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Consultation with Mexico

This attachment consists of the following documents and correspondence prepared individually by the United States Section and the Mexico Section of the International Boundary and Water Commission (USIBWC and MIBWC, respectively), as part of the consultation between the United States and Mexico regarding the proposed interim surplus criteria.

Draft Authority and Assumptions governing the US-Mexico consultations on the proposed Colorado River interim surplus criteria prepared by the USIBWC, December 28, 1999;

Letter of May 22, 2000 from Commissioner J. Arturo Herrera Solis, MIBWC, to Commissioner John M. Bernal, USIBWC, regarding potential effects on Mexico's natural and physical environment;

English translation of May 22, 2000 letter from Commissioner J. Arturo Herrera Solis, MIBWC, to Commissioner John M. Bernal, USIBWC, regarding potential effects on Mexico's natural and physical environment; and

Letter of October 10, 2000 from Commissioner J. Arturo Herrera Solis, MIBWC, to Commissioner John M. Bernal, USIBWC, transmitting additional information regarding Mexico's natural environment and the shrimp harvest in the Sea of Cortez.

English translation of letter of October 10, 2000 from Commissioner J. Arturo Herrera Solis, MIBWC, to Commissioner John M. Bernal, USIBWC, transmitting additional information regarding Mexico's natural environment and the shrimp harvest in the Sea of Cortez.

US Section, International Boundary and Water Commission
Draft Authority and Assumptions
US - Mexico Consultations - Colorado River Surplus Criteria
December 28, 1999

Authority

Authority	United States Position
1. Article 10, 1944 Water Treaty	Mexico has a right to 1.5 million acre feet annually in scheduled deliveries. Mexico may receive an additional 200,000 af annually, but does not have right to system waters beyond the 1.5 maf. ¹
2. Resolution 1, Minute 242	Establishes quantity and salinity of waters delivered to Mexico at northern boundary and the southern boundary area.
3. Resolution 6, Minute 242	Provides that "With the objective of avoiding future problems, the United States and Mexico shall consult with each other prior to undertaking any new development of either the surface or the groundwater resources, or undertaking substantial modifications of present developments, in its own territory in the border area that might adversely affect the other country."

Assumptions

Assumption	United States Position
1. U.S. has right to make maximize its use of waters reserved under the 1944 Water Treaty, while recognizing Mexico's right to 1.5 maf annually under the 1944 Treaty.	Mexico's right to system waters is limited to the 1.5 maf annual amount and thus the U.S. obligation is ensure delivery of the 1.5 maf annually.
2. Use in the United States assumes the 15 maf Upper and Lower Basin compact allocation (Article III(a) and the lower basin right to increase its beneficial consumptive use by 1 maf (Article III(b))	Mexico should be allowed to schedule up to 200,000 af in addition to 1.5 maf, when storage in Lakes Powell and Mead are anticipated to exceed full conservation capacity.
3. U.S. surplus criteria seeks to maximize use of U.S. waters and avoid flood control releases.	The United States develop and supply technical data that identify impacts to future deliveries of up to 200,000 af of use in Mexico.
4. U.S. would not mitigate for impacts in Mexico, but would consider joint cooperation projects provided there is no net negative impact to the United States and that there is cost sharing based on benefits to each.	The United States should be prepared to identify a range of opportunities for joint cooperation projects with a benefit to the United States.

¹ Article 10 describes a "guaranteed" annual quantity of 1.5 maf to be delivered to Mexico. Article 15, Section E, describes that "in any year in which there shall exist in the river water in excess of that necessary to satisfy the requirements in the United States and the guaranteed quantity of 1,500,000 acre feet allotted to Mexico, the Mexican Section may schedule such surplus water to complete a quantity up to a maximum of 1,700,000 acre-feet." Article 10 provides that Mexico acquires no right beyond the 1.5 maf annually by the use of the waters in excess of 1.5 maf. The decree in AZ v. CA allows the U.S. to release water in satisfaction of its obligations to the Mexican treaty without regard to the priorities listed in Article II(A). The Colorado River Basin Project Act describes that the satisfaction of the requirements of the Mexican Water Treaty shall be the first obligation of any water augmentation project planned. In the absence of such augmentation, the legislation states that the requirements of the Mexican Water Treaty, shall be from the waters of the Colorado River pursuant to the treaties, laws, and compacts until the augmentation of the water supply is available. This language seems to infer that the Mexico Treaty right to 1.5 maf is guaranteed and viewed as an obligation that the United States must meet each year prior to delivery of U.S. basic and surplus apportionments.