

**INTERNATIONAL BOUNDARY AND WATER COMMISSION  
UNITED STATES AND MEXICO**

Las Vegas, Nevada  
December 16, 2021

**JOINT REPORT OF THE PRINCIPAL ENGINEERS WITH THE OPERATIONAL PROVISIONS APPLICABLE  
TO WATER FOR THE ENVIRONMENT STIPULATED IN MINUTE 323**

**To the Honorable Commissioners  
International Boundary and Water Commission  
United States and Mexico  
El Paso, Texas and Ciudad Juarez, Chihuahua**

**Madams:**

Minute 323, "Extension of Cooperative Measures and Adoption of a Binational Water Scarcity Contingency Plan in the Colorado River Basin," dated September 21, 2017, in Section VIII on the Environment, contains various provisions related to water for the environment.

Section VIII.B establishes that the two Governments will each provide one-third of 210,000 acre-feet (259 million cubic meters [mcm]) "of water for environmental purposes within Mexico." The binational coalition of non-governmental organizations (NGOs) has pledged to provide an equivalent one-third portion. It also specifies, "Water for the U.S. government environmental commitment, in the amount of 70,000 acre-feet (86 mcm), will be provided in the first five years of this Minute."

Section VIII.C. describes the activities of the Binational Environmental Work Group established under Minute 323. Those activities include "Identification of water sources and funding to achieve the desired benefits."

Furthermore, the Environment Section of the Minute states, "The water for the environment will be subject to reductions and savings during low reservoir conditions and application of the Binational Water Scarcity Contingency Plan in amounts that are proportionate to the reductions and savings applied to Mexico's total water deliveries under paragraph III.A and Section IV."

Section VIII of Minute 323 also states, "The Commissioners noted the importance of designating for the environment a portion of the water generated in Mexico and including it as part of Mexico's Water Reserve in order to provide for the delivery of variable quantities of water to the environment from year to year, considering the recommendations of the Binational Environmental Work Group."

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Section IX of Minute 323 on investments and projects states, "The United States will contribute a total amount of \$31.5 million dollars to Mexico, through the Commission, to develop conservation projects in Mexico. All of the waters generated or conserved from this investment will be allocated to Mexico except for the following volumes: 70,000 acre-feet (86 mcm) of water to satisfy the U.S. commitment noted in Section VIII above to provide water for the environment, especially the Colorado River Limitrophe and Delta; 50,000 acre-feet (62 mcm) of water for the system to the benefit of all users; and 109,100 acre-feet (135 mcm) of water for use in the United States in consideration for the referenced investments."

The "Joint Report of the Principal Engineers with the Implementing Details of the Binational Water Scarcity Contingency Plan in the Colorado River Basin" dated July 11, 2019 (2019 Joint Report) stipulated that in accordance with Section VIII of Minute 323, the implementing details of water for the environment will be included in a separate Joint Report of the Principal Engineers.

In consideration of the above, a binational drafting work group was formed to address the requirements for environmental water related to Sections III, IV, V and VIII of the Minute and, as referenced in Section V of the 2019 Joint Report, to develop the implementing details for the operational provisions applicable to water for the environment.

In light of the above, we respectfully submit for your approval this "Joint Report of the Principal Engineers with the Operational Provisions Applicable to Water for the Environment Stipulated in Minute 323."

**A. Creation of Water for the United States Government Environmental Commitment.**

1. Water for the U.S. government environmental commitment shall be generated from a portion of the investment by the United States in water conservation projects described in Section IX of Minute 323.
2. In accordance with Section VIII.B of Minute 323, the water for the United States government environmental commitment shall be provided in the first five years of this Minute. This means that the water for the United States government environmental commitment will be available for delivery in accordance with Section A.3 below no later

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than September 26, 2022. Although some of the projects for which the investment noted in Section A.1 above may not be completed by this date, the projects will continue until finished and the payments will be made as the projects progress.

3. The water for the United States government environmental commitment shall be made available simultaneously with fund transfers to Mexico associated with projects to generate the water for the United States government environmental commitment by any of the following means:
  - a. By transfer of water from Mexico's Water Reserve to a sub-account of the Reserve, "U.S. Share of Water for the Environment."
  - b. By direct delivery for the environment as part of the annual delivery schedule of Colorado River water that the 1944 Water Treaty allots to Mexico, whether from Mexico's annual allotment or coming from Mexico's Water Reserve.
  - c. By direct deposit to the sub-account "U.S. Share of Water for the Environment" in Mexico's Water Reserve effected by means of a downward adjustment in the annual delivery schedule of Colorado River water that the 1944 Water Treaty allots to Mexico.

