

APPENDIX XIII - MEXICAN SALINITY PROBLEM

1 F.1 - Mexican Water Treaty (See Appendix I)

1301 - Minute No. 218, March 25, 1965

1302 - Minute No. 241, July 14, 1972

1303 - Minute No. 242, August 30, 1973

MINUTE NO. 218

RECOMMENDATIONS ON THE COLORADO RIVER SALINITY PROBLEM

The Commission met in the office of the Mexican Section in Ciudad Juarez, Chihuahua, at 12:00 m on March 22, 1965, to comply with instructions it has received from the two Governments, to consider measures "to reach a permanent and effective solution" of the problem of the salinity of the waters of the Colorado River which reach Mexico, as contemplated in the Presidential Communiques of March 16 and June 30, 1962 and February 22, 1964.

The Commission reviewed the measures which the two Governments have taken to date to alleviate temporarily the problem of salinity of waters of the lower Colorado River, and noted the reduction which has occurred in the salinity of drainage waters from the Wellton-Mohawk Irrigation and Drainage District and that continued improvement is anticipated.

The Commission, with the scientific and engineering studies made by both Governments as a basis, thereupon adopted the following Resolution, subject to the approval of the two Governments, embodying the following *Recommendations*:

1. That the United States construct at its expense an extension to the present Wellton-Mohawk District's drainage conveyance channel, with capacity of 353 cubic feet (10 cubic meters) per second, along the left bank of the Colorado River to a point below Morelos Dam, and a control structure in that extension of the channel in the reach between Morelos Dam and the mouth of the Araz Drain, which structure would permit the discharge of the Wellton-Mohawk District's drainage waters to the bed of the river at a point either above or below Morelos Dam.
2. That the Commission permit execution of the works which may be required for the extension channel to pass through Morelos Dam.
3. That the extension channel and control structure proposed in Recommendation 1 be operated and maintained by the United States at its expense to discharge all of the Wellton-Mohawk District's drainage waters below Morelos Dam, except those which are discharged above the Dam on the days and at such rates as Mexico may request in writing.
4. That during the life of the present Minute and subject to the reservations of Recommendation 11, the Commission account for Wellton-Mohawk District's drainage waters as a part of those described in the provisions of Article 10 of the Water Treaty of February 3, 1944, with the understanding: a) that on the days for which Mexico requests water at the minimum winter rate of deliveries of 900 cubic feet (25.5 cubic meters) per second, the United States control waters reaching the limitrophe section of the Colorado River so that without including Wellton-Mohawk District's drainage waters, their flows be not less than 800 cubic feet (22.7 cubic meters) per second, their average flow be not less than 900 cubic feet (25.5 cubic meters) per second for the total of such days during each winter period for which the minimum rate is requested, and that the computation of that average flow not take into account flows in excess of 1000 cubic feet (28.3 cubic meters) per second; and b) that the winter periods in reference extend from October 1 of each year through February of the next following year.

5. That throughout the life of this Minute, Mexico schedule water at the minimum rate of deliveries of 900 cubic feet (25.5 cubic meters) per second, for the maximum practical number of days during each winter period, and for not less than 90 days.

6. That the pumping of Wellton-Mohawk District's drainage waters which are to be delivered to Mexico above Morelos Dam be coordinated, insofar as practicable, with Mexico's scheduled deliveries of water at the northerly boundary in order to minimize the salinity of these deliveries; with the understanding that during the period October 1 to February 10 the United States pump at the maximum rate but not to exceed 353 cubic feet per second and, insofar as practicable, from the more saline wells in the District, and also during other periods when the total quantity of the Wellton-Mohawk District's drainage waters is discharged below Morelos Dam.

7. That the United States endeavor to conclude arrangements to permit discontinuance of discharge of waters from the canal wasteways of the Yuma County Water Users' Association to the bed of the Colorado River below Morelos Dam, and if necessary for this purpose, construct and operate, at the expense of the United States, works needed so that such waters be delivered near San Luis, Arizona, and San Luis, Sonora; that Mexico pay for the increased cost of pumping which may be required to discharge these waters to Mexico at the delivery point near San Luis, Arizona, and San Luis, Sonora.

