

No. 13055

**UNITED STATES OF AMERICA
and
MEXICO**

Exchange of notes constituting an agreement confirming minute No. 242 of the International Boundary and Water Commission, United States and Mexico, relating to Colorado River salinity (with minute No. 242). Mexico City and Tlatelolco, 30 August 1973

Authentic texts: English and Spanish.

Registered by the United States of America on 12 February 1974.

**ÉTATS-UNIS D'AMÉRIQUE
et
MEXIQUE**

Échange de notes constituant un accord confirmant le procès-verbal n° 242 de la Commission internationale des frontières et des eaux États-Unis/Mexique, relatif à la salinité des eaux du Colorado (avec procès-verbal n° 242). Mexico et Tlatelolco, 30 août 1973

Textes authentiques : anglais et espagnol.

Enregistré par les États-Unis d'Amérique le 12 février 1974.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND MEXICO CONFIRMING MINUTE NO. 242 OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO, RELATING TO COLORADO RIVER SALINITY

I

The American Ambassador to the Mexican Secretary of Foreign Relations

EMBASSY OF THE UNITED STATES OF AMERICA

MEXICO, D.F.

No. 1234

August 30, 1973

Excellency:

I have the honor to refer to Minute No. 242 of the International Boundary and Water Commission signed August 30, 1973, entitled "Permanent and Definitive Solution to the International Problem of the Salinity of the Colorado River". Point 10 of that Minute, consistent with the provisions of article 24 (*d*) and article 25 of the Treaty of February 3, 1944² provides that it shall be expressly approved by both Governments.

Accordingly, if the Government of the United Mexican States is in agreement, I propose that the present note and Your Excellency's note in reply to the same effect, constitute an agreement between the Government of the United States of America and the Government of the United Mexican States confirming the provisions of Minute No. 242, which shall enter into force upon the date of these notes, subject, however, to the conditions of point 10 of said Minute.

Accept, Excellency, the assurances of my highest consideration.

ROBERT H. McBRIDE

His Excellency Emilio O. Rabasa
Secretary of Foreign Relations
Mexico, D.F.

II

[SPANISH TEXT — TEXTE ESPAGNOL]

ESTADOS UNIDOS MEXICANOS
SECRETARÍA DE RELACIONES EXTERIORES
MÉXICO

Núm. 11154

Tlatelolco, D. F., a 30 de agosto de 1973

Señor Embajador:

Tengo el honor de referirme a la atenta nota de Vuestra Excelencia número 1234, fechada el día de hoy, cuyo texto vertido al español es el siguiente:

¹ Came into force on 30 August 1973, the date of the said notes, subject to the conditions of point 10 of Minute No. 242, in accordance with the provisions of the notes.

² United Nations, *Treaty Series*, vol. 3, p. 313.

«Tengo el honor de hacer referencia al Acta número 242 de la Comisión Internacional de Límites y Aguas firmada el 30 de agosto de 1973, intitulada «Solución Permanente y Definitiva del Problema Internacional de la Salinidad del Río Colorado». El punto 10 de dicha Acta, de conformidad con lo estipulado en el Artículo 24 (d) y el Artículo 25 del Tratado del 3 de febrero de 1944, estipula que deberá ser expresamente aprobada por ambos Gobiernos.

«Por lo tanto, si el Gobierno de los Estados Unidos Mexicanos está de acuerdo, propongo que la presente nota y la nota de respuesta de Vuestra Excelencia constituyan un Acuerdo entre el Gobierno de los Estados Unidos de América y el Gobierno de los Estados Unidos Mexicanos confirmando las estipulaciones del Acta 242, la cual entrará en vigor en la fecha de dichas notas, sujeto, sin embargo, a las condiciones del punto 10 del Acta mencionada».

