

Appendix 1410

**THE MEXICAN TREATY AND THE ALL-AMERICAN
CANAL:
PROPOSAL OF IMPERIAL IRRIGATION DISTRICT,
DECEMBER 2, 1947**

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HON. GEORGE C. MARSHALL,
Secretary of State,
Department of State, Washington, D. C.

MY DEAR MR. SECRETARY: On September 15 and 16 of this year a joint meeting was held in Los Angeles between representatives of the Department of State; the American Section of the International Boundary and Water Commission, United States and Mexico; Department of Justice; Bureau of Reclamation of the Department of the Interior; and Imperial Irrigation District. A list of those in attendance on each of the two days is attached for reference. At that meeting a number of matters were discussed, which involve the All-American Canal project (authorized by the Boulder Canyon Project Act of December 21, 1928—Public No. 642, 70th Cong.), properties and rights of Imperial Irrigation District, and the treaty between the United States and Mexico (Treaty Series 994), which became effective November 8, 1945. Any reference herein to that treaty is intended to include the treaty signed February 3, 1944, the protocol to the treaty signed November 14, 1944, and the reservations to the treaty as contained in the resolution of ratification of the Senate of the United States, adopted April 18, 1945.

At the outset we want to make it clear that Imperial Irrigation District recognizes the treaty as the law of the land, which should be and will be observed and carried out in good faith by both countries, and that this district neither desires nor intends by anything said herein to suggest or seek a modification of the treaty nor to interfere with its proper administration. It is the purpose and intent of this district to cooperate in every way with the United States Government to facilitate operations under and in conformance with the treaty. In turn, we ask and believe we are entitled to have the cooperation of our Government in the recognition, observance, and protection of the interests and properties of the people of Imperial Valley, whom this district represents.

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One of the results of the discussions had at the meeting above referred to was the suggestion that this district submit for your consideration a plan or proposal which this district might desire for the diversion, transportation, and delivery of that portion of the water of the Colorado River allotted to Mexico by the treaty, which is to be delivered by means of the All-American Canal and a canal connecting the lower end of the Pilot Knob Wasteway with the international boundary (art. 11 (c) of the treaty).

In the following we submit such a proposal, including several alternatives. It is not intended that the proposal, or any part of it, be considered as necessarily in final form or not subject to modification, but rather that it is of a preliminary nature and is being submitted for your consideration. It was understood that the opportunity would be afforded us for further discussion after you had given it such consideration.

I. USE OF ALL-AMERICAN CANAL FACILITIES FOR DELIVERY OF WATER
TO MEXICO

The All-American Canal facilities required to be used in connection with the delivery of water to Mexico by means of said canal, under article 11 (c) of the treaty, are Imperial Dam, the headworks of said canal at Imperial Dam, and the portion of said canal from said headworks to and including the Pilot Knob Check and Pilot Knob Wasteway.

Imperial Irrigation District will:

- (1) Take over the care, operation, and maintenance of these facilities and of Laguna Dam, under and in accordance with the provisions of article 8 of that certain contract between the United States and said district dated December 1, 1932;
- (2) Dedicate and make available at all times from the capacity provided for said district in said facilities under said contract of December 1, 1932, the capacity required to deliver to Mexico the water which, under article 11 (c) of the treaty, is to be delivered to Mexico by means of said facilities;
- (3) As an agent of the United States, divert from the Colorado River at Imperial Dam, transport through and by means of such facilities, and deliver at the end of the Pilot Knob Wasteway the water to be delivered to Mexico under said treaty, as aforesaid, and which water is made available in the river at Imperial Dam for such purpose, such deliveries to be made at the times and in the amounts as directed by the United States and under and in accordance with rules and regulations as may from time to time be formulated by the United States in connection with such deliveries; and

(4) Provide the capacity in the All-American Canal and furnish such services, all as aforesaid, without in anywise modifying the obligation of the district for the repayment to the United States of the cost of the All-American Canal project under the provisions of said contract of December 1, 1932.