8. That this Minute be in effect during a period of five years, beginning on the date on which the extension to the Wellton-Mohawk District's drainage conveyance channel is placed in operation; and that during this period the Commission review conditions which gave rise to the problem and in due time recommend whether, in keeping with the purpose expressed by both Governments of achieving a permanent and effective solution, a new Minute should be adopted to become effective upon termination of this period.

9. That construction by the United States of works contemplated in this Minute be completed and the works be placed in operation by October 1, 1965, subject to the appropriation of funds by the United States Congress to implement this Minute.

10. That this Minute be specifically approved by both Governments.

11. That the provisions of this Minute not constitute any precedent, recognition, or acceptance affecting the rights of either country, with respect to the Water Treaty of February 3, 1944, and the general principles of law.

The meeting then adjourned.

/s/ J. F. Friedkin
Commissioner of the United States

/s/ D. Herrera J.
Commissioner of Mexico

/s/ Louis F. Blanchard
Secretary of the United States Section

/s/ Fernando Rivas S.
Secretary of the Mexican Section

1302

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO

El Paso, Texas,
July 14, 1972.

MINUTE NO. 241

RECOMMENDATIONS TO IMPROVE IMMEDIATELY THE
QUALITY OF COLORADO RIVER WATERS GOING TO -
MEXICO. -----

The Commission met in the offices of --
the United States Section, in El Paso, ----
Texas, at 12:00 o'clock noon on July 14, ---
1972, in accordance with the instructions -
which the two Governments issued to their -
respective Commissioners pursuant to the --
understanding between President Richard ---
Nixon and President Luis Echeverria ex- ---
pressed in their Joint Communique of June -
17, 1972, which, with respect to the salin-
ity problem, states: -----

"Regarding the problem of the sa- -
linity of the Colorado River, President
Echeverria told President Nixon that --
Mexico reiterates its position as re- g-
ards receiving its assignment of origi-
nal waters from the Colorado River, to
which the Treaty of February 3, 1944 --
refers, and therefore, with the same --
quality as those derived from Imperial
Dam. -----

"To this, President Nixon replied -
that this was a highly complex problem
that needed careful examination of all
aspects. He was impressed by the pre-
sentation made by President Echeverria
and would study it closely. It was his
sincere desire to find a definitive, --
equitable and just solution to this ---
problem at the earliest possible time -
because of the importance both nations
attach to this matter. -----

"As a demonstration of this intent
and of the goodwill of the United States
in this connection, he was prepared to:

- (a) undertake certain actions imme- ---
diately to improve the quality of -
water going to Mexico; -----

(Continued on Sheet 2)

COMISION INTERNACIONAL DE LIMITES Y AGUAS
ENTRE MEXICO Y ESTADOS UNIDOS

El Paso, Texas,
14 de julio de 1972.

ACTA NUM. 241.

RECOMENDACIONES PARA MEJORAR INMEDIATAMENTE
LA CALIDAD DE LAS AGUAS DEL RIO COLORADO QUE
LLEGAN A MEXICO. -----

La Comisión se reunió en las oficinas -
de la Sección de los Estados Unidos, en El
Paso, Texas, a las 12:00 horas del 14 de --
julio de 1972, de acuerdo con las instruc-
ciones que los dos Gobiernos dieron a sus -
respectivos Comisionados en virtud del com-
promiso contraído por el Presidente Luis --
Echeverría, y el Presidente Richard Nixon en
su Comunicado Conjunto del 17 de junio de -
1972, el cual, en relación con el problema
de la salinidad, a la letra dice: -----

"En torno al problema de la salini-
dad del Río Colorado, el Presidente ---
Echeverría manifestó al Presidente Nixon
que México reitera su posición en el sen-
tido de recibir la asignación a que se
refiere el Tratado del 3 de febrero de
1944, de aguas originales del Río Colo-
rado, y en consecuencia, con la misma -
calidad de las que derivan de la Presa
Imperial. -----

