

## THE BACKGROUND AND SIGNIFICANCE OF MINUTE 261 OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION

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There is a growing concern over water and air pollution along the United States-Mexican border. As a result, in the last decade a plethora of sanitation and pollution problems have come to vie for center stage in United States-Mexican land and water relations.<sup>1</sup> Replacing earlier controversies over salinity and boundary adjustment, these issues are the inevitable consequence of a demographic surge, industrialization, and heightened sensitivity to the many forms of man-made effluents along the frontier. The emergence of these issues has recently been recognized in United States-Mexican affairs by the formalization of a consequential agreement: Minute 261 of the International Boundary and Water Commission (IBWC) entitled "Recommendation for the Solution to the Border Sanitation Problems." The purpose of this article is to show that Minute 261 grants the IBWC a greater sphere of independent apolitical operation.

Minute 261 is the first product of the Carter-Lopez Portillo Joint Communique of February 16, 1979, addressing the need for a bilateral agreement to deal with the range of sanitation and pollution problems extant and emerging along the border.<sup>2</sup> Specifically, the IBWC was instructed by the Joint Communique "in the context of existing agreements to make immediate recommendations for faster progress toward a permanent solution to the sanitation of wa-

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1. Among the principal border locations already identified by the IBWC as having "border sanitation problems" are Tijuana, Baja California, the San Pedro River valley between Sonora and Arizona, the New River channel between Baja California and California, the conjoint municipalities of Naco, Arizona and Naco, Sonora, and Nogales Arizona-Nogales, Sonora, and the city of Nuevo Laredo, Tamaulipas. See Statements Concerning Border Sanitation Problems, Office of the Commissioner, U.S. Section, International Boundary and Water Commission, United States and Mexico (January, 1979).

2. White House Joint Communique of Mexican President Jose Lopez Portillo and President of the United States, Jimmy Carter, On the Occasion of President Carter's visit to Mexico 1-6 (February 14-16, 1979).

ters along the border.”<sup>3</sup> The need for such a preliminary agreement was dictated as much by the sum and variety of environmental problems achieving recent notice as it was by the joint perception that the IBWC needed strengthening to properly address matters within the scope of its powers under the 1944 United States-Mexico Water Utilization Treaty<sup>4</sup> (hereinafter referred to as the “Water Treaty”).

Under the Water Treaty provisions, the IBWC replaced the old International Boundary Commission created by the Treaty of March 1, 1889.<sup>5</sup> The IBWC is an international body composed of a United States and Mexican Section. Each Section is in turn composed of both technical and legal advisors; the majority of advisors are engineers and environmental experts, and each Section has as its head an “Engineer Commissioner.”<sup>6</sup>

Article 3 of the Water Treaty lists, in order of preference, areas in which the IBWC may act as regards international waters under its jurisdiction. These areas include: domestic, agricultural, electrical and industrial uses, navigation, fishing, and hunting.<sup>7</sup> The Treaty then states:

All of the foregoing uses shall be subject to any sanitary measures or works which may be mutually agreed upon by the two Governments, which hereby agree to give *preferential* attention to the solution of all border sanitation problems.<sup>8</sup>

Combatting sanitation problems was considered a secondary obligation of the IBWC at the time the Water Treaty was signed.<sup>9</sup> Its primary role involved border demarcation, flood control, and the equitable allotment of international waters. The Commission was authorized to engage in investigations, studies, planning, and ultimately the construction and management of dams and other works. Providing both Governments approved, each Government was

3. *Id.* at 6.

4. Utilization of the Waters of the Colorado and Tijuana Rivers and of the Rio Grande, February 3, 1944, United States-Mexico, 59 Stat. 1219, T.S. No. 994 (effective Nov. 8, 1945) [hereinafter cited as Water Treaty].

5. Boundary Waters: Rio Grande and Rio Colorado, March 1, 1889, United States-Mexico, 26 Stat. 1512, T.S. No. 232. The IBWC's work and staff are such that it has an unusual apolitical nature. Note, *The International Joint Commission (United States-Canada) and the International Boundary and Water Commission (United States-Mexico): Potential For Environmental Control Along the Boundaries*, 6 NYU J. INT'L L. & POL. 499, 505 (1973) [hereinafter cited as *Potential For Environmental Control*].

6. Water Treaty, *supra* note 4, art. 2.

7. *Id.* art. 3.

8. *Id.*

9. *Potential For Environmental Control*, *supra* note 5, at 501.

then bound to construct works within its territory, through its Section, as recommended by the Commission.<sup>10</sup> The Commission was also empowered to enter into agreements relating to the international waters and to enjoin Water Treaty violations; again upon governmental approval.<sup>11</sup>

While the wording of the Water Treaty forms the basic language enabling the Commission to address border sanitation problems, it had become deficient for several reasons. First, the original phrase "border sanitation problems" reflected an earlier—more limited—conceptualization of the range of environmental problems which might become problematic in the border region. At the time the Water Treaty was drafted its signatories were principally concerned with the problems of human waste and sewage as health hazards affecting border communities and could hardly have foreseen the vastly more complicated problems of industrial pollution or the dynamic growth of the border area which would magnify the difficulty.