**B. Sources of Water for the Environment.** The sources of water for delivery for the environment are as follows:

1. Direct deliveries as part of the annual delivery schedule of Colorado River water that the 1944 Water Treaty allots to Mexico.
2. Deliveries from Mexico's Water Reserve, including those from the sub-account "U.S. Share of Water for the Environment."
3. Water from any other source. Use of water from any other source is subject to prior written agreement between the two Sections of the Commission, taking into consideration the recommendation of the Binational Environmental Work Group to the

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Minute Oversight Group, as well as the requirements of Section VIII of Minute 323, specifically paragraphs VIII.A, VIII.C.1 and VIII.C.2.

**C. Delivery of Water for the Environment.**

1. The schedule in the Annual Environmental Water Delivery Plan prepared by the Binational Environmental Work Group shall be reconciled with Mexico's National Water Commission (CONAGUA) prior to August 1<sup>st</sup> of each year so that it can be submitted to the Commission in the month of December each year so that it can be incorporated into the annual water delivery schedule for Colorado River water allotted to Mexico under the 1944 Water Treaty.
2. The physical delivery of water for the environment will include coordination among the two Sections of the Commission, the Binational Environmental Work Group, CONAGUA, U.S. Department of the Interior Bureau of Reclamation, and Irrigation District 014 in Mexico, considering the conveyance and delivery capacity of the canals in Irrigation District 014.
3. The Annual Environmental Water Delivery Plan, prepared by the Binational Environmental Work Group, shall specify the proposed breakdown (governmental and NGO) of water for the environment to be delivered that year.
4. Deliveries as part of the annual delivery schedule of Colorado River water that the 1944 Water Treaty allots to Mexico.
  - a. Any portion of water for the environment delivered from the annual delivery schedule of Colorado River water that the 1944 Water Treaty allots to Mexico shall be identified in the annual schedule submitted before the beginning of the calendar year, and in any subsequent schedule modifications per Article 15.F of the 1944 Water Treaty.
5. Deliveries from Mexico's Water Reserve.
  - a. When Mexico submits its annual Colorado River delivery schedule, it shall submit, in writing, any request for delivery of environmental water from

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Mexico's Water Reserve, including the sub-account "U.S. Share of Water for the Environment" for the subsequent calendar year. Consistent with Section V.E.13 of Minute 323, the request shall indicate the volumes and months in which the delivery of said volumes to the environment is proposed. Once the request is approved, any proposed changes to the delivery of water for the environment from Mexico's Water Reserve shall be made in accordance with the schedule change requirements of Article 15.F of the 1944 Water Treaty.

6. Water from any other source.

- a. The consultation referenced in Section B.3 above, should consider the appropriate mechanism to process these environmental water deliveries.

7. Water for the U.S. government environmental commitment.

- a. Water for the U.S. government environmental commitment will be delivered in 2021 and 2022 or held in the sub-account "U.S. Share of Water for the Environment" for delivery in a later year pursuant to an approved Annual Environmental Water Delivery Plan.

8. The United States and Mexico shall take all such appropriate actions in their respective territories to ensure that such environmental flows reach the intended environmental restoration sites of the Colorado River Limitrophe and Delta in accordance with the timeframe indicated in the schedule referenced in C.1 above. The delivery of the governments' environmental flows shall be accounted for by the Commission at the Northerly International Boundary.

**D. Mechanism for Simultaneous Transfer of Funds and Provision of Water for the United States Government Environmental Commitment.**

1. The Commission shall develop a detailed schedule of the process for inspection, billing, payment, and simultaneous water exchange for the investments in water conservation projects in Mexico.

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**E. Savings Applicable to Water for the Environment During Years Requiring Recoverable Water Savings in Accordance with the Binational Water Scarcity Contingency Plan.**

1. Savings are applicable to any scheduled annual delivery of water for the environment from Mexico's federal share when Lake Mead is at or below 1,090 feet msl and are not applicable to the United States government environmental commitment.
2. The share of Mexico's Recoverable Water Savings derived from Mexico's federal share of water for the environment in a given year shall be in the same proportion that the overall volume of Mexico's Recoverable Water Savings represents compared to Mexico's 1.5 million acre-foot (1,850.234 mcm) annual allotment, based on the approved quantity of Mexico's federal share of environmental water for delivery that year.
3. Any savings associated with water for the environment will be included in the overall volume of Mexico's Recoverable Water Savings that Mexico is required to save as listed in Section IV of the Minute. The environmental savings will be included in this volume and are not in addition to this volume.
4. In accordance with the 2019 Joint Report, upon creation of Mexico's Recoverable Water Savings, including volumes deriving from environmental water, a one-time 10% assessment will be applied at the time of creation. This assessment shall not apply to any environmental water volume already assessed 10% as Mexico's Water Reserve.