A esto, el Presidente Nixon contestó
que éste es un problema muy complicado
que requiere un minucioso examen de to-
dos sus aspectos. Que estaba impresio-
nado por la exposición hecha por el Pre-
sidente Echeverría y que la estudiaría
detenidamente. Que era su deseo sincero
el encontrar una definitiva, equitativa
y justa solución a este problema, a la
brevedad posible, por la importancia que
ambas naciones dan a este asunto. Que,
como una demostración de su propósito y
de la buena disposición de Estados Uni-
dos de América en relación a esta mate-
ria, estaba dispuesto a: -----

- A) Tomar inmediatamente determinadas me-
didas para mejorar la calidad de las
aguas que vayan a México. -----

(Continúa en la hoja 2)

(Continued from Sheet 1)

- (b) designate a special representative to begin work immediately to find a permanent, definitive and just solution of this problem; -----
- (c) instruct the special representative to submit a report to him by the end of this year; -----
- (d) submit this proposal, once it has the approval of this Government to President Echeverria for his consideration and approval. -----

"President Echeverria said that he recognized the goodwill of President Nixon and his interest in finding a definitive solution to this problem at the earliest possible time. He added that based on two recent trips to the Mexicali Valley and his talks with farmers there, his Government, while reserving its legal rights, had decided to stop using waters from the Wellton-Mohawk project for irrigation purposes while waiting for receipt of the United States proposal for a definitive solution. -----

"Both Presidents agreed to instruct their Water and Border Commissioners to prepare and sign a Minute containing the above program and commitments as soon as possible." -----

The Commission, on the basis of the understandings expressed in the Joint Communiqué, adopts, subject to the approval of the two Governments, the following -----

RESOLUTION: -----

1. That, commencing on the date of the approval of the present Minute, the United States take the measures described in points 2 and 3 of this resolution, to improve the quality of the waters of the Colorado River made available to Mexico at the Northernly Boundary, which it is estimated will reduce the salinity of such waters by at least 100 parts per million as an annual mean, -----

(Continued on Sheet 3)

(Continúa de la hoja 1)

- B) Designar a un representante especial para comenzar inmediatamente la tarea de encontrar a este problema una solución definitiva, justa y permanente. -----
- C) Impartir instrucciones a este representante especial para que le someta un informe antes de fin de año. -----
- D) Transmitir esta propuesta, una vez que haya sido aprobada por su Gobierno, al Presidente Echeverría para su consideración y aprobación. -----

El Presidente Echeverría manifestó que reconocía la buena disposición del Presidente Nixon y su interés por encontrar una solución definitiva a este problema a la mayor brevedad posible. Añadió que, en vista de sus dos recientes viajes al Valle de Mexicali y en sus pláticas con los campesinos de la región, su Gobierno, reservando sus derechos, había resuelto dejar de utilizar en el riego las aguas de Wellton-Mohawk, en espera de recibir la propuesta de Estados Unidos de América para una solución definitiva. -----

Ambos Presidentes acordaron instruir a sus Comisionados de Límites y Aguas a fin de que, a la mayor brevedad posible, levanten y suscriban el Acta que contenga el plan y los compromisos arriba mencionados". -----

La Comisión, basada en los acuerdos expresados en el Comunicado Conjunto, adopta, sujeta a la aprobación de los dos Gobiernos, la siguiente -----

RESOLUCION: -----

1. Que, principiando en la fecha de aprobación de la presente Acta, los Estados Unidos tomen las medidas descritas en los apartados 2 y 3 de la presente resolución, para mejorar la calidad de las aguas del Río Colorado que se pongan a disposición de México en el Lindero Norte, las cuales se estima que reducirán la salinidad de dichas aguas cuando menos en cien partes por millón, en -----

(Continúa en la hoja 3)

(Continued from Sheet 2)

compared with the mean annual salinity of the waters made available to Mexico at the Northernly Boundary in calendar year 1971, under Minute No. 218; such improvement to be independent of the improvement in quality which may be achieved by discharging to the Colorado River below Morelos Dam the part of the drainage waters from the Wellton-Mohawk District described in point 5 of this resolution. -----