Second, since 1944 the Commission has been given to a very strict construction of the phrase "border sanitation problems." Since its early experience with sewage disposal projects at Nogales and Agua Prieta-Douglas along the Arizona-Sonora border, the Commission has operated with the understanding that its mandate was limited to the development of similar types of works and did not expand its operations to combat other environmental hazards.<sup>12</sup>

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10. Water Treaty, *supra* note 4, arts. 4, 5, 6, 10 & 24.

11. *Id.* art. 24. The judicial role of the IBWC is more akin to that of an arbitral tribunal than a court system. It is authorized to settle disputes between the Governments involving Treaty interpretation "subject to the approval of the two Governments." *Id.* art. 24, § d. The author of *Potential For Environmental Control*, *supra* note 5, at 511, argues that the IBWC is ill suited for its judicial role as it is predominantly staffed by engineers and technicians. Also, judicial relief in environmental suits is inadequate as damages often do not have a substantial deterrent effect; and the Commission lacks the enforcement power needed for injunctions. However, the Commission's investigative role usually prevents potential conflicts from reaching the dispute stage.

12. The Commission's earliest involvement with sanitation projects dates back to enabling legislation for various projects including those in Nogales and Douglas-Agua Prieta, Arizona-Sonora, in 1935. These projects were strictly sewage disposal projects. See INTERNATIONAL BOUNDARY AND WATER COMMISSION, LAWS APPLICABLE TO THE INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES SECTION 6-7 (1973). Later on, these projects were the first approved under the auspices of the Water Treaty's clause on "border sanitation problems," Article 3. Excepting the salinity accords on the Rio Grande and Colorado rivers, the Commission has yet to sign a minute dealing with a non-sewage related sanitation or pollution problem. See INTERNATIONAL BOUNDARY AND WATER COMMISSION, HISTORY AND DEVELOPMENT OF THE INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO (1954) [hereinafter cited as HISTORY].

The Commission, since 1944, has interpreted its powers conservatively, in such a manner as to preclude the possibility of any serious controversy over the propriety of its jurisdiction. With respect to emerging sanitation and pollution issues, it has acted hesitantly, taking such issues on a piecemeal basis and sharing its burdens with the respective foreign ministers of its member governments.<sup>13</sup>

The legislative or decision making powers of the IBWC are found in Article 25, and constitute a caveat to the above approval procedures.

Decisions of the Commission shall be recorded in the form of Minutes . . . [with copies] forwarded to each Government within three days after being signed . . . [I]f one of the Governments fails to communicate to the Commission its approval or disapproval of a decision within thirty days . . . the Minute . . . shall be considered to be approved by that Government.<sup>14</sup>

What does Minute 261 of September 24, 1979, add to the IBWC's powers? There is a growing concern over water and air pollution along the United States-Mexico frontier.<sup>15</sup> The most significant thrust of the new Minute is the buttressing of the language of Article 3 of the Water Treaty of 1944 which charges the Commission to undertake "any sanitary measures or works which may be mutually agreed upon by the two Governments," and commits the United States and Mexico acting through the Commission to "give preferential attention to the solution of all border sanitation problems."<sup>16</sup>

The Commission's behavior is partly a function of the United States Section's dependence on Congressional enabling legislation for funding to implement its obligations in agreements concluded by the Commission.<sup>17</sup> Members of Congress may question the

13. See Jamail & Ullery, *International Water Use Relations Along the Sonoran Desert Borderlands*, in 14 UNIVERSITY OF ARIZONA OFFICE OF ARID LANDS, RESOURCE INFORMATION PAPER 10, 16-17 (1979), and *Potential For Environmental Control*, *supra* note 5, at 520-27.

14. Water Treaty, *supra* note 4, at art. 25 (emphasis added). In some Minutes, either upon approval or approval by default, the authoritative roles reverse in favor of the IBWC. For example, Minute 242 dealing with the salinity and water volume of the Colorado River, binds the United States to undertake appropriate remedial measures. International Boundary and Water Commission, United States and Mexico, Minute 242, Permanent and Definitive Solution to the International Problem of the Salinity of the Colorado River, Section 1, Mexico, D.F. (August 30, 1973) [hereinafter cited as Minute 242]. If the United States fails its obligation, the IBWC may or may not allow any deviation. *Id.* § 1(d).

15. *Potential For Environmental Control*, *supra* note 5, at 525.

