

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO.

El Paso, Texas
December 17, 2010

Minute No. 318

ADJUSTMENT OF DELIVERY SCHEDULES FOR WATER ALLOTTED TO MEXICO FOR THE YEARS 2010 THROUGH 2013 AS A RESULT OF INFRASTRUCTURE DAMAGE IN IRRIGATION DISTRICT 014, RIO COLORADO, CAUSED BY THE APRIL 2010 EARTHQUAKE IN THE MEXICALI VALLEY, BAJA CALIFORNIA

The Commission met at the offices of the United States Section in El Paso, Texas at 10:00 a.m. on December 17, 2010 to discuss adjusting the schedules for deliveries of Colorado River water to Mexico for the period from 2010 through 2013 because of infrastructure damage in Irrigation District 014, Rio Colorado, caused by the April 2010 earthquake in the Mexicali Valley, Baja California.

The Mexican Commissioner reported that during the aforementioned earthquake, serious damage occurred to the distribution network of Irrigation District 014, Rio Colorado, covering a length of 398 miles (640 km) of the canal system, while approximately 148,000 acres (60,000 hectares) of land were impacted to some degree; consequently, Mexico is having difficulties receiving through its hydro-agricultural infrastructure its full annual allotment under the "United States-Mexico Treaty on Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande," signed February 3, 1944 (hereinafter the 1944 Water Treaty).

The Mexican Commissioner then referred to his government's instructions to explore through the Commission the option of adjusting the delivery schedules for Colorado River water, recognizing the volumes of water that Mexico cannot utilize for the period from 2010 through 2013 due to the aforementioned damage, and the desirability that such volumes be delivered at a time when Mexico can utilize them, according to the progress achieved in the reconstruction of the damaged infrastructure. In this context, he stated that an estimated volume of 260,000 acre-feet (320 million cubic meters [mcm]) could not be utilized in 2010 through 2013.

The U.S. Commissioner noted that the appropriate authorities in his country were made aware of the damage that the Irrigation District 014 infrastructure suffered during the April 2010 earthquake, and they have expressed their willingness to support Mexico by making it possible for Mexico to adjust the schedule of water deliveries from its annual allotment during the period from 2010 through 2013 in light of the problems arising from the aforesaid damages.

The Commissioners noted that in the preamble to the 1944 Water Treaty, both countries made clear their desire to "obtain the most complete and satisfactory utilization" of the waters of the Colorado River. They also observed that the 1944 Water Treaty

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includes in Article 15F a mechanism for the increase or decrease in scheduled water deliveries, in accordance with the terms of that provision. The Commissioners noted that the Resolutions set forth in this Minute will assist the United States and Mexico in their efforts to obtain the most complete and satisfactory utilization of the waters of the Colorado River and thereby contribute to the fulfillment of the objectives of the 1944 Water Treaty.

The Commissioners further noted the discussions currently being carried out under the framework of Commission Minute No. 317, dated June 17, 2010, entitled "Conceptual Framework for U.S.-Mexico Discussions on Colorado River Cooperative Actions," and they observed that in this context, cooperative actions on the Colorado River are being discussed that minimize the impacts of potential Colorado River shortage conditions; generate additional volumes of water using new sources by investing in infrastructure such as desalinization facilities; conserve water through investments in a variety of current and potential uses, including agriculture, among others; and envision the possibility of permitting Mexico to use U.S. infrastructure to store water. These cooperative actions are intended to benefit both countries and help them address and adapt to future water supply challenges in the Colorado River Basin, including the potential long-term, adverse impacts of climate change.

In this context, the Commissioners observed, consistent with the spirit of cooperation reflected in the 1944 Water Treaty as well as Minute No. 317, the appropriateness of providing for adjustment of the delivery schedules for waters allotted to Mexico during the period from 2010 through 2013 in order to address immediately the problems arising from the earthquake damage to Mexico's irrigation infrastructure, taking into account evaporation losses associated with this change in delivery schedules and the potential impact on the salinity differential between Imperial Dam and the Northerly International Boundary, described in Resolution 1. a) of Minute No. 242, "Permanent and Definitive Solution to the International Problem of the Salinity of the Colorado River," dated August 30, 1973, while continuing in the meantime the discussions that are currently underway through the Commission regarding cooperative opportunities on the Colorado River and their implementation in the framework of Minute No. 317.

Based on the above, the Commissioners submit the following resolutions for the approval of both Governments:

1. Taking into account the infrastructure damage caused by the April 2010 earthquake in the Mexicali Valley, Baja California, and with the objective of ensuring that, during the period from 2010 through 2013, only those volumes of water that Mexico can utilize are scheduled for delivery during said period, at Mexico's request, the schedule for the annual delivery to Mexico of its allotment

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pursuant to Article 10(a) of the 1944 Water Treaty may be adjusted downward as follows: from the date this Minute shall enter into force through December 31, 2013, by a maximum of 260,000 acre-feet (320 mcm).