It is to be understood that at any time or during such times as in the opinion of the United States said district fails to carry out the provisions hereof in a manner satisfactory to the United States, the United States may, with or without notice to said district, assume direct control of such facilities and maintain such direct control for such period as the United States deems necessary. In such case, every employee of Imperial Irrigation District, to the extent that his duties or work pertain to or are required in connection with the furnishing of such water service to Mexico, as provided hereinabove, shall be considered as an employee of the United States and, at such time or during such times as the United States assumes such direct control, shall observe and carry out any and all orders or directions given by the United States in connection with such service for the delivery of water to Mexico. Such assumption of direct control by the United States shall not relieve the district from its obligations hereunder or under said contract of December 1, 1932, nor from its obligations for the compensation of said employees referred to hereinabove.

Compensation to the district for services rendered hereunder shall be determined by the United States, both as to the amount and time of payment of any such compensation, which may be varied from year to year or otherwise. It is to be understood, however, that there shall not be included in any such compensation any amount representing payment for the construction cost of such facilities used by said district in furnishing such services.

In the event the United States decides not to turn over to the district the care, operation, and maintenance of Imperial Dam and Laguna Dam, or either of them, as provided hereinabove, then the United States need not do so; and this agreement will be considered as modified to that extent, but only to that extent, and all other provisions hereof shall remain in full force and effect.

II. DEVELOPMENT OF POWER POSSIBILITIES AT PILOT KNOB BY DISTRICT

In the matter of development by Imperial Irrigation District of power possibilities at Pilot Knob on the All-American Canal, there was agreement among those attending the meeting above referred to on September 15 and 16 that the district had the right to develop such possibilities, provided only that proper safeguards are observed in the operation of the power plant connected with such development so as to not in any way interfere with delivery of water to Mexico by means of the All-American Canal.

In view of the foregoing, it is proposed that the district be permitted to develop said power possibilities on the All-American Canal at or near Pilot Knob, as provided for in said contract of December 1, 1932, and to utilize said canal and works for such purpose. In connection with such power development, the district shall be permitted to utilize not only the water to be delivered to Mexico by means of said canal, but also any other water available at Imperial Dam, in accordance with the provisions of the last paragraph of article 17 of said contract of December 1, 1932; provided, however, that in no event or under no circumstance shall the use of water for power purposes at or near Pilot Knob interfere with the delivery of water to Mexico as provided for herein. It shall be the obligation and duty of said district to make provisions for and to so operate said plant and said Pilot Knob Wasteway as to provide a continuous flow at the end of said Pilot Knob Wasteway in the amounts and as directed by the United States for delivery to Mexico, all as provided for hereinabove.

III. ALL-AMERICAN CANAL CONTRACT OF DECEMBER 1, 1932, BETWEEN
THE UNITED STATES AND IMPERIAL IRRIGATION DISTRICT

The All-American Canal contract of December 1, 1932, hereinabove referred to, between the United States and Imperial Irrigation District, shall be considered as modified to the extent, but only to the extent, required by this agreement. In all other respects, including, among others, repayment obligations of Imperial Irrigation District, said contract shall remain in full force and effect and shall be observed in good faith by the parties to said contract.

IV. PROPERTIES AND WORKS OF IMPERIAL IRRIGATION DISTRICT AT
ANDRADE

Under the provisions of the treaty (art. 11 (c)), the water to be delivered to Mexico by means of the All-American Canal is to be carried by a canal from the lower end of the Pilot Knob Wasteway to the international boundary and there delivered to Mexico in the Alamo Canal or "any other Mexican Canal which may be substituted for the Alamo Canal"; it is our understanding that Mexico intends to utilize the present Alamo Canal at and below the international boundary.