16. Water Treaty, *supra* note 4, art. 3.

17. International Boundary and Water Commission, United States and Mexico; study

powers of the Commission as they review the requests of the United States Section in specific functional areas pursuant to the Water Treaty. Authorizations in each case extend only to specific projects and in no way augment the powers of the United States Section to enter into agreements with the United Mexican States beyond those expressly authorized in the Water Treaty. Minute 261 is clearly intended to answer these domestic questions concerning the propriety of the Commission's functions in this sphere.

It should be noted that the United States Section has also been affected by domestic developments in environmental law. The National Environmental Policy Act of 1970 obligates the United States Section to prepare environmental impact statements for all works affecting the domestic territory of the United States.<sup>18</sup> For over a decade the United States Section has taken into account diverse environmental problems beyond mere "sanitation" considerations. However, other forms of pollution have been addressed only as the United States Section has feared that *construction* of specific works might add to an area's pollutants. For instance, in the Tijuana River Flood Control Project, the United States Section requested and received an environmental impact statement prepared by the United States Army Corps of Engineers.<sup>19</sup> The concern here was whether the heavy equipment needed for constructing a flood control channel would adversely affect the area's already questionable environmental quality. In such a case, the United States Section considers: vegetation and wildlife; air, water and noise pollution; urban development; natural landscape; recreational and fishing uses; disease control; sanitation; aesthetics; and archeological resources.<sup>20</sup> However, while the United States Section has been concerned with the environmental impact of its actions, its domestic

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of boundary waters 22 U.S.C. § 277 (1965). Under section 277 several enabling enactments are listed in chronological order. See also *Bills Authorizing Maintenance of Flood and Arroyo Sediment Control Dams and Related Works to Facilitate Rio Grande Canalization Project and Authorizing Appropriations for that Purpose: Hearings on H.R. 9444 and 9445; And A Bill to Authorize the Conclusion of Agreements with Mexico for Joint Construction, Operation, and Maintenance of Flood Control Works on the Lower Colorado River, in Accordance with the Provisions of Article 13 of the 1944 Water Treaty with Mexico and for Other Purposes: Hearings on H.R. 7419 Before the Subcomm. on Inter-American Affairs of the House Comm. on Foreign Affairs*, 88th Cong., 2d Sess. (1964). See also HISTORY, *supra* note 12, at 13, 28, 30.

18. Comment, *Effluent Neighbors: The Mexico-United States Water Quality Dilemma*, 3 CALIF. W. INT'L L. J. 152, 166-67 (1972).

19. See generally U.S. ARMY ENGINEER DISTRICT, TIJUANA RIVER FLOOD CONTROL PROJECT, SAN DIEGO, CALIFORNIA (May 20, 1976).

20. *Id.* at §§ 2, 3a, 3b, 2.27, 2.28, 2.30, 2.46, 2.49, 2.51, 2.52, 2.53, 2.54, 2.56, 4.25, 4.26, 4.27.

mandate has not augmented the *international* functions of the Commission with respect to non-sanitation pollutants.<sup>21</sup>

The Water Treaty narrowly defines the IBWC's jurisdiction. Its jurisdiction extends to

the limitrophe parts of the Rio Grande. . . and the Colorado River, to the land boundary between the two countries and to works located upon their common boundary, each Section of the Commission retaining jurisdiction over that part of the works located within the limits of its own country. Neither Section shall assume jurisdiction. . . over works. . . within the limits of the country of the other without the express consent of the Government of the latter.<sup>22</sup>

The IBWC has no jurisdiction over works wholly within the territory of the United States or Mexico, unless the work is international in character.<sup>23</sup> A project or "work" controlled by the IBWC is "international" if it requires cooperation between Mexico and the United States for construction and management.<sup>24</sup>

Prior to the passage of Minute 261 jurisdiction was conditioned on approval by the two Governments. In other words, the final determination of whether a sanitation problem was international was determined by Mexico and the United States on a case by case basis; and an agreement between the two was required before the IBWC could assume jurisdiction.<sup>25</sup>

Minute 261 reinforces the mandate of the Commission in relation to new and emerging pollution issues, especially those which are not conveniently subsumed under the notions of sewage or human wastes. The language of Section 1 of the new Minute allows a broad range of problems to fall within the purview of the Commission's authority under the "border sanitation problem" clause of the Water Treaty. It states:

That the two Governments recognize as a 'border sanitation problem,' as referred to in Article 3 of the Water Treaty of 1944,

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21. The author of *Potential for Environmental Control*, *supra* note 5, at 520 noted that "[t]he IBWC puts the rules of international waterways into effect every day, but at present [1973] it has no contact with pollution problems."

22. *Id.*

23. *Id.*

24. For instance, the Nogales Sanitation Project involved the construction of a sewer system in Nogales, Sonora Mexico; but because of the slope of the terrain, the sewage disposal plant had to be located in the United States. HISTORY, *supra* note 12, at 23. Jurisdiction was obtained in a similar manner in the Douglas-Aqua Prieta Sanitation Project where a purely local solution was impossible. *Id.* at 29.