En respuesta, tengo el honor de comunicar a Vuestra Excelencia que el Gobierno de los Estados Unidos Mexicanos está de acuerdo con los términos de la nota que transcribo y, en consecuencia, considera que dicha nota y la presente constituyen un acuerdo entre nuestros dos Gobiernos, el cual entra en vigor el día de hoy.

Aprovecho la oportunidad para renovar a Vuestra Excelencia el testimonio de mi más alta y distinguida consideración.

E. O. RABASA

Excelentísimo señor Robert Henry McBride
Embajador de los Estados Unidos de América
Ciudad.

[TRANSLATION¹ — TRADUCTION²]

The Mexican Secretary of Foreign Relations to the American Ambassador

UNITED MEXICAN STATES
DEPARTMENT OF FOREIGN RELATIONS
MEXICO

No. 11154

Tlatelolco, D.F., August 30, 1973

Mr. Ambassador:

I have the honor to refer to Your Excellency's note No. 1234, dated today, the text of which, translated into Spanish, reads as follows:

[See note I]

In reply, I have the honor to inform Your Excellency that the Government of the United Mexican States concurs in the terms of the note transcribed above, and accordingly it considers that the aforesaid note and this reply thereto shall constitute an agreement between our two Governments which shall enter into force today.

¹ Translation supplied by the Government of the United States of America.

² Traduction fournie par le Gouvernement des Etats-Unis d'Amérique.

I take this opportunity to renew to Your Excellency the assurance of my highest and most distinguished consideration.

E. O. RABASA

His Excellency Robert Henry McBride
Ambassador of the United States of America
Mexico, D.F.

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO

Mexico, D.F., August 30, 1973

*Minute No. 242*PERMANENT AND DEFINITIVE SOLUTION TO THE INTERNATIONAL PROBLEM OF THE SALINITY OF
THE COLORADO RIVER

The Commission met at the Secretariat of Foreign Relations, at Mexico, D.F., at 5:00 p.m. on August 30, 1973, pursuant to the instructions received by the two Commissioners from their respective Governments, in order to incorporate in a Minute of the Commission the joint recommendations which were made to their respective Presidents by the Special Representative of President Richard Nixon, Ambassador Herbert Brownell, and the Secretary of Foreign Relations of Mexico, Lic. Emilio O. Rabasa, and which have been approved by the Presidents, for a permanent and definitive solution of the international problem of the salinity of the Colorado River, resulting from the negotiations which they, and their technical and juridical advisers, held in June, July and August of 1973, in compliance with the references to this matter contained in the Joint Communiqué of Presidents Richard Nixon and Luis Echeverría of June 17, 1972.

Accordingly, the Commission submits for the approval of the two Governments the following

Resolution:

1. Referring to the annual volume of Colorado River waters guaranteed to Mexico under the Treaty of 1944, of 1,500,000 acre-feet (1,850,234,000 cubic meters):

a) The United States shall adopt measures to assure that not earlier than January 1, 1974, and no later than July 1, 1974, the approximately 1,360,000 acre-feet (1,677,545,000 cubic meters) delivered to Mexico upstream of Morelos Dam, have an annual average salinity of no more than 115 p.p.m. \pm 30 p.p.m. U.S. count (121 p.p.m. \pm 30 p.p.m. Mexican count) over the annual average salinity of Colorado River waters which arrive at Imperial Dam, with the understanding that any waters that may be delivered to Mexico under the Treaty of 1944 by means of the All American Canal shall be considered as having been delivered upstream of Morelos Dam for the purpose of computing this salinity.

b) The United States will continue to deliver to Mexico on the land boundary at San Luis and in the limitrophe section of the Colorado River downstream from Morelos Dam approximately 140,000 acre-feet (172,689,000 cubic meters) annually with a salinity substantially the same as that of the waters customarily delivered there.

c) Any decrease in deliveries under point 1 (*b*) will be made up by an equal increase in deliveries under point 1 (*a*).

d) Any other substantial changes in the aforementioned volumes of water at the stated locations must be agreed to by the Commission.

e) Implementation of the measures referred to in point 1 (*a*) above is subject to the requirement in point 10 of the authorization of the necessary works.

