

## **The International Boundary and Water Commission, Its Mission, Organization and Procedures for Solution of Boundary and Water Problems**

The Convention of 1889<sup>1</sup> creating the International Boundary Commission (IBC), and the 1944 Water Treaty<sup>2</sup> which changed its name to the International Boundary and Water Commission (IBWC), both provide that it shall consist of a United States Section and a Mexican Section. The 1944 Treaty further provides that it shall in all respects have the status of an international body, that the head of each Section must be an Engineer Commissioner and that wherever Treaty provisions call for joint action or joint agreement by the two Governments such matters shall be handled by or through the Department of State of the United States and the Secretariat of Foreign Relations of Mexico.

The Commissioner for each Section functions under the foreign policy supervision of the Foreign Office of his Government.

The mission of the IBWC is to apply the rights and obligations which the Governments of the United States and Mexico assume under the numerous boundary and water treaties and related agreements, and to do so in a way that benefits the social and economic welfare of the peoples on the two sides of the boundary and improves relations between the two countries.

As provided for in the treaties and agreements, those rights and obligations include: distribution between the two countries of the waters of the Rio Grande and of the Colorado River; regulation and conservation of the waters of the Rio Grande for their use by the two countries by joint construction, operation and maintenance of international storage dams and reservoirs and plants for generating hydroelectric energy at the dams; regulation of the Colorado River waters allocated to Mexico; protection of lands along the river from floods by levee and floodway projects; solution of border sanitation and other border water quality problems; preservation of the Rio Grande and Colorado River as the international boundary; and demarcation of the land boundary.

The United States and Mexican Sections maintain their respective headquarters in the adjoining cities of El Paso, Texas and Ciudad Juárez, Chihuahua. The Commissioners meet at least weekly, alternating the place of meetings and are in almost daily contact with one another. Each Section maintains its own engineering staff, a secretary and such legal advisers and other assistants as it deems necessary. Each Section also has field offices on its side of the boundary at the location of joint projects or related operation where the engineers of the adjoining offices work closely with each other to effect the essential cooperation. Each Government funds the cost of the operation of its Section of the IBWC.

Implementation by the IBWC of the broad provisions of the treaties and other international agreements requires specific agreements by the IBWC for planning construction, operation and maintenance of joint works, manner of sharing the costs and other joint activities. Such agreements constituting decisions or recommendations, subject to the approval of the two Governments, are recorded in the form of Minutes done in the English and Spanish Languages, signed by each Commissioner and attested by the Secretaries. Copies thereof are forwarded to each Government within three days after being signed. Once approved by both Governments, the Minutes are binding obligations upon the two Governments.

The United States performance of its part of each of the cooperative projects is subject to authorization and the appropriation of funds by the Congress. This authorization, usually obtained before conclusion of an IBWC Minute, takes the form of a legislative enactment. The United States Section justifies its requests for authorizations and appropriations as a part of the Congressional presentations by the Department of State after review by the Office of Management and Budget. The United States Commissioner presents the principal witness statements with the support of the Department of State before the appropriate Committees of the House of Representatives and the United States Senate.

In addition to the cooperative projects undertaken to implement existing treaties and other agreements between the two Governments, a cooperative project may originate with the emergence of a new boundary or water problem that requires agreement and the cooperation of the two Governments for its solution. Early detection and evaluation of the problem and the need for a cooperative project for its resolution are a part of the mission of the IBWC. The need for such a project may also be brought to the attention of the joint Commission by one or both Governments or by state or local authorities through their respective Section of the IBWC. If the findings of the IBWC joint investigations, recorded in a joint report of the Principal Engineers of the two Sections, show that a cooperative project is needed, is feasible and can be justified as an international project, the IBWC may endorse the findings in a Minute and recommend the project to the two Governments.

Once the project is approved by both Governments, authorized and funded, each Government through its Section proceeds to perform under the joint supervision of the IBWC, its share of the works, as determined in the approved agreement.

The two Governments generally share the total costs of the projects in proportion to their respective benefits in cases of projects for mutual control and utilization of the waters of a boundary river, unless the Governments have predetermined by treaty the division of costs according to the nature of a project. In cases of man-made works in one country or operations in one country causing or threatening to cause damage in the other country, the cost is borne by the Government in whose territory the problem originated.

The United States Section prepares its assigned part of the plans for works or contracts for their preparation with other federal agencies or with private consulting engineers. It awards contracts for and supervises its part of the construction of a project under the overall supervision of the IBWC. The United States Section operates and maintains the part of the project assigned to its Government.

