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## Commentary: Fact vs. Fiction on Rio Grande Deliveries

The Honorable Jayne Harkins, P.E.<sup>1</sup>

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**Editor-in-Chief's Note:** The Texas Water Journal invited The Honorable Jayne Harkins, P.E., U.S. Commissioner for the International Boundary and Water Commission to share her thoughts on water deliveries from Mexico to the Rio Grande. The opinion expressed in the resulting commentary is the opinion of Commissioner Harkins and not the opinion of the Texas Water Journal or the Texas Water Resources Institute.

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<sup>1</sup> Jayne Harkins, P.E., U.S. Commissioner of the [International Boundary and Water Commission, United States and Mexico](#). Commissioner Harkins was appointed by President Donald Trump in 2018. As commissioner, she serves as head of the U.S. Section of the Commission, overseeing personnel in twelve offices along the U.S.-Mexico border and in Washington, DC. The Commission is responsible for applying the boundary and water treaties between the two countries.

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## FACT VS. FICTION ON RIO GRANDE DELIVERIES

*By The Honorable Jayne Harkins, P.E.,  
U.S. Commissioner of the International Boundary and  
Water Commission, United States and Mexico*

The Rio Grande water deliveries are front and center in the news these days and are certainly one of the priorities of the United States Section of the International Boundary and Water Commission (USIBWC). Learning the Rio Grande operations, and the various treaties and portions of treaties have been an interesting task. I'm taking this opportunity to share what I have learned through this process.

There are two water delivery treaties covering the shared resources between the United States and Mexico: [the Treaty for the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande](#) (hereinafter 1944 Water Treaty), which provides deliveries on the Colorado River and the lower Rio Grande, and [the Convention between the United States and Mexico Equitable Distribution of the Waters of the Rio Grande](#), signed May 21, 1906 (hereinafter Convention of 1906), which provides water deliveries on the upper Rio Grande to Ciudad Juárez, Chihuahua.

I have heard that Mexico currently has a "debt" to the United States. As of September 12, Mexico is required to deliver 294,703 acre-feet (363.6 million cubic meters [mcm]) of water by October 24, 2020, which is the end of the five-year cycle. Only after October 24 will Mexico be in debt, with any remainder that has not been delivered to the Rio Grande on behalf of the United States. Mexico has repeatedly stated its intent to meet the deadline.

I have heard this is the largest amount of water ever owed by Mexico on the Rio Grande. It is a large amount of water to move in the last few weeks of the cycle. However, even if Mexico made no deliveries between now and the October 24 end of the cycle, it would be far from the largest amount of debt Mexico has owed at the end of a cycle. The 1992–1997 cycle ended with a debt of 1,024,000 acre-feet (1263 mcm). By the end of the next cycle, it had grown to over 1.3 million acre-feet (1603 mcm).

I have heard from Mexican stakeholders that Mexico can end this cycle in a debt because they paid off the debt of the last cycle in 2016. The USIBWC's view of the 1944 Water Treaty is that if a cycle ended in a debt, it ended in a debt. Period. More importantly, according to other USIBWC agreements that expand on the 1944 Water Treaty, Mexico cannot end two consecutive cycles in a debt. Mexican federal authorities understand this, but some Mexican state and local officials may not.

I have heard it will take a hurricane to wipe out the amount owed between now and October 24. Nope. Not true. Median precipitation will provide runoff into the Rio Grande and would help significantly towards providing water from the Conchos River and other tributaries. Precipitation has been trending dry

## HECHOS VS FICCIÓN EN EL TEMA DE LAS ENTREGAS DEL RÍO BRAVO

*Por La Honorable Jayne Harkins, P.E.,  
Comisionada de los Estados Unidos de la Comisión Internacional  
de Límites y Aguas entre Estados Unidos y México*

Las entregas de agua de Río Grande están al frente de las noticias en estos días y son sin duda una de las prioridades de la Sección de los Estados Unidos de la Comisión Internacional de Límites y Aguas (USIBWC). Aprender sobre las operaciones del Río Bravo, y los diversos tratados y partes de los tratados ha sido una tarea interesante. Aprovecho esta oportunidad para compartir lo que he aprendido a través de este proceso.

Existen dos tratados sobre el suministro de agua que regulan los recursos compartidos entre los Estados Unidos y México: [el Tratado para la Utilización de las Aguas de los Ríos Colorado y Tijuana y del Río Bravo/Grande](#) (en adelante, el Tratado del Aguas de 1944), que regula las entregas en el río Colorado y el bajo Río Bravo, y [la Convención entre los Estados Unidos y México sobre la Distribución Equitativa de las Aguas del Río Bravo/Grande](#), firmada el 21 de mayo de 1906 (en adelante Convención de 1906), que regula las entregas de agua en el alto Río Bravo a Ciudad Juárez, Chihuahua.

He oído que México tiene actualmente una "deuda" con los Estados Unidos. Hasta el 12 de septiembre, México está obligado a entregar 294,703 acres-pies (363.6 millones de metros cúbicos [mcm]) de agua para el 24 de octubre de 2020, que es el final del ciclo de cinco años. Sólo después del 24 de octubre México se consideraría endeudado con cualquier remanente que no haya sido entregado al Río Bravo a nombre de los Estados Unidos. México ha manifestado repetidamente su intención de cumplir con el plazo.

He escuchado que esta es la mayor cantidad de agua jamás adeudada por México en el Río Bravo. Es una gran cantidad de agua para moverse en las últimas semanas del ciclo. Sin embargo, incluso si México no hiciera entregas entre ahora y el 24 de octubre al final del ciclo, estaría lejos de ser la mayor deuda de agua que México haya debido al final de un ciclo. El ciclo 1992-1997 terminó con una deuda de 1.024.000 acres-pies (1263 mcm). Al final del siguiente ciclo, había crecido a más de 1,3 millones de acres-pies (1603 mcm).