2. That the United States continue to operate and maintain, at its expense, the extension of the Wellton-Mohawk District's drainage water conveyance channel and its control structures, constructed pursuant to Recommendation 1 of Minute No. 218. -----
3. That, commencing on the date of approval of the present Minute, the United States 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 equal volumes of other waters, to be discharged to the Colorado River above Morelos Dam, with the understanding that during the second six months of 1972, the United States discharge the volume of 73,000 acre-feet (90,044,000 cubic meters) of drainage waters from the Wellton-Mohawk District downstream from Morelos Dam and substitute therefor an equal volume of other waters to be discharged above Morelos Dam. -----
4. That Mexico's requests for deliveries in the limitrophe reach of the Colorado River be not less than 900 cubic feet (25.5 cubic meters) per second, excluding the flows charged as part of Mexico's allotment under the Water Treaty of February 3, 1944, in accordance with Minute No. 240, for emergency deliveries to the City of Tijuana. -----

(Continued on Sheet 4)

(Continúa de la hoja 2)

promedio anual, en comparación con la salinidad media anual de las aguas que se pusieron a disposición de México, en el Lindero Norte, en el año civil de 1971, de conformidad con el Acta Núm. 218; esa mejoría será independiente de la mejoría de la calidad que se logre descargando al Río Colorado, aguas abajo de la Presa Morelos, la parte de las aguas de drenaje del Distrito de Wellton-Mohawk a que se refiere el apartado 5 de la presente resolución. -----

2. Que los Estados Unidos continúen operando y manteniendo, a sus expensas, la prolongación del canal de conducción de las aguas de drenaje del Distrito de Wellton-Mohawk y sus estructuras de control, construidas de conformidad con la Recomendación 1 del Acta Núm. 218. -----
3. Que, principiando en la fecha de aprobación de la presente Acta, los Estados Unidos descarguen al Río Colorado, aguas abajo de la Presa Morelos, volúmenes de las aguas de drenaje del Distrito de Wellton-Mohawk a razón de 145,551,000 metros cúbicos (118,000 acres-pies) anuales y los sustituyan con volúmenes iguales de otras aguas, que serán descargados al Río Colorado, aguas arriba de la Presa Morelos; entendido que durante el segundo semestre de 1972 los Estados Unidos descargarán un volumen de 90,044,000 metros cúbicos (73,000 acres-pies) de las aguas de drenaje del Distrito de Wellton-Mohawk, aguas abajo de la Presa Morelos, y lo sustituirán con un volumen igual de otras aguas que se descargará aguas arriba de la Presa Morelos. -----
4. Que los pedidos de agua de México en el tramo limítrofe del Río Colorado no sean menores de 25.5 metros cúbicos (900 pies cúbicos) por segundo, excluyendo los gastos que se carguen al volumen asignado a México por el Tratado de Aguas del 3 de febrero de 1944, de conformidad con el Acta Núm. 240, para las entregas de emergencia a la ciudad de Tijuana. -----

(Continúa en la hoja 4)

(Continued from Sheet 3)

5. That, pursuant to the decision of - President Echeverria, expressed in the Joint Communique, the United -- States discharge to the Colorado -- River downstream from Morelos Dam, the remaining volume of drainage -- waters of the Wellton-Mohawk Dis- trict, which do not form part of the volume of the drainage waters re- ferred to in point 3 of this reso- lution, with the understanding that this remaining volume will not be - replaced by substitution waters. -- -----
6. That, subject to the reservations - of point 9 of this resolution, the Commission account for the drainage waters of the Wellton-Mohawk Dis- trict referred to in points 3 and 5 of this resolution as a part of --- those described in the provisions - of Article 10 of the Water Treaty - of February 3, 1944. -----
7. That the present Minute remain in - effect until December 31, 1972. --- -----
8. That the present Minute be express- ly approved by both Governments and enter into force upon such approv- al. -----
9. That the provisions of the present Minute not constitute any prece- -- dent, recognition or acceptance af- fecting the rights of either coun- try with respect to the Water ---- Treaty of February 3, 1944, and the general principles of law. -----
10. That the life of Minute No. 218 of the International Boundary and ---- Water Commission, as extended by ex- change of notes dated November 15, 1971, terminate on the date that --

