

Water Wars: Texas v. Mexico

Along the Rio Grande a battle for water is being waged between Texas and Mexico. This issue is gaining national attention, and now bills have been introduced in both the House and Senate in order to ensure that Texas farmers and communities get the water that they are entitled from their southern neighbor.

The 1944 Treaty

This battle finds its roots in a treaty signed between the two countries in 1944. The [Treaty of the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande](#), in its most basic terms, allocates water from these three rivers between the two countries. The provision at issue in the dispute is one dealing with the allocation of water from 6 tributaries that flow into the Rio Grande: The Conchos, San Diego, San Rodrigo, Escondido, and Salado Rivers and the Las Vacas Arroyo. In exchange, Mexico is given water from a portion of the Colorado River.

The treaty provides that the United States is entitled to receive 1/3 of the water that reaches the Rio Grande from these tributaries, and that "this third shall not be less, as an average amount in cycles of five consecutive years, than 350,000 acre-feet annually." The treaty provides an exception to this requirement as follows: "In the event of extraordinary drought or serious accident to the hydraulic systems on the measured Mexican tributaries, making it difficult for Mexico to make available the run-off of 350,000 acre feet annually...any deficiencies existing at the end of the aforesaid five-year cycle shall be made up in the following five-year cycle with water from the said measured tributaries."

Enforcement of the treaty is in the hands of the US State Department and the International Boundary and Water Commission.

What's the Problem?

For the current 5 year cycle (October, 25 2010 to October 24, 2015), Mexico has not provided 350,000 acre feet/year. As of July 20, 2013, Mexico had only diverted 487,208 acre feet of water. This

means that Mexico is 469,778 acre feet behind the required average of 350,000 acre feet per year. The United States is concerned that if Mexico continues to fail to provide the water required under the treaty, it will be unable to produce the full amount required for this cycle by October 2015. This appears to be a legitimate concern considering the trend currently seen. In the first year of this cycle, Mexico provided 82 percent of the required 350,000 acre-feet. In the second year, that number fell to only 29 percent, and currently, Mexico has provided a mere 6 percent of the required water this third year. The Texas Commission on Environmental Quality provides a weekly Watermaster's Report that tracks the water delivered under the treaty, which is available online by [clicking here](#).

Combine this with the record-setting drought that is currently going on in South Texas, and it spells major problems for the area. Municipalities in the area are concerned about running out of water in the coming months. Farmers along the Rio Grande have been unable to adequately irrigate crops due to a lack of water. Economists estimate that the lack of water could cost Texas farmers \$395 million in economic output and that 5,000 jobs could be lost in the valley.

Where Things Stand Now

There are currently several moving pieces at play with regard to this issue.

First, there is a difference of interpretation of the treaty between the two countries. Mexico claims that it is not currently in violation of the treaty because the 5 year cycle has not yet ended. In Mexico's view, it is not required to fulfill its 350,000 acre foot/year obligation until the end of the 5 year period. Thus, Mexico's position is, so long as Mexico provides the sum total of 1.75 million acre feet by October 2015, the treaty has not been violated. The United States takes a very different view, believing that the treaty imposes a yearly requirement of 350,000 acre feet. Because Mexico has not met this requirement for the last 3 years, they are in violation of the treaty.

Second, four Texas Congressmen have introduced legislation in the US House and Senate in an attempt to entice Mexico to provide the water. The bills are titled "Working to Address Treaty Enforcement Rapidly for Texas", or the WATER Act, and would require Mexico to submit information to

the Secretary of State, who would prepare quarterly reports to describe the efforts taken by Mexico to meet its treaty obligations. The Secretary of State would also prepare an annual report describing the benefits of the treaty to Texas. Under the proposed legislation, if Mexico failed to comply with these reporting requirements, the United States Department of State would withhold assistance provided to Mexico to repair infrastructure that was damaged in the 2010 Baja California earthquake.

Third, Mexico stated that it would release some water pursuant to the Treaty. Specifically, Mexico agreed to release 1/3 of the water from the San Rodrigo tributary. The amount, however, was miniscule--only 7,500 acre feet of the 472,085 foot deficit.

As you can tell, this battle is being fought in several arenas and is far from over. For now, Texas watches, waits, and prays for rain.