Since the 1920s, the following have served as United States Boundary Commissioners: Lawrence M. Lawson - 1927 to 1954; Colonel Leland H. Hewitt, (Ret.) - 1954 to 1962, Joseph F. Friedkin - 1962 to 1986; Narendra Gunaji 1987 to 1994, and John M. Bernal - 1994 to 2001. The following have served as Mexican Boundary and /or Water Commissioner: Gustavo P. Serrano - 1923 to 1932 and 1935 to 1941; Armando Santacruz, Jr. - 1931 to 1936; Joaquin Pedro Cordova - 1936 to 1940; Rafael Fernandez MacGregor - 1941 to 1947; David Herrera Jordan - 1947 to 1979; Joaquin Bustamante Redondo - 1979 to 1985; Carlos Santibanez Mata - 1985 to 1989; Arturo Herrera Solis - 1989 to present.

## **THE INTERNATIONAL BOUNDARY United States and Mexico**

As established by Treaties in 1848 and 1853 the international boundary between the United States and Mexico extends over 1,952 miles (3,141 km), exclusive of the maritime boundaries (See map at the end of book). The boundary follows the middle of the Rio Grande from its mouth on the Gulf of Mexico a distance of 1,254 miles (2,019 km) to a point just upstream of El Paso, Texas and Ciudad Juárez, Chihuahua; then it follows an alignment westward overland and marked by monuments a distance of 533 miles (858 km) to the Colorado River; thence it follows the middle of that river northward a distance of 24 miles (38 km); and then it again follows an alignment westward overland and marked by monuments a distance of 141 miles (226 km) to the Pacific Ocean.

The region along the boundary is characterized by deserts, rugged mountains, abundant sunshine and by two major rivers - the Colorado River and the Rio Grande, which provide life-giving waters to the largely arid but fertile lands along the rivers in both countries.

Although sparsely settled at the time of the 1848 and 1853 Treaties the region rapidly developed, beginning with the coming of the railroads in the 1880s and the development of irrigated agriculture after the turn of the century. In 1981 more than two million acres (810,000 hectares) were irrigated in the border area with waters of the boundary rivers.

Today the boundary is singularly characterized by fifteen pairs of sister cities sustained by agriculture, import-export trade, service and tourism, and in recent years by a growing manufacturing sector. "The borderlands

population was estimated to be 10.6 million in 1995. A high projection for 2000 is estimated to be 12.4 million and a low projection for that year is estimated at 11.5 million. (James Peach and James Williams, "Population and Economy on the U.S. - Mexico Border: Past, Present and Future") Publication noted at [www.scerp.org](http://www.scerp.org)."

## **THE BOUNDARY AND WATER TREATIES**

The Guadalupe Hidalgo Treaty of February 2, 1848<sup>3</sup> established the international boundary as shown on the Map, Page 1. The Treaty of December 30, 1853<sup>4</sup> reestablished the southern boundary of New Mexico and Arizona, as shown on the same Map, to enable the United States to construct a railroad to the west coast along a southern route and to resolve a question arising from the 1848 Treaty as to the location of the southern boundary of New Mexico. Temporary commissions were formed by these boundary treaties to perform the first joint mission of the Government of the United States and Mexico, which was to survey and demarcate the boundary on the ground in accordance with the treaties. Another temporary commission was created by the Convention of July 29, 1852<sup>5</sup>, which surveyed and increased the number of monuments marking the land boundary westward from El Paso, Texas and Ciudad Juárez, Chihuahua. As the settlements grew along the boundary rivers and the adjoining lands began to be developed for agriculture in the late Nineteenth Century, questions arose as to the location of the boundary when the rivers changed their course and transferred tracts of land from one side of the river to the other. The two Governments by the Convention of November 12, 1884<sup>6</sup> adopted certain rules designated to deal with such questions.

By the Convention of March 1, 1889<sup>7</sup>, the Governments of the United States created the International Boundary Commission (IBC), to consist of a United States Section and a Mexican Section. The IBC was charged with the application of the rules of the 1884 Convention, for the settlement of questions arising as to the location of the boundary when the rivers changed their course. That Convention was modified by the Banco Convention of March 20, 1905<sup>8</sup> to retain the Rio Grande and the Colorado River as the boundary.

The Convention of May 21, 1906<sup>9</sup> provided for the distribution between the United States and Mexico of the waters of the Rio Grande above Fort Quitman, Texas for the 89-mile (143 km) international boundary reach of the Rio Grande through the El Paso-Juárez Valley. This Convention allotted to Mexico 60,000 acre-feet\* annually of the waters of the Rio Grande to be delivered in accordance with a monthly schedule at the headgate to Mexico's Acequia Madre just above Juárez, Chihuahua. To facilitate such deliveries, the United States constructed, at its expense, the Elephant Butte Dam in its territory. The Convention includes the proviso that in case of extraordinary drought or serious accident to the irrigation system in the United States, the amount of water delivered to the Mexican Canal shall be diminished in the same proportion as the water delivered to lands under the irrigation system in the United States downstream of Elephant Butte Dam.

