

INTERNATIONAL BOUNDARY AND WATER COMMISSION

UNITED STATES AND MEXICO

Ciudad Juarez, Chihuahua

November 7, 2024

MINUTE NO. 331

MEASURES TO IMPROVE THE RELIABILITY AND PREDICTABILITY OF RIO GRANDE WATER DELIVERIES TO BENEFIT THE UNITED STATES AND MEXICO

The Commission met in the Headquarters offices of the Mexican Section in Ciudad Juarez, Chihuahua at 3:00 p.m. on November 7, 2024 to consider the waters of the Rio Grande allotted to the United States and Mexico, in accordance with the Treaty between the United States of America and the United Mexican States Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, signed February 3, 1944, hereinafter the 1944 Water Treaty.

The Commissioners observed that in Article 4 of the 1944 Water Treaty the waters of the Rio Grande are allotted to the United States and Mexico. Among the 1944 Water Treaty allotments, specifically, Article 4.B(c) allots to the United States one-third of the flow arriving in the Rio Grande from six Mexican tributaries, "provided that this third shall not be less, as an average amount in cycles of five consecutive years, than 350,000 acre-feet (431,721,000 cubic meters) annually."

The Commissioners also referred to Minute No. 325, "Measures to End the Current Rio Grande Water Delivery Cycle Without a Shortfall, to Provide Humanitarian Support for the Municipal Water Supply for Mexican Communities, and to Establish Mechanisms for Future Cooperation to Improve the Predictability and Reliability of Rio Grande Water Deliveries to Users in the United States and Mexico," which was signed and entered into force on October 21, 2020. Specifically, they observed that Resolution 4 of Minute No. 325 establishes the goal of "developing a Minute prior to December 2023 that would provide increased reliability and predictability in Rio Grande water deliveries to users in the United States and Mexico." They further observed that Resolution 4 provided for the Commission to establish a Rio Grande Hydrology Work Group and Rio Grande Policy Work Group. Since Minute No. 325 entered into force, these work groups have held various technical and policy meetings to support development of a new Minute prior to December 2023.

During these meetings, officials from various organizations and state agencies in the United States, and federal agencies in the United States and Mexico have discussed the desirability of developing new tools that could be applied to improve the reliability and predictability of Rio Grande water deliveries. These tools could improve Mexico's Rio Grande water deliveries to the United States in compliance with the 1944 Water Treaty. Similarly, the Commissioners observed that this new Minute would also have the purpose of establishing new mechanisms and improving existing ones to create trust between users

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in both countries and to improve the required communication between Rio Grande basin stakeholders in the United States and Mexico, by means of establishment of new binational Rio Grande work groups and by strengthening and continuing the existing Hydrology and Policy Work Groups. Improving these capabilities is considered of utmost importance to continue making progress in establishing mechanisms that will allow optimal use of the available water in the basin for the benefit of all uses in both countries. They also noted the desirability of ensuring coordination among the various work groups to support the development of projects.

The Commissioners observed that Article 4.A(a) of the 1944 Water Treaty allots to Mexico all water reaching the main channel of the Rio Grande from the San Juan and Alamo Rivers, and that, under certain circumstances, Mexico could use such water, as long as it does not need it or is unable to use it, to fulfill its delivery commitments to the United States under the terms of Article 4.B(c) of the 1944 Water Treaty, when both countries agree to do so through their respective Sections of the Commission. The above is in accordance with the provisions in Article 9(e) of the 1944 Water Treaty.

The Commissioners noted the request of the Government of the United States that, as part of Mexico's Rio Grande basin planning mechanism, the allotments stipulated in Article 4.B(c) of the 1944 Water Treaty be considered.

Similarly, the Commissioners indicated they support establishment of a binational Rio Grande Projects Work Group to identify opportunities to develop water conservation and new water sources projects, which could be implemented by the competent authorities from each country to benefit users in both countries by improving efficiency and water deliveries from the Mexican tributaries to the Rio Grande. Projects that could be considered by the Rio Grande Projects Work Group include the construction of control infrastructure on the Rio Grande, water reuse, irrigation district conservation and modernization, as well as study of desalination projects, among others.

They also noted the interest of governmental organizations and civil society from both countries in establishing a binational Rio Grande Environment Work Group with the objective of supporting the Commission with recommendations to address the environmental aspects of the international reach of the Rio Grande, by identifying cooperative environmental projects that the Commission could consider, for which the sources of water and funding required for implementation are proposed, and taking into consideration the existing limitations on water management in the basin in both countries. The Commissioners observed the appropriateness of continuing to address in a priority manner the aspects regarding Rio Grande water quality, particularly regarding matters of salinity, which is frequently observed in the Lower Rio Grande. They observed that this topic

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could continue to be addressed in the framework of the Lower Rio Grande Water Quality Initiative.