2. The life of Minute No. 241¹ shall be terminated upon approval of the present Minute. From September 1, 1973, until the provisions of point 1 (*a*) become effective, the United States shall discharge to the Colorado River downstream from Morelos Dam volumes of drainage waters from the Wellton-Mohawk District at the annual rate of 118,000 acre-feet (145,551,000 cubic meters) and substitute therefor an equal volume of other waters to be discharged to the Colorado River above Morelos Dam; and, pursuant to the decision of President Echeverría expressed in the Joint Communiqué of June 17, 1972, the

¹ United Nations, *Treaty Series*, vol. 898, p. 151 and p. 322 of this volume.

United States shall discharge to the Colorado River downstream from Morelos Dam the drainage waters of the Wellton-Mohawk District that do not form a part of the volumes of drainage waters referred to above, with the understanding that this remaining volume will not be replaced by substitution waters. The Commission shall continue to account for the drainage waters discharged below Morelos Dam as part of those described in the provisions of article 10 of the Water Treaty of February 3, 1944.

3. As a part of the measures referred to in point 1 (a), the United States shall extend in its territory the concrete-lined Wellton-Mohawk bypass drain from Morelos Dam to the Arizona-Sonora international boundary, and operate and maintain the portions of the Wellton-Mohawk bypass drain located in the United States.

4. To complete the drain referred to in point 3, Mexico, through the Commission and at the expense of the United States, shall construct, operate and maintain an extension of the concrete-lined bypass drain from the Arizona-Sonora international boundary to the Santa Clara Slough of a capacity of 353 cubic feet (10 cubic meters) per second. Mexico shall permit the United States to discharge through this drain to the Santa Clara Slough all or a portion of the Wellton-Mohawk drainage waters, the volumes of brine from such desalting operations in the United States as are carried out to implement the Resolution of this Minute, and any other volumes of brine which Mexico may agree to accept. It is understood that no radioactive material or nuclear wastes shall be discharged through this drain, and that the United States shall acquire no right to navigation, servitude or easement by reason of the existence of the drain, nor other legal rights, except as expressly provided in this point.

5. Pending the conclusion by the Governments of the United States and Mexico of a comprehensive agreement on groundwater in the border areas, each country shall limit pumping of groundwaters in its territory within five miles (eight kilometers) of the Arizona-Sonora boundary near San Luis to 160,000 acre-feet (197,358,000 cubic meters) annually.

6. 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.

7. The United States will support efforts by Mexico to obtain appropriate financing on favorable terms for the improvement and rehabilitation of the Mexicali Valley. The United States will also provide nonreimbursable assistance on a basis mutually acceptable to both countries exclusively for those aspects of the Mexican rehabilitation program of the Mexicali Valley relating to the salinity problem, including tile drainage. In order to comply with the above-mentioned purposes, both countries will undertake negotiations as soon as possible.

8. The United States and Mexico shall recognize the undertakings and understandings contained in this Resolution as constituting the permanent and definitive solution of the salinity problem referred to in the Joint Communique of President Richard Nixon and President Luis Echeverría dated June 17, 1972.

9. The measures required to implement this Resolution shall be undertaken and completed at the earliest practical date.

10. This Minute is subject to the express approval of both Governments by exchange of notes. It shall enter into force upon such approval; provided, however, that the provisions which are dependent for their implementation on the construction of works or on

other measures which require expenditure of funds by the United States, shall become effective upon the notification by the United States to Mexico of the authorization by the United States Congress of said funds, which will be sought promptly.

Thereupon, the meeting adjourned.

J. F. FRIEDKIN
Commissioner of the United States

D. HERRERA J
Commissioner of Mexico

F. H. SACKSTEDER JR.
Secretary of the United States Section

FERNANDO RIVAS S
Secretary of the Mexican Section