In the Convention of February 1, 1933<sup>10</sup>, the two Governments agreed to jointly construct, operate and maintain, through the IBC, the Rio Grande Rectification Project, which straightened and stabilized the 155-mile (249 km) river boundary through the highly developed El Paso-Juárez Valley. The project further provided for the control of the river's floods through this Valley.

The Treaty of February 3, 1944<sup>11</sup> for "Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande" distributed between the two countries the waters of the Rio Grande from Fort Quitman to the Gulf of Mexico, and the waters of the Colorado River. Of the waters of the Rio Grande, the Treaty allocates to Mexico: (1) all of the waters reaching the main channel of the Rio Grande from the San Juan and Alamo Rivers, including the return flows from the lands irrigated from those two rivers; (2) two-thirds of the flow in the main channel of the Rio Grande from the measured Conchos, San Diego, San Rodrigo, Escondido and Salado Rivers, and the Las Vacas Arroyo, subject to certain provisions; and (3) one-half of all other flows occurring in the main channel of the Rio Grande downstream from Fort Quitman. The Treaty allots to the United States: (1) all of the waters reaching the main channel of the Rio Grande from the Pecos and Devils Rivers, Goodenough Spring and Alamito, Terlingua, San Felipe and Pinto Creeks; (2) one-third of the flow reaching the main channel of the river from the six named measured tributaries from Mexico and provides that this third shall not be less, as an average amount in cycles of five consecutive years, than 350,000 acre-feet annually; and (3) one-half of all other flows occurring in the main channel of the Rio Grande downstream from Fort Quitman.

The 1944 Treaty further provided for the two Governments to jointly construct, operate and maintain on the main channel of the Rio Grande the dams required for the conservation, storage and regulation of the greatest quantity of the annual flow of the river to enable each country to make optimum use of its allotted waters.

The 1944 Treaty provides that of the waters of the Colorado River there are allotted to Mexico: (1) a guaranteed annual quantity of 1.5 million acre-feet to be delivered in accordance with schedules formulated in advance by Mexico within specified limitations; and (2) any other waters arriving at the Mexican points of diversion under certain understandings. To enable diversion of Mexico's allotted waters, the Treaty provided for the construction by Mexico of a main diversion structure in the Colorado River, below the point where the California-Baja California land boundary line intersects the river. It also provided for the construction at Mexico's expense of such works as may be needed in the United States to protect its lands from such floods and seepage as might result from the construction and operation of the diversion structure.

In the 1944 Treaty the two Governments agreed to give preferential attention to the solution of all border sanitation problems.

This Treaty entrusts the International Boundary and Water Commission (IBWC) with the application of its terms, the regulation and exercise of the rights and obligations which the two Governments assumed thereunder, and the settlement of all disputes to which its observance and execution may give rise. It changed the name of the International Boundary Commission (IBC) to the International Boundary and Water Commission (IBWC). The Treaty also provides that the IBWC study, investigate and report to the Governments on such hydroelectric facilities as the IBWC finds should be built at the international storage dams and on such flood control works, other than those specified in the Treaty, that the IBWC finds should be built on the boundary rivers, the estimated cost thereof, the part to be built by each Government, and to be operated and maintained by each through its Section of the IBWC.

Under the terms of the 1944 Treaty: the two Governments reached agreement for the solution of the international problem of the salinity of the Lower Colorado River, which was incorporated in Minute No. 242 of the IBWC dated August 30, 1973<sup>12</sup>; and the IBWC submitted and the two Governments approved "Recommendations for the Solution of the Border Sanitation Problems," in Minute No. 261 dated September 24, 1979<sup>13</sup>

The Chamizal Convention of August 29, 1963<sup>14</sup> resolved the nearly 100-year-old boundary problem at El Paso, Texas-Juárez, Chihuahua, known as the Chamizal dispute, involving some 600 acres (243 hectares) of territory which were transferred from the south to the north bank of the Rio Grande by movement of the river during the latter part of the Nineteenth Century. By this Convention the two Governments gave effect to a 1911 arbitration award under 1963 conditions. The Convention provided for the relocation of the IBWC of the 4.4 miles (7 km) of the channel of the Rio Grande so as to transfer a net amount of 437.18 acres (176.92 hectares) from the north to the south side of the river. President Lyndon Johnson met Mexican President Adolfo Lopez Mateos in El Paso on September 24, 1964 to commemorate the ratification of the Chamizal Convention.