2. Any request for a downward adjustment for the years 2010 through 2013, as provided in Resolution 1 above, shall be communicated by the Mexican Commissioner through a timely notification to the U.S. Commissioner, by means of a letter indicating the volumes affected by this change in delivery schedule and the months to which said volumes correspond.
3. Taking into account evaporation losses associated with the adjustment in the delivery schedule, beginning in 2011, on December 31 of any year in which the volumes referred to in Resolution 2 above or any portion thereof have not yet been delivered to Mexico, a 3% annual evaporation loss shall be charged against and deducted from those volumes remaining to be delivered. This percentage will not be applied to any year in which the volumes referenced in Resolution 2 of this Minute cannot be delivered to Mexico because of operational issues in the United States.
4. Taking into account the potential impact that the adjustment in the schedule for delivering water to Mexico for the period from 2010 through 2013 may have on the salinity differential between Imperial Dam and the Northerly International Boundary described in Resolution 1. a) of Minute No. 242, "Permanent and Definitive Solution to the International Problem of the Salinity of the Colorado River," dated August 30, 1973, the aforementioned salinity differential will be calculated as if the volume of water referred to in Resolution 2 above were delivered from Imperial Dam to the Northerly International Boundary, consistent with the Water Deliveries Monitoring adopted in the Amended Joint Report of the Principal Engineers associated with Minute No. 314, "Extension of the Temporary Emergency Delivery of Colorado River Water for Use in Tijuana, Baja California," dated November 14, 2008. The adjustments to the delivery schedule will be made, insofar as practicable, in such a way as to minimize the impact on salinity at the Northerly International Boundary, recognizing that Mexico and the non-governmental organizations may convey water through the Wellton-Mohawk Bypass Drain to the Santa Clara Wetland under Minute No. 316, "Utilization of the Wellton-Mohawk Bypass Drain and Necessary Infrastructure in the United States for the Conveyance of Water by Mexico and Non-Governmental Organizations of Both Countries to the Santa Clara Wetland During the Yuma Desalting Plant Pilot Run," dated April 16, 2010, which action would have a favorable impact on salinity at the Northerly International Boundary.

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5. The limitations as to the rates of deliveries specified in Article 15 of the 1944 Water Treaty continue to apply.
6. The United States shall be deemed to have fulfilled its delivery obligations under the 1944 Water Treaty for 2010 through 2013, notwithstanding any adjustment of delivery schedules pursuant to this Minute.
7. Under the framework of Minute No. 317, entitled "Conceptual Framework for U.S.-Mexico Discussions on Colorado River Cooperative Actions," dated June 17, 2010, discussions shall continue for joint cooperative actions on the Colorado River that could benefit both countries. Particularly recognizing the need to minimize the impact of potential shortage conditions in the Colorado River Basin and in light of the growing recognition of the potential adverse impacts of climate change, the United States and Mexico recognize that it is critical to both countries' interests to move forward with efforts to minimize the aforementioned impacts, as was established in Minute No. 317.
8. Volumes referred to in Resolution 2 above will be delivered to Mexico starting in 2014, subject to reconsideration depending on the progress of Mexico's reconstruction efforts, and in light of the cooperative opportunities that may be identified in the context of Resolution 10 of this Minute. Said water delivery will be made within the delivery schedules contained in Article 15 of the 1944 Water Treaty, will not exceed a total annual delivery volume of 1.7 million acre-feet (2097 mcm), and will not exceed the salinity limits set forth in Minute No. 242. To take delivery, the Mexican Commissioner will submit a request for the corresponding delivery to the U.S. Commissioner, indicating the volumes to be delivered and the months to which said volumes correspond, at least six months prior to the first delivery of said volumes of water. The U.S. Commissioner, upon receipt of the request, is responsible for reviewing the Colorado River System's status and approving the order subject to operational issues identified in the review of the Colorado River System's status, taking into consideration the desire of both countries to schedule delivery of this water in such a fashion so as not to trigger or exacerbate any potential shortage conditions in the United States.
9. The provisions of this Minute shall not be regarded as a precedent for future delivery of Colorado River water in addition to that allotted to Mexico annually under Article 10 of the 1944 Water Treaty, nor for future salinity management via the mechanism described in Resolution 4 above.
10. The ongoing discussions pursuant to Minute No. 317 as referenced in Resolution 7 above may consider other joint cooperative actions related to delivery of the


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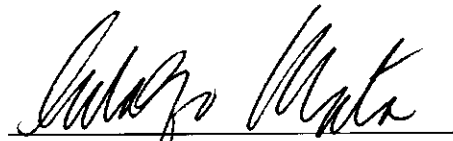
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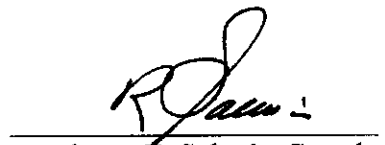
volumes referred to in Resolution 2 above, taking into consideration potential benefits to both countries and the progress achieved in the reconstruction of the damaged infrastructure in Mexico.

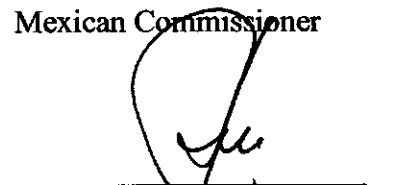
11. Delivery of the water pursuant to Resolution 8 above does not preclude implementing, if conditions so warrant, the provisions of Article 10(b) of the 1944 Water Treaty regarding reduction of water allotted to Mexico under Article 10(a) of the Treaty.
12. This Minute shall enter into force upon notification of approval by the Government of the United States of America and the Government of the United Mexican States through the respective Section of the Commission.

The meeting was adjourned.


Edward Drusina, P.E.
United States Commissioner


Adolfo Mata
United States Section Secretary


Roberto F. Salmón Castelo
Mexican Commissioner


José de Jesús Luevano Grano
Mexican Section Secretary