

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO

Minute No. 299

Cd. Juárez, Chih.
December 3, 1998

**INTERNATIONAL BOUNDARY AND WATER COMMISSION SUPPORT
TO THE BORDER ENVIRONMENT COOPERATION COMMISSION
IN DEVELOPMENT OF PROJECTS FOR THE SOLUTION OF
BORDER SANITATION PROBLEMS**

The Commission met at 2:00 p.m. on December 3, 1998 in the headquarters offices of the Mexican Section of the International Boundary and Water Commission (IBWC) in Ciudad Juárez, Chihuahua, to consider provision of support to the Border Environment Cooperation Commission (BECC) regarding development of infrastructure projects for the solution of border sanitation problems.

The two Commissioners referred to Chapter I, Article III, Section 6 of the Agreement between the United States and Mexico Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank (NADBank) signed in Washington, D.C. on November 16, 1993 and in Mexico, D.F. on November 18, 1993. Section 6 provides that the BECC and the IBWC may enter into arrangements regarding use of their respective facilities, personnel and services and into arrangements for reimbursement of costs, including administrative costs incurred by one organization on behalf of the other. The Commissioners also referred to the authority provided to the IBWC to discharge the obligation under Article 3 of the United States - Mexico Treaty for Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, signed February 3, 1944, to give preferential attention to the solution of all border sanitation problems.

The Commissioners made note of the functions of the BECC established in Chapter I, Article I, Section 2, to assist, at their request, states and localities and other public entities and private investors in technical aspects of project development and to certify proposed border environment infrastructure projects that meet environmental and technical criteria, among others adopted by the BECC. Finally, the Commissioners made reference to the coordination and substantive participation of the IBWC in the development of wastewater infrastructure projects for the solution of border sanitation problems in light of IBWC Minutes No. 261 and 294, concluded under Article 3 of the 1944 Water Treaty. Coordination and participation by the IBWC under Minute No. 294 has been directed at bringing the referenced projects to planning levels that will enhance their eligibility for certification by the BECC and financing by the NADBank. Substantive involvement in wastewater infrastructure project development by the IBWC under Minute No. 261 has been directed to include in the planning of those projects, safeguards against conditions in which the waters that form or cross the boundary between the United States and Mexico may have sanitary conditions that present a hazard to the health and well-being of the inhabitants on either side of the border or impair the beneficial uses of these waters.

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The Commissioners observed that in this context, it would be appropriate for the IBWC to formalize with the BECC a Coordination Memorandum of Understanding (Coordination MOU). In this respect, the Coordination MOU between the IBWC and the BECC should provide that:

1. The IBWC may enter into specific arrangements with the BECC for reimbursable support that the IBWC or either Section of the IBWC would provide to the BECC in the planning, development and execution of wastewater infrastructure projects located along the waters that form or cross the boundary between the United States and Mexico, in which sanitary conditions present a hazard to the health and well being of the inhabitants on either side of the border or impair the beneficial uses of these waters.
2. At a minimum, such arrangements should include description, cost estimates, due dates, and personnel specialization required, based on salary per hour and benefits ordinarily covered by the applicable Section, and should provide for timely reimbursement by the BECC.
3. For those activities requiring the services of only one Section of the IBWC the Section providing such service should keep the other Section informed of such arrangements.
4. For those activities requiring the joint action of the IBWC, the IBWC should determine the level of support that each Section will provide as a part of the joint action.
5. The Coordination MOU should be subject to termination upon 30 days written notice by either party to the other party. Termination of the Coordination MOU would have the effect of terminating any specific arrangements concluded under it, with the understanding that every effort will be made to assure that ongoing activities and projects will not be disrupted as a result of such termination.
6. There be provision of reimbursable support by the BECC to the IBWC.
7. There be provision that neither the IBWC nor the BECC will be liable for acts, omissions or obligations of the other arising from the performance of this Coordination MOU.

Based on the above, the two Commissioners submit the following recommendations for the approval of the two Governments:

1. The International Boundary and Water Commission may enter into a Coordination Memorandum of Understanding with the Border Environment Cooperation Commission which provides that:

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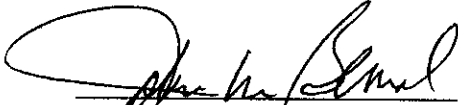
- a. The IBWC may execute specific arrangements with the BECC in which the IBWC or either Section of the IBWC may provide reimbursable support to the BECC in planning development and execution of wastewater infrastructure projects located along the waters that form or cross the boundary between the United States and Mexico in which sanitary conditions present a hazard to the health and well being of the inhabitants on either side of the border or impair the beneficial uses of these waters.
 - b. At a minimum, such arrangements will include description of the support requested, cost estimates, due dates, personnel specialization, based on salary per hour and benefits ordinarily covered by the applicable Section and, timely reimbursement by the BECC.
 - c. For those activities requiring the services of only one Section of the IBWC, the Section providing such services will keep the other Section informed of such arrangements.
 - d. For those activities requiring the joint action of the IBWC, the IBWC will determine the level of support that each Section may provide as part of the joint action.
 - e. The Coordination MOU will be subject to termination upon 30 days written notice by either party to the other party. Termination of the Coordination MOU will have the effect of terminating any specific arrangements concluded pursuant to it, with the understanding that every effort will be made to assure that ongoing activities and projects will not be disrupted as a result of such termination.
 - f. There be provision of reciprocal support by the BECC to the IBWC.
 - g. There be provision that neither the IBWC nor the BECC will be liable for acts, omissions or obligations of the other arising from the performance of this Coordination MOU.
2. All activities undertaken in furtherance of provisions of this Minute will be subject to the availability of funds, resources and corresponding personnel as well as to applicable laws and standards in each country.

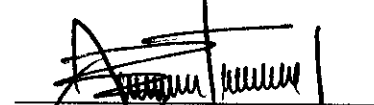
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3. This Minute enters into force upon notification of approval by the Government of the United States and the Government of the United Mexican States through their respective IBWC Sections.

The meeting was adjourned.


John M. Bernal
United States Commissioner


J. Arturo Herrera Solís
Mexican Commissioner


Manuel R. Ybarra
United States Section Secretary


José de Jesús Luévano Grano
Mexican Section Secretary