was open until June 28, 2022.
- Held two electronic and three in-person stakeholder meetings in June 2022, at which the manager of the Watermaster Section was present to provide information and answer questions.

## Comments

Upper Brazos River and San Jacinto-Brazos Coastal—Of the 5 stakeholder comments about these basins:

- 4 were opposed to establishing a watermaster program.
- 1 was in favor.

Colorado River—Of the 32 stakeholder comments about this basin:

- 27 were opposed to establishing a watermaster program.
- 3 were in favor.
- 2 were neutral.

## 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 have been threatened, staff considered if we received any priority calls and the history of complaints and investigations related to water rights management.

- Upper Brazos and the San-Jacinto Coastal Basins: There were no priority calls during the evaluation period. The TCEQ regional offices received and investigated a total of seven complaints and completed 14 investigations related to water rights management (excluding temporary permit investigations) during the five-year period. Most of the investigations were completed with no violations or enforcement actions.
- Colorado River Basin: There were nine priority calls during the evaluation period. Eight calls came from individual domestic and livestock users on the San Saba River. The ninth was from a water right holder on the Llano River and was later rescinded. (The San Saba and the Llano are part of the Colorado River Basin.)

The executive director did not suspend water rights in response to the calls on the San Saba because:

- any theoretical additional water in the stream resulting from such curtailment would either not have reached the location of the users who made the calls in sufficient quantities to be beneficially used; or
- there was still sufficient water in the river to meet the needs of those making the priority calls.

The TCEQ regional offices received and investigated a total of 53 complaints and completed 424 investigations related to water rights management (excluding temporary permit investigations) during the five-year period. Most of the investigations were within the San Saba Watershed: 339 of the 424. Most of the investigations were completed with no violations or enforcement actions.

## Costs to the Agency

Estimated costs to conduct regional investigation activities in fiscal 2017 through 2021:

- Upper Brazos River and San Jacinto-Brazos Coastal costs were \$10,435.73 and \$2,263.74, respectively.
- Colorado River, Brazos-Colorado, and Colorado-Lavaca Coastal costs were \$163,533.54.
- The total estimated costs for managing priority calls were an additional \$4,515.69.

The costs to conduct the required watermaster evaluations of these basins in 2021 were:

- Office of Water: \$65,023.64, which included salary and fringe benefits, postage, and travel.
- Office of Legal Services staff time: \$209.83.
- Office of Compliance and Enforcement: \$2,961.05, which included staff time, travel time, and equipment use.
- Staff from TCEQ’s Intergovernmental Relations Division participated in the process but incurred minimal costs.

At the commission’s agenda meeting on September 7, 2022, TCEQ personnel gave a presentation and made recommendations for the fiscal 2022 evaluation.

## EXECUTIVE DIRECTOR’S RECOMMENDATION IN FISCAL 2021 AND 2022

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 2021 and 2022.

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 one.



*Guadalupe River. Credit: iStock.*