

Congress of the United States

Washington, DC 20510

November 14, 2013

Commissioner Edward Drusina
International Boundary & Water Commission
U.S. Section
4171 North Mesa, Suite C-100
El Paso, TX 79902-1441

Dear Commissioner Drusina:

We write to again call your attention to the continued shortfall of water deliveries from Mexico and the water deficit owed to the U.S. under the 1944 Treaty, the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, which authorized the distribution of the waters in the international segment of the Rio Grande from Fort Quitman, Texas to the Gulf of Mexico.

As you know, the Treaty requires Mexico to deliver to the United States an annual minimum average amount of 350,000 acre-feet per year over a five year cycle, as part of a joint commitment to manage and administer the international waters of the Rio Grande. The U.S. Section of the International Boundary and Water Commission (IBWC) is charged with executing the provision of treaties and recommending solutions to the U.S. when problems arise related to boundary or water disputes. Early detection and evaluation of a particular problem and the development of measures for resolution is a part of the core mission of the IBWC. Despite a history of significant water deficits accrued by Mexico, in the current five-year cycle as well as in past years, the Commission has not taken effective action to ensure consistent water deliveries from Mexico. We are aware that multiple meetings have taken place over the past year on this issue, but we still lack an agreement for predictable deliveries to the Rio Grande.

We recognize that due to beneficial rains in the Rio Conchos basin, the current deficit has been reduced by approximately 200,000 acre-feet over the past several months. While these increased flows are welcome, they are not a sufficient replacement for the establishment of a predictable delivery schedule for 2014 and beyond. And regrettably, a notable portion of the accumulated deficit for this cycle remains outstanding.

As in past years, Mexico has again made no indication that the U.S. will be treated as a user in its annual allocation of water resources, with a specific set-aside for treaty compliance. While Mexico's internal users have likely been informed of estimated water deliveries for the coming agricultural year, the U.S. must assume that deliveries will only be planned and executed in the event of excess precipitation or surplus water capacity. This strategy has been and remains woefully deficient, harming South Texans who deserve certainty regarding water supply. This cannot be fully achieved without guaranteed and consistent deliveries of water from Mexico.

The status of deliveries to the U.S. from Mexico stands in stark contrast to U.S. deliveries to Mexico from the Colorado River Basin. Even though exceptions for “extraordinary drought” or damage to hydraulic systems allow for temporary disruption in deliveries, the U.S. has never failed to deliver to Mexico the 1.5 million acre-feet of water annually required under the Treaty. In addition, the U.S. has agreed to a number of Minutes to the Treaty which yield substantial benefits for Mexico.

- In December 2010, following reduced storage capacity after the 2010 earthquake in Baja California, the IBWC approved Minute 318, to allow Mexico to temporarily lower received annual deliveries from the U.S.
- In November 2012, Minute 319 was approved, which further extended the temporary benefits of Minute 318 and also allowed Mexico to store water in Lake Mead, to receive surplus U.S. water from Lake Mead, and committed the U.S. to contribute \$21 million to Mexico for infrastructure and environmental projects. (As Resolution 16 of Minute 319 rightly points out, “All activities undertaken pursuant to this Minute shall be subject to the availability of funds, resources, and corresponding personnel, as well as the applicable laws and regulation in each country.”)

While bilateral collaboration along the Colorado River is an admirable goal, we fear that efforts to achieve consistency of deliveries and engage in long-range planning along the Rio Grande have suffered in the interim period. IBWC will soon consider Mexico’s request for a schedule of U.S. deliveries from the Colorado River Basin. Absent equal and reciprocal treatment for water deliveries to the U.S., we would urge you to insist any annual schedule of U.S. deliveries be made contingent on a commitment from Mexico to set aside an amount of water consistent with the Treaty’s annual minimum average of deliveries to the Rio Grande.

Further, we intend to closely scrutinize any appropriation of federal funds or authorization of expenditures toward the implementation of Minute 319 or other efforts which may not directly support an immediate resolution of this matter. We would note that the FY2014 Continuing Appropriations Act (P.L. 113-46) expires on January 15, 2014.

Thank you for your review of our concerns, we look forward to a timely response.

Sincerely,



JOHN CORNYN
United States Senator



FILEMON VELA
United States Representative

Cc:

Patrick Leahy, Chairman, Senate Appropriations Subcommittee on State, Foreign Operations, and Related Programs

Lindsey Graham, Ranking Member, Senate Appropriations Subcommittee on State, Foreign Operations, and Related Programs

Kay Granger, Chairman, House Appropriations Subcommittee on State, Foreign Operations, and Related Programs

Nita Lowey, Ranking Member, House Appropriations Subcommittee on State, Foreign Operations and Related Programs

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Tim Kaine, Chairman, Senate U.S. – Mexico Interparliamentary Group

Ted Cruz, Vice Chairman, Senate U.S. – Mexico Interparliamentary Group

Michael McCaul, Chairman, House U.S. – Mexico Interparliamentary Group

Ed Pastor, Vice Chairman, House U.S. Mexico Interparliamentary Group