He oído de las partes interesadas mexicanas que México puede terminar este ciclo en una deuda porque pagaron la deuda del último ciclo en 2016. La opinión del USIBWC sobre el Tratado del Aguas de 1944 es que, si un ciclo termina en deuda, termina en deuda. Punto. Más importante aún, de acuerdo con otros acuerdos del USIBWC que se extienden al Tratado de Aguas de 1944, México no puede terminar dos ciclos consecutivos en una deuda. Las autoridades federales mexicanas lo entienden, pero algunos funcionarios estatales y locales mexicanos pueden no hacerlo.

over the Conchos River Basin and other tributaries in Mexico, but September brought significant rain for several days.

Mexico has made the offer to allow the U.S. users to take San Juan River water. There are several claims I have had to research in learning about this source of water. The first is that the water provided to the United States will just flow to the Gulf of Mexico, and Mexico will get credit. This is not true. In the past, when the United States has agreed to take San Juan River water, the only water credited to Mexico's delivery was the amount of water the United States could take and beneficially use. It takes a bit more work on the accounting side, but it can be done.

The second item I have heard is that the San Juan River water is of poor quality. I have heard this for a year and have repeatedly asked for the data that shows it is of bad quality. The USIBWC data that was put together for the 2015 event, the last time the United States accepted San Juan River water as a delivery from Mexico, shows it was of good quality. I recognize that each flow event and release of water may be different, and the 2015 event may not be the same as any other event. For me, the main concern about San Juan River water is not unproven claims about poor water quality, but the challenge of storing water downstream of the major international dams.

I have heard that Mexico isn't trying hard enough to release water from their interior reservoirs. Mexico has attempted to make dam releases since December of last year. They have not been able to execute their plans due to opposition and civil unrest within their country. Mexico deployed its National Guard to protect the federal workers and the dam infrastructure from the protesters. This has resulted in the protestors taking over a major interior reservoir in Chihuahua, Mexico and the death of a protester. At this point, Mexico cannot make deliveries to their own irrigators to finish off Chihuahua's irrigation season. In this cycle, Mexico has consistently stated its intention to end the cycle without a debt and has made great efforts to do so.

I know there are no explicit consequences written into the 1944 Water Treaty or other international agreements between the United States and Mexico if Mexico ends the cycle in debt, but the United States is exerting strong diplomatic pressure on Mexico to avoid it doing so.

I also know that hoping for a hurricane is a poor water management strategy for a river basin. More to come.

Pray for rain. Stay safe.

He escuchado que se necesitaría un huracán para eliminar la cantidad adeudada entre ahora y el 24 de octubre. No. No es verdad. La precipitación media proporcionará escorrentía en el Río Bravo y ayudaría significativamente a proporcionar agua del río Conchos y otros afluentes. La precipitación ha estado con tendencia seca sobre la cuenca del río Conchos y otros afluentes en México, pero septiembre trajo lluvia significativa durante varios días.

México ha hecho la oferta de permitir que los usuarios estadounidenses tomen agua del río San Juan. Existen varias afirmaciones que he tenido que investigar para entender esta fuente alternativa de agua. La primera afirmación es que el agua proporcionada a los Estados Unidos simplemente fluiría hacia el Golfo de México, y México obtendría crédito. Esto no es cierto. En el pasado, cuando los Estados Unidos aceptaron tomar agua del río San Juan, la única agua acreditada a la entrega de México era la cantidad de agua que los Estados Unidos podían tomar y usar productivamente. Se necesita un poco más de trabajo en el lado de la contabilidad, pero se puede hacer.

La segunda afirmación es que el agua del río San Juan es de mala calidad. He escuchado esto durante un año y he pedido repetidamente los datos que demuestren que es de mala calidad. Los datos de USIBWC que se reunieron para el evento de 2015, la última vez que los Estados Unidos aceptaron el agua del río San Juan como entrega desde México, muestran que fue de buena calidad. Reconozco que cada evento de flujo y liberación de agua puede ser diferente, y el evento de 2015 puede no ser el mismo que cualquier otro evento. Para mí, la principal preocupación por el agua del río San Juan no son las afirmaciones no probadas sobre la mala calidad del agua, sino el desafío que representa su almacenamiento aguas abajo de las principales presas internacionales.

He oído que México no se esfuerza lo suficiente para liberar agua de sus embalses interiores. México ha intentado hacer liberaciones de agua de las presas desde diciembre del año pasado. No han podido ejecutar sus planes debido a la oposición y a los disturbios civiles dentro de su país. México desplegó su Guardia Nacional para proteger a los trabajadores federales y la infraestructura de las presas de los manifestantes. Esto ha dado lugar a que los manifestantes se apoderen de un importante embalse al interior de Chihuahua, México y la muerte de un manifestante. Al día de hoy, México no puede hacer entregas de agua a sus propios agricultores para terminar la temporada de riego de Chihuahua. En este ciclo, México ha declarado constantemente su intención de terminar el ciclo sin deudas y ha hecho grandes esfuerzos para hacerlo.

Sé que no hay consecuencias explícitas escritas en el Tratado del Agua de 1944 u otros acuerdos internacionales entre los Estados Unidos y México en el caso de que México terminara el ciclo con endeudamiento, pero Estados Unidos está ejerciendo una fuerte presión diplomática sobre México para evitarlo.

También sé que la esperanza de un huracán es una estrategia de manejo deficiente del agua para una cuenca fluvial. Más por venir.

A rezar por la lluvia. Cúidense.