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(Continúa de la hoja 3)

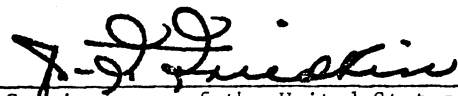
5. Que, de conformidad con la decisión del Presidente Echeverría, expresada en el Comunicado Conjunto, los Esta- dos Unidos descarguen al Río Colora- do, aguas abajo de la Presa Morelos, el volumen restante de las aguas de drenaje del Distrito de Wellton- -- Mohawk, el cual no forma parte del volumen de las aguas de drenaje a - que se refiere el apartado 3 de la presente resolución; entendido que ese volumen restante no sería re- - emplazado por otras aguas de sustitu- ción. -----
6. Que, bajo las reservas del apartado 9 de la presente resolución, la Co- misión contabilice las aguas de dre- naje del Distrito de Wellton-Mohawk a que se refieren los apartados 3 y 5 de la presente resolución como -- parte de las que se describen en las estipulaciones del Artículo 10 del Tratado de Aguas del 3 de febrero - de 1944. -----
7. Que la presente Acta permanezca en vigor hasta el 31 de diciembre de - 1972. -----
8. Que la presente Acta sea expresa- - mente aprobada por ambos Gobiernos y entre en vigor al ser aprobada por ellos. -----
9. Que las estipulaciones de la pre- - sente Acta no constituyan preceden- te, reconocimiento ni aceptación -- que afecte los derechos de uno u -- otro país por cuanto respecta al -- Tratado de Aguas del 3 de febrero - de 1944 y a los principios genera- les de derecho. -----
10. Que la vigencia del Acta Núm. 218 - de la Comisión Internacional de --- Límites y Aguas, prorrogada por --- intercambio de notas fechadas el -- 15 de noviembre de 1971, concluya -

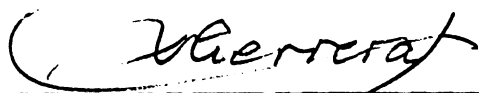
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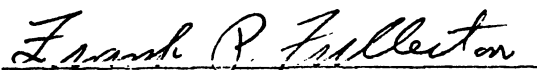
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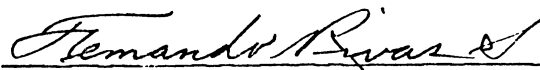
the present Minute enters into ----
 force. -----

The meeting adjourned. -----


 Commissioner of the United States


 Commissioner of Mexico


 Acting Secretary of the United States
 Section

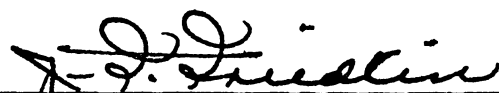

 Secretary of the Mexican Section

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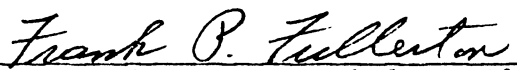
en la fecha en que la presente Acta
 entre en vigor. -----

Se levantó la sesión. -----


 Comisionado de México


 Comisionado de los Estados Unidos


 Secretario de la Sección de México


 Secretario en Funciones de la Sección de
 los Estados Unidos

English Text of Minute 242

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICOMexico, 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. 241 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 Echeverria expressed in the Joint Communique of June 17, 1972, the 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 non-reimbursable 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.

JPDATING THE HOOVER DAM DOCUMENTS

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 Communiqué 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.

(signed) J. F. Friedkin

Commissioner of the United States

(signed) D. Herrera J.

Commissioner of Mexico

(signed) F. H. Sacksteder, Jr.

Secretary of the United States Section

(signed) Fernando Rivas S.

Secretary of the Mexican Section