

By: Flores

H.B. No. 2250

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 11, Water Code, is amended by adding Section 11.3271 to read as follows:

Sec. 11.3271. POWERS AND DUTIES OF RIO GRANDE WATERMASTER; DELIVERY OF WATER DOWN BANKS AND BED OF RIO GRANDE. (a) This section applies only to the watermaster with jurisdiction over the Rio Grande and the water division for which that watermaster is appointed.

(b) The watermaster shall divide the water of the streams or other sources of supply of the division in accordance with the adjudicated water rights.

(c) The watermaster shall regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of the division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(d) The watermaster may regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

1       (e) The watermaster's duties do not include activities that  
2 relate to other programs of the commission, except as provided by  
3 this section. The watermaster's duties shall include activities  
4 that relate to situations of imminent threat to public health and  
5 safety or the environment. The commission shall adopt rules:

6               (1) defining situations of imminent threat under this  
7 section; and

8               (2) addressing the watermaster's duties in response to  
9 terrorism.

10       (f) The watermaster may store in a reservoir for release at  
11 a later time water in transit that is being conveyed down the banks  
12 and bed of the Rio Grande under a permit issued by the commission  
13 and in accordance with rules prescribed by the commission. In this  
14 section, "water in transit" means privately owned water, not  
15 including state water, that a person has pumped from an underground  
16 reservoir and that is in transit between the point of discharge into  
17 the river and the place of use or the point of diversion by a person  
18 who has contracted with the owner of the water to purchase the  
19 water. The contract must specify that the contract is for the  
20 purchase and delivery of a specified amount of water less the  
21 carriage losses incurred in transit, as described and measured  
22 according to commission rules.

23       (g) The watermaster may store water under Subsection (f)  
24 only if the storage does not hinder the ability of any other holders  
25 of Rio Grande surface water rights to store the maximum authorized  
26 capacity in a reservoir as specified by commission rules and  
27 relevant permits, certified filings, or certificates of

1 adjudication.

2 (h) Before granting a permit to convey water down the banks  
3 and bed of the Rio Grande, the commission shall adopt rules that  
4 provide for the methods and procedures by which the watermaster  
5 shall account for any discharge, delivery, conveyance, storage,  
6 diversion, or associated loss of water conveyed down the banks and  
7 bed of the Rio Grande. A permit to convey water down the banks and  
8 bed of the Rio Grande may not allow the permit holder to share in any  
9 beneficial state water inflows into the Rio Grande. The permit  
10 holder is entitled to convey only the amount of water specified in  
11 the permit, less the carriage losses incurred in transit, as  
12 described and measured according to commission rules. A rule  
13 adopted by the commission under this subsection must be consistent  
14 with the Treaty Relating to the Utilization of the Waters of the  
15 Colorado and Tijuana Rivers, and of the Rio Grande (Rio Bravo) from  
16 Fort Quitman, Texas, to the Gulf of Mexico, concluded by the United  
17 States and the United Mexican States on February 3, 1944, and with  
18 any minute order adopted by the International Boundary and Water  
19 Commission.

20 (i) In considering an application for a permit to convey  
21 water down the banks and bed of the Rio Grande, the commission shall  
22 consider the quality of the water to be conveyed. The commission  
23 may not issue a permit if it determines that the water to be  
24 conveyed would degrade the water quality of the Rio Grande.

25 (j) Notwithstanding any other law, the watermaster is the  
26 official recorder for all instruments, including deeds, deeds of  
27 trust, financing statements, security agreements, and liens, that

1 the commission authorizes or requires to be filed in connection  
 2 with water rights relating to water in the lower, middle, or upper  
 3 basin of the Rio Grande that are subject to a permit, certified  
 4 filing, or certificate of adjudication. An instrument shall be  
 5 filed with the watermaster under this subsection in the same manner  
 6 as required by other law for the same type of instrument. The  
 7 filing of an instrument under this subsection results in the same  
 8 legal and administrative status and consequences as a filing under  
 9 other law for the same type of instrument. An instrument filed  
 10 under this subsection shall be construed by a court, financial  
 11 institution, or other affected person in the same manner as an  
 12 instrument of the same type that is filed under other law. The  
 13 watermaster may charge and collect a fee for the recordation of  
 14 instruments under this subsection in the same amount as the fee  
 15 collected by the county clerk of Cameron County for the recordation  
 16 of similar instruments. The commission by rule shall prescribe the  
 17 procedures necessary for the proper implementation of this  
 18 subsection, including reasonable transition provisions, if  
 19 appropriate.

20 (k) This section does not apply to the Rio Grande above the  
 21 Fort Quitman Dam.

22 SECTION 2. (a) This Act takes effect September 1, 2003.

23 (b) As soon as practicable after September 1, 2003, the  
 24 Texas Commission on Environmental Quality shall adopt rules  
 25 necessary for the implementation of this Act and shall expedite any  
 26 application for a permit for the delivery of water down the banks  
 27 and bed of the Rio Grande under Section 11.042, Water Code.