The Treaty of November 23, 1970<sup>15</sup> resolved all pending boundary differences and provided for maintaining the Rio Grande and the Colorado River as the international boundary. The Rio Grande was reestablished as the boundary throughout its 1,254-mile (2,019 km) limitrophe section. The Treaty includes provisions for restoring and preserving the character of the Rio Grande as the international boundary where that character has been lost, to minimize changes in the channel, and to resolve problems of sovereignty that might arise due to future changes in the channel of the Rio Grande. It provides for procedures designed to avoid the loss of territory by either country incident to future changes in the river's course due causes other than lateral movement, incident to eroding one of its banks and depositing alluvium on the opposite bank. This Treaty, too, changed the IBWC with carrying out its provisions.

**<sup>1</sup>CONVENTION OF MARCH 1, 1889**

To facilitate carrying out the principles contained in the Treaty of November 12, 1884, and to avoid the difficulties occasioned by reason of the changes which take place in beds of the Rio Grande and Colorado River (TS 232; 26 Stat. 1512), extended temporarily by the Conventions of October 1, 1859 (29 Stat. 841), November 6, 1896 (29 Stat. 857), December 29, 1897 (30 Stat. 1625), December 2, 1898 (30 Stat. 1744), and December 22, 1899 (not printed in Stat.), and indefinitely extended by the Convention of November 21, 1990(30 Stat. 1936). The Water Treaty of February 3, 1944 (TS 944, 59 Stat. 1219) terminated the Convention of 1900 and indefinitely extended the Convention of 1889

**<sup>2</sup>TREATY OF FEBRUARY 3, 1944**

Utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande  
(TS 994; 59 Stat. 1219)

**<sup>3</sup>TREATY OF FEBRUARY 2, 1848**

Treaty of Guadalupe Hidalgo of Peace, Friendship, Limits and Settlement between United States and Mexico  
(TS 207; 9 Stat. 922; 18 stat. (pt.2, Public Treaties) 492)

**<sup>4</sup>TREATY OF DECEMBER 30, 1853**

Relating to the boundary line, transit or persons, etc., across the Isthmus of Tehuantepec  
(TS 208; 10 Stat. 1031; 18 Stat. (Pt. 2, Public Treaties) 503)

**<sup>5</sup>CONVENTION OF JULY 29, 1852**

Boundary Convention providing for an international boundary survey to relocate the existing frontier line between the two countries west of the Rio Grande  
(TS 220; 22 Stat. 986), renewed December 5, 1885 (25 Stat. 1930), February 18, 1889 (26 Stat. 1493), and August 29, 1894 (28 Stat. 1213)

**<sup>6</sup>CONVENTION OF NOVEMBER 12, 1884**

Between United States and Mexico touching on the international boundary line where it follows the beds of the Rio Grande and Rio Colorado  
(TS 226; 24 Stat. 1011)

**<sup>7</sup>CONVENTION OF MARCH 1, 1889**

To facilitate carrying out the principles contained in the Treaty of November 12, 1884, and to avoid the difficulties occasioned by reason of the changes which take place in beds of the Rio Grande and Colorado River (TS 232; 26 Stat. 1512), extended temporarily by the Conventions of October 1, 1859 (29 Stat. 841), November 6, 1896 (29 Stat. 857), December 29, 1897 (30 Stat. 1625), December 2, 1898 (30 Stat. 1744), and December 22, 1899 (not printed in Stat.), and indefinitely extended by the Convention of November 21, 1990(30 Stat. 1936). The Water Treaty of February 3, 1944 (TS 944, 59 Stat. 1219) terminated the Convention of 1900 and indefinitely extended the Convention of 1889

**<sup>8</sup>CONVENTION OF MARCH 20, 1905**

For the elimination of the Bancos in the Rio Grande from the effects of Article II of the Treaty of November 12, 1884  
(TS 461; 35 - Stat. 1863)

**<sup>9</sup>CONVENTION OF MAY 21, 1906**

Equitable distribution of the waters of the Rio Grande  
(TS 455; 34 Stat. 2953)

**<sup>10</sup>CONVENTION OF FEBRUARY 1, 1933**

Rectification of the Rio Grande  
(TS 864; 48 Stat. 1621)

<sup>11</sup> **TREATY OF FEBRUARY 3, 1944**

Utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande  
(TS 994; 59 Stat. 1219)

<sup>14</sup> **CONVENTION OF AUGUST 29, 1963**

For solution of the problem of the Chamizal  
(TIAS 5515; 15 UST 21)

<sup>15</sup> **TREATY OF NOVEMBER 23, 1970**

To resolve pending boundary differences and maintain the Rio Grande and the Colorado River as the International Boundary  
(TIAS 7313; 23 UST 371)