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# Overseer Meant to Settle Disputes Is Subject of One

By NEENA SATIJA APRIL 19, 2014

For decades, water wars have been rare in East Texas, where annual rainfall can be twice that of West Texas.

But the drought gripping the state has changed that, and the low levels of the Brazos River are forcing regulators to scrutinize water users in ways that could have implications for many Texas waterways.

The Brazos' lower basin, which runs from west of Fort Worth to the Gulf Coast city of Freeport, has been the subject of some of the more contentious water fights in recent years.

In response, the Texas Commission on Environmental Quality decided last week to appoint a water master to the lower Brazos basin — an overseer who will interact with river users like farmers and manufacturers and require them to report their water usage in real time, asking some to cut back if the supply is low.

While water masters are meant to help resolve usage disputes, the debate over this regulatory scheme has only deepened divisions on the Brazos. Dow Chemical, the river's largest user, led the push to create the position. Upstream cities and agricultural users strongly oppose it, fearing it will put too much power in the hands of a few, drive up costs and cater to industries. Texas has three other water master programs, all in South and West Texas, areas that are typically far drier than those where the Brazos flows.

Like most rivers, the Brazos had been managed largely on an honor system. The river's earliest users, most notably Dow, were given priority on usage, but enforcement was unnecessary because there was plenty of water.

Things changed in 2009. Amid the sustained drought, the flow of water was so slow by the time the Brazos reached Dow's sprawling complex in Freeport that

the company's pumps could not operate. For the first time, Dow asserted its senior water rights and forced users upstream to cut back.

Tension mounted between Dow and farmers, who had to stop irrigating. Though upstream cities originally faced the same water cuts as farmers, state officials tried to exempt them, prompting farmers to sue the state.

In theory, a water master will help avoid such fights by collecting daily data on how much water is being pumped, and inspecting meters up and down the basin. Supporters say the program will also hold junior water rights holders accountable if they take more than their share before the water flows downstream, leading to heavy fines for those who do not follow the rules. Those who favor the program argue that a water master will protect all users on the basin, not just industries.

"A water master will be able to proactively manage the water resources and water rights on the Brazos River and be able to take action to address a shortage before a crisis occurs," a Dow spokeswoman, Trish Thompson, said in a statement.

But opponents say most of the lower basin's roughly 1,000 water rights holders are against the water master. Because the program will be financed by annual fees paid by water users, those upstream say they will be forced to pay for a program they do not support. The state estimates that the office will cost more than \$500,000 a year.

"It's an overreach of the government," said Jerry Atkinson, general manager of the Bell County Water Control and Improvement District No. 1, which delivers water from the Brazos to more than 300,000 municipal customers in the fast-growing area. "Where is the justice? Where is majority rules?"

Mr. Atkinson said the Bell County district could pay up to \$20,000 a year for the water master. Farmers' fees are likely to be lower, but they will also have to install meters at the point where they divert water from the Brazos and report readings daily.

Sidney Kacir, who grows pecans and small grains in Bell County, said he would have to pay more than \$1,000 to install a meter. Yet he has hardly been able to irrigate in the last few years because of Dow's claim on priority status, he

said, and now his water supply has been so unreliable that he cannot get crop insurance for his pecan trees. “Our water supply as we know it is going to change drastically,” he said.

It is hard to forecast the success of the Brazos water master by looking to the state’s other programs, which were established under varying circumstances.

The Rio Grande water master system is highly regarded, but its water rights are unlike those on the Brazos. The Rio Grande water master always fulfills municipal needs before irrigation needs, as a result of more than a dozen years of litigation in the 1950s.

The South Texas water master program has also existed for decades, with few major complaints. But the office’s decisions are not without controversy, since its goal is primarily to protect holders of senior water rights. Industrial users there have forced junior water rights holders, including cities, to severely cut back their use in recent years.

The Concho River in West Texas got its water master in 2005. In that case, farmers petitioned for creation of the position, claiming that the city of San Angelo was unfairly taking their water despite having junior rights. Today, each side accuses the water master of catering to the other.

“It’s a huge deal to put up with,” said Brian Treadwell, a real estate broker who grazes cattle and grows hay on two small farms on the South Concho River. “In theory, it’s probably a good idea. But there’s too much politics.”

Still, the number of water masters is likely to increase if the drought continues. The next stop may be the Colorado River, where Austin is battling downstream rice farmers and fishermen over water.

“When you get in a drought, people’s suspicion goes up astronomically,” said Ron Kaiser, a professor of water policy at Texas A&M University. “Probably within the next 10 years, if we stay under dry conditions, we’re going to see water masters in other rivers.” (Texas A&M is a corporate sponsor of The Texas Tribune.)

And in the long term, water masters will provide little help for Texas rivers if it does not rain, Mr. Kaiser said. “It won’t put more water in there than nature.”

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