The Commissioners observed that Minute No. 234, "Waters of the Rio Grande Allotted to the United States from the Conchos, San Diego, San Rodrigo, Escondido and Salado Rivers and the Las Vacas Arroyo," signed December 2, 1969, describes in Resolutions 2.b and 2.c the following means for making up a deficiency in a cycle of five consecutive years in the minimum amount of water allotted to the United States from the above-named tributaries:

- With water of that portion of the said tributary contributions to the Rio Grande allotted to Mexico, when Mexico gives advance notice to the United States and the United States is able to conserve such water; and
- By transfer of Mexican waters in storage in the major international reservoirs, as determined by the Commission, provided that at the time of the transfer, United States storage capacity is available to conserve them.

The Commissioners observed that the means for delivery of water identified in Resolutions 2.b and 2.c of Minute No. 234 could benefit the United States and Mexico not just when a deficiency exists upon the conclusion of a five-year cycle, as provided for in Minute No. 234, but also to reduce or avoid a potential deficiency during the course of a cycle when Mexico's deliveries are less than the minimum annual average established in the 1944 Water Treaty within the five-year period the Treaty provides. These mechanisms would allow for improved deliveries to the United States while, at the same time, conserving water for Mexico.

The Commissioners considered that, during the conditions described in the previous paragraph, it would be possible to implement the measures stipulated in Resolutions 2.b and 2.c of Minute No. 234 before a cycle concludes as long as the combined Mexican storage at Amistad and Falcon Dams guarantees one year of supply for domestic and municipal uses downstream from them, in accordance with the criteria established by Mexico's National Water Commission. The Commissioners noted the interest of both Governments in addressing agricultural uses.

The Commissioners considered that it would be possible to use for this same purpose the water of the San Juan and Alamo Rivers, which the 1944 Water Treaty allots to Mexico in accordance with the provisions of its Article 4.A(a), as long as Mexico does not need it or is unable to use it, provided that said water can be put to beneficial use and the United States agrees in advance to accept these volumes.

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The Commissioners considered it appropriate to propose to both Governments the criteria under which Mexico could be compensated for these additional deliveries to the United States in excess of the one-third share of the Mexican tributaries.

The Commissioners recognized that, if these measures are adopted by approval of both governments, they would adhere to the provisions in Article 9(e) of the 1944 Water Treaty, in accordance with Resolution 8 of this Minute.

The Commissioners observed that Mexico must deliver to the United States during each five-year cycle a minimum annual average of 350,000 acre-feet (431,721,000 cubic meters) over the course of said cycle, unless there is an extraordinary drought or serious accident to the hydraulic systems on the measured Mexican tributaries, as described in Article 4.B of the 1944 Water Treaty, in which case any deficiencies existing at the end of the referenced five-year cycle shall be made up in the following cycle. Therefore, if these conditions do not occur, Mexico must fulfill its delivery obligations during each five-year cycle.

The Commissioners considered it appropriate for Mexico, according to its operational policies, to release from the reservoirs on the named Mexican tributaries identified in Article 4.A(c) and Article 4.B(c) of the 1944 Water Treaty any volumes in excess of normal conservation capacity (NAMO).

The United States indicated its willingness to credit Mexico, in a subsequent five-year cycle, for any water volume delivered to the United States from the sources identified in Resolution 7 of this Minute, provided that Mexico's deliveries exceed the Treaty minimum of 1,750,000 acre-feet (2,158,605,000 cubic meters) in a five-year cycle, and provided that the deliveries were not made to pay off a deficiency or to avoid one in a cycle that follows a cycle that ended with a deficiency. The United States is willing to offer the above in light of Mexico's willingness to provide water from the sources identified in this Minute to reduce or avoid a potential deficiency.

The Commissioners expressed their interest in clarifying the start and end dates of a five-year water delivery cycle under Article 4 of the 1944 Water Treaty so as to avoid varying interpretations that could complicate the Commission's Rio Grande water accounting and implementation of the 1944 Water Treaty and of this Minute No. 331.

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In consideration of the foregoing, the Commissioners adopted the following Resolutions, subject to the approval of both Governments:

1. The Commission shall establish a binational Rio Grande Projects Work Group, in order to identify and make recommendations to the Commission for development of conservation and new water sources projects that could be implemented by the competent authorities in each country to benefit users in both countries.
2. The Commission shall establish a binational Rio Grande Environment Work Group to support the Commission with recommendations to address environmental aspects in the international reach of the Rio Grande, through the identification, development, and implementation of cooperative environmental projects that the Commission could consider and approve. The recommendations shall contain proposals regarding sources of water and funding required for implementation, and take into consideration the existing limitations on water management in the basin in both countries.
3. The Commission shall continue to address water quality concerns through the binational Lower Rio Grande Water Quality Initiative.
4. The Commission shall actively participate in and ensure effective coordination among the binational work groups described in Resolutions 1 through 3 of this Minute, as well as the existing Rio Grande Hydrology and Policy Work Groups, to support the development of projects.

The Commission shall select Work Group members based on the characteristics and nature of each task and on their field of expertise and competence. Work Group members shall include representatives from the Commission and may also include representatives from federal, state, and local governments, among others.