**F. Reductions Applicable to Water for the Environment During Low Elevation Reservoir Conditions**

1. Reductions are applicable to any scheduled annual delivery of water for the environment from Mexico's federal share when Lake Mead is at or below 1,075 feet msl and are not applicable to the U.S. share. These waters are permanently reduced from Mexico's federal share of water for the environment and will not be available for future delivery.
2. The share of reductions derived from Mexico's federal share of water for the environment in a given year shall be in the same proportion that the overall volume of Mexico's reduction represents compared to Mexico's 1.5 million acre-foot (1,850.234

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mcm) annual allotment, based on the approved quantity of Mexico's federal share of environmental water for delivery that year.

3. Any reduction associated with water for the environment will be included in the overall volume Mexico is required to reduce as listed in Section III of Minute 323. The reductions to water for the environment will be included in this volume and are not in addition to this volume.

**G. Operational provisions applicable to environmental water that will be provided by the Binational Coalition of NGOs.**

1. Consistent with Section VIII of Minute 323 and as authorized by the Mexican Government, the NGOs can use a portion of Mexico's Water Reserve to create, store and deliver environmental water in Mexico. The Commission will keep the accounting records of these water volumes.
2. The NGOs will be able to contribute their share of water for the environment through the water trust in Irrigation District 014 or from the environmental volume that they have created in Mexico's Water Reserve, and annually they shall report to the Commission on the volumes of water that they have delivered to the environment so that the Commission can perform the accounting stipulated in the last paragraph of Section VIII of Minute 323. These volumes shall be reconciled with CONAGUA and Irrigation District 014 before being reported to the Commission.
3. Any volume of water for the environment from the NGOs in Mexico's Water Reserve and that is identified as Intentionally Created Mexican Allocation will not be subject to the environmental assessment described in Section V.E.6 of Minute 323.
4. The water deliveries from the NGO environmental water contribution coming from Mexico's Water Reserve or from the water trust, are not subject to reductions and savings stipulated in Sections III and IV of Minute 323. In any year when reductions and/or savings are applied, Mexico's annual Colorado River water delivery schedule already reflects reductions and/or savings for the NGOs and other Mexican water users.

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**H. Water Accounting Matters**

1. Based on operating experience, the two countries have identified an area of inconsistent implementation of the 2019 Joint Report and the Lower Basin Drought Contingency Plan Agreement in the United States. From January 1, 2020 through the remaining term of Minute 323, the language in Section IV.A.3 of the 2019 Joint Report is revised as follows, “If, in any year, Mexico is required to create Mexico's Recoverable Water Savings based on the preceding year's August 24-Month Study projection, and its volume exceeds that which would have been determined based upon Lake Mead's actual January 1 elevation, then such excess shall be accounted for and remain available as part of Mexico's Water Reserve and it will be available for use in subsequent years.”
2. The 10% one-time assessment on creation of water in Mexico's Water Reserve, including water for the environment, shall be applied at the end of the year on the net volume created in Mexico's Water Reserve, except that such assessment will not be applied to water in the sub-account of Mexico's Water Reserve, “U.S. Share of Water for the Environment” created in accordance with Section A.3.c above, given that the volume of water associated with this assessment is considered to be included in the volume the United States is generating of 50,000 acre-feet (62 mcm) of water for the system. If the water was previously assessed 10% in Mexico's Water Reserve, this assessment will remain even if the water is subsequently transferred to the U.S. sub-account “U.S. Share of Water for the Environment.”
  - a. During calendar years 2021-2025, annual volumes which have already received a 10% system assessment and are delivered from Mexico's Water Reserve (including those delivered from the sub-account “U.S. Share of Water for the Environment”) or transferred from Mexico's Water Reserve to meet its obligations under Section IX of Minute 323, can be replenished within the following calendar year without application of an assessment.
3. Notwithstanding Section H.2.a above, the two Sections of the Commission have come to an agreed-upon approach to finalize the record of volumes of water in Mexico's Water



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Reserve for 2020, as documented in the exchange of letters dated December 10, 2021. Consistent with this approach, there shall be no system assessment made upon a net 9,973 acre-feet (12,301,135 cubic meters) of Mexico's Water Reserve created during calendar years 2021-2026.

4. Water for the U.S. government environmental commitment is not subject to savings and reductions.
5. The Binational Environmental Work Group will document federal environmental water deliveries at the various points of delivery to the greatest extent feasible.
6. The two Sections of the Commission shall meet to determine the correct proportional savings and reductions applicable to Mexico's federal share of environmental water during the term of the Minute and make any adjustments that may be necessary.

**Respectfully,**



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