It should be pointed out that the Pilot Knob Wasteway was constructed with a capacity of 13,000 second-feet as a means of regulating the flow in the All-American Canal below the Pilot Knob Check and also as an outlet or wasteway for the full flow of the canal in case of accident to the canal. To reach the river, water released from the All-American Canal through the Pilot Knob Wasteway (or when the proposed power plant is in operation, then through such power plant).

which is not to be delivered to Mexico must pass through a short section of the district's Alamo Canal, then through the district's Rockwood Head Gate located adjacent to the river. In view of this use of the Pilot Knob Wasteway, both for regulating flow in the All-American Canal as well as delivery of water to Mexico, a control structure (such as the district's Hanlon Heading) is required in the Alamo Canal between the lower end of the Pilot Knob Wasteway and the delivery point on the international boundary by which to control and regulate the water to be delivered to Mexico.

Imperial Irrigation District owns the properties and works required for or useful in connection with this service to Mexico. In addition the district owns a rock quarry, buildings and equipment in the same location, which have been used in the past and will be required in the future for constructing and maintaining river protection works, both in the United States and Mexico. All of these properties and works are referred to as the "Andrade" properties of the district. In passing, it may be noted that these properties have been utilized by the district for delivery of water to Mexico from the time development commenced up to and including the present time. Also at Andrade were located the headquarters for work on the river protection levees along the Colorado River, both in the United States and in Mexico.

Imperial Irrigation District will:

- (1) Continue the care, operation, and maintenance of the Alamo Canal and related facilities from and including the Rockwood Head Gate to the international boundary (as it has been and now is doing) and, as an agent of the United States, deliver the water to Mexico provided by the treaty, such deliveries to be made at the times and in the amounts as directed by the United States and under and in accordance with such rules and regulations as may, from time to time, be formulated by the United States. Compensation shall be paid to the district for the furnishing of such services and use of such facilities as may be determined by agreement between the United States and the district, provided the United States shall have the right to assume the care, operation, and maintenance of said facilities with or without notice to the district at any time or during such times as, in the opinion of the United States, the services furnished by the district are not satisfactory to the United States and, in such event, compensation paid to the district shall be reduced to an amount to cover only the leasing of said facilities by the United States, such reduced amount of compensation to be agreed to between the United States and the district prior to the making of this agreement; or

- (2) Lease to the United States the Alamo Canal and related facilities from and including the Rockwood Head Gate (subject

to the use of said Rockwood Head Gate in connection with the operations of the All-American Canal and Pilot Knob power plant) to the international boundary, the United States to supply the services required in connection with said deliveries of water to Mexico through said facilities. Compensation shall be paid to the district for the use of said facilities as may be determined by agreement between the United States and the District; or

(3) Sell to the United States the Alamo Canal and related facilities from and including the Rockwood Head Gate (subject to the use of said Rockwood Head Gate in connection with the operations of the All-American Canal and Pilot Knob power plant) to the international boundary, the United States to supply the services required in connection with said delivery of water to Mexico through said facilities. The price to be paid the district for said facilities shall be determined by agreement between the United States and the district.

(4) Lease to the United States the rock quarry and related facilities of the district, in the event either proposal (1) or (2) next above is selected by the United States, the United States to furnish any and all services required to utilize said quarry and said related facilities. Compensation to be paid the district for the lease of quarry and said related facilities shall be determined by agreement between the United States and the district; or

(5) Sell to the United States the rock quarry and other Andrade properties and works of the district not included in proposal (3) next above, in the event said proposal (3) next above is selected by the United States. The United States will furnish all services required in the use of said quarry and other Andrade properties and works purchased from the district. The price to be paid the district for said quarry and other Andrade properties and works of the district shall be determined by agreement between the United States and the district.

May we ask your earnest consideration of these proposals to the end that an agreement may be reached satisfactory to all concerned. We shall be glad to meet with you at any time you will fix for such additional discussions as may be necessary for the working out of a final agreement at the earliest possible date.

Sincerely yours,

EVAN T. HEWES,
President, Board of Directors.