5. To apply the last paragraph of Article 4 of the 1944 Water Treaty, a new cycle shall begin each day the conservation capacities assigned to the United States in at least two of the major international reservoirs, including the highest major reservoir, are filled or remain filled with waters belonging to the United States. Both Sections shall research and develop guidelines to agree on temporary modifications to said conservation capacity to ensure more efficient use of the available water.

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6. Considering the operational policies for the Mexican reservoirs, whenever storage in any Mexican reservoir on the six tributaries identified in Article 4.A(c) and Article 4.B(c) of the 1944 Water Treaty is in excess of normal conservation capacity (NAMO), Mexico shall release said excess volumes downstream with the goal that they reach the Rio Grande mainstem. Similarly, provided that the domestic and municipal supply for the Mexican communities that depend on the Mexican dams on the measured tributaries is guaranteed, Mexico shall evaluate the possibility of allocating volumes for the fulfillment of its obligations under the Treaty with waters stored in said dams in the following cases:
 - When there is a deficiency from a previous cycle; or
 - To reduce or avoid a potential deficiency when the deliveries from Mexico are below the minimum annual average established in the Treaty in an ongoing five-year cycle.
7. Subject to prior agreement of the United States and Mexico on the sources and volumes of water, and in order to reduce or avoid a potential deficiency, delivery of water can be carried out by any of the following means, alone or in combination:
 - a. With water of that portion of the contributions to the Rio Grande allotted to Mexico from the six Mexican tributaries defined in Article 4.B(c) of the 1944 Water Treaty, when Mexico gives advance notice to the United States and the United States is able to conserve it; and
 - b. By transfer of Mexican waters in storage in the major international reservoirs, as determined by the Commission, provided that at the time of the transfer, United States storage capacity is available to conserve them.
8. Additionally, Mexico may use the water that the 1944 Water Treaty allots to it from the San Juan and Alamo Rivers in accordance with the provisions of Article 4.A(a) of the 1944 Water Treaty to reduce or avoid a potential deficiency, when Mexico does not need it or is unable to use it; such authorization or the use of such water does not establish any right to continue to divert it.

Waters from the San Juan and Alamo Rivers shall be credited as part of the deliveries to the United States, only when the water can be put to beneficial use in the United States. Deliveries from these sources are subject to prior agreement between the United States and Mexico. These deliveries shall be based on and conform to the provisions in Article 9(e) of the 1944 Water Treaty.

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The Commission shall prepare the operational guidelines that are necessary to carry out these deliveries.

9. For purposes of Resolutions 7 and 8 of this Minute, prior agreement means an understanding of both Governments, confirmed through an exchange of letters between the Sections of the Commission.
10. The Commission recognizes that Resolutions 7 and 8 of the Minute will be able to be applied provided Mexico's combined storage in Amistad and Falcon Dams guarantees one year of supply for domestic and municipal uses downstream from them, in accordance with the criteria established by Mexico's National Water Commission.
11. In the event that Mexico makes water deliveries to the United States by the sources identified in Resolution 7 of this Minute, for the purpose of reducing or avoiding a potential deficiency in deliveries in an ongoing five-year cycle, that is not subsequent to one that ended in a deficiency, the United States shall credit Mexico in the next five-year cycle of more than one day in duration for any delivery to the United States in excess of 1,750,000 acre-feet (2,158,605,000 cubic meters) from these sources, with the understanding that the United States agrees to accept such deliveries from the sources described in Resolution 7 above.
12. In recognition of Mexico's willingness to make deliveries to the United States in accordance with Resolution 7.a of this Minute, both countries will explore joint cooperative actions that could include United States investment in water conservation projects in Mexico. Any joint cooperative actions that may be undertaken will be established in a subsequent Minute of the Commission, subject to the approval of both governments. Any delivery made as a result of these joint cooperative actions will not be eligible to be credited in a subsequent five-year cycle as described in Resolution 11 of this Minute.
13. Resolutions 6 through 12 of this Minute are understood as exceptional measures of a temporary nature, consistent with the duration established in Resolution 14 of this Minute; they do not establish any precedent regarding the interpretation or application of the provisions of the 1944 Water Treaty, nor do they contravene it.

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14. Resolutions 6 through 12 of this Minute shall expire five years from the date this Minute enters into force, unless both Governments agree to specifically modify or extend said Resolutions by means of a subsequent Minute.
15. None of the provisions contained in this Minute grants to the United States the right to use volumes in addition to those stipulated in Article 4.B of the 1944 Water Treaty.
16. With the goal of concluding a new Minute by no later than December 2029, the United States and Mexico shall continue, through their respective Sections of the Commission, exploring all possible measures to improve the reliability and predictability of Rio Grande water deliveries for both countries, including those that will allow an equitable distribution of the waters available in the basin among all users in the United States and Mexico, in accordance with the provisions of Article 4 of the 1944 Water Treaty.
17. This Minute shall enter into force upon the date of the later notification in an exchange of notifications between the Sections of the Commission confirming approval of this Minute by their respective Governments.

The meeting was adjourned.



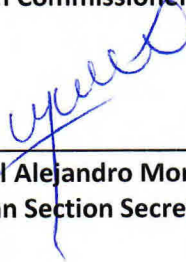
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