25. *Id.* at 28.

each case in which, in the judgement of the Commission, the waters that cross the border, including coastal waters, or flow in the limitrophe reaches of the Rio Grande and Colorado River, have sanitary conditions that present a hazard to the health and well-being of the inhabitants of either side of the border or impair the beneficial uses of these waters.<sup>26</sup>

In the pollution context 261 may expand the Commission's jurisdiction beyond the "limitrophe" designation of the Water Treaty. This is so if "waters that cross the boundary" includes tributaries carrying pollutants into the Rio Grande, the Colorado, and Tijuana Rivers.

The Minute not only extends the range of the Commission's jurisdiction, it also ratifies the urgency and importance of such matters as a whole. In recognition thereof Section 2 empowers the Commission to give "permanent attention to border sanitation problems and give currently existing problems immediate and priority attention."<sup>27</sup> The significance of this section can be measured in view of the public criticisms directed at the United States Section of the Commission for failing to act with sufficient determination in treating, for example, such issues as the contamination of the San Pedro River crossing the Sonora-Arizona border or the influx of raw municipal sewage from Mexicali, Baja California into California via the New River channel.<sup>28</sup> In both cases much ill will has been generated due to local perception that these issues lacked priority on the Commission's agenda.<sup>29</sup>

Next, Minute 261 gives the IBWC the last word in determining when a "border sanitation problem" exists.<sup>30</sup> Under the terms of the new Minute the Commission may give these matters more immediate and persistent attention in the context of its overall mandate. While the Commission continues to exercise discretion in recognizing the existence of a problem, its inclination to address such issues is enhanced by the language of the Minute stressing the preventive role of the IBWC with respect to "border sanitation problems."<sup>31</sup> The granting of priority to these issues should, there-

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26. International Boundary and Water Commission, United States and Mexico, Minute 261, Recommendations for the Solution to the Border Sanitation Problems, § 1, El Paso, Texas (September 24, 1979) [hereinafter cited as IBWC Minute 261]. See Appendix for full text of the Minute.

27. *Id.* at § 2.

28. Jamail & Ullery, *supra* note 13, at 23-27 & 37-47.

29. *Id.*

30. Minute 261, *supra* note 26, § 1.

31. *Id.* at § 3.

fore, contribute to the facility with which they are raised on the agenda of the Commission.<sup>32</sup>

In conjunction with Sections 1 and 2 of the new Minute, Section 3 recognizes the IBWC's Sections to be the predominant agencies in the United States and Mexico dealing with water-related environmental problems across the international boundary. The second part of Section 3 charges "the competent agencies of each Government to provide to their respective Sections of the Commission the information and technical advice that it requires."<sup>33</sup> In this area the wording of the Minute may reflect the influence of the new bilateral Consultative Mechanism's Border Cooperation Working Group, established in April 1979. An expressed aim of the Border Cooperation Working Group has been the coordination of inter-agency relations with respect to United States-Mexican border issues, including the definition of jurisdictions and problem areas within the reach of the various agencies concerned.<sup>34</sup> While there has been speculation in the past concerning whether the Commission would exercise exclusive jurisdiction over water-related environmental problems in light of the initiatives of other interested agencies,<sup>35</sup> jurisdiction is now more precisely specified in favor of the Commission, though fully allowing for necessary coordination and cooperation with other agencies as the need is manifest.

Several other aspects of Minute 261 deserve comment. Section 4 requires that for each recognized "border sanitation problem" the Commission work towards a Minute (e.g., joint agreement) to include: "identification of the problem, definition of the conditions which require solution, specific quality standards that should be applied, the course of action that should be followed for its solution, and the specific time table for its solution."<sup>36</sup>

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32. The IBWC's State Department liaison, Mr. T.R. Martin, stresses that the Commission has sought to avoid taking up all the water-related issues brought to its attention. Author's interview with T.R. Martin, Office of Mexican Affairs, United States Department of State, Washington D.C. (June 23, 1980). Minute 261 portends a more liberal consideration of such issues by the Commission.

33. Minute 261, *supra* note 26, § 3.

34. Interview with Mr. Robert Slaughter, Assistant to the Ambassador at Large to Mexico, Mr. Robert Krueger, United States Department of State, Washington D.C. (June 27, 1980).

35. The most active competitors with the IBWC have been the United States Environmental Protection Agency and the Mexican Bureau of Environmental Improvement (S.M.A.) which jointly, in 1978, signed a Memorandum of Understanding relating to environmental improvements along the border. See Jamail & Ullery, *supra* note 13, at 11 & 19.

36. Minute 261, *supra* note 26, § 4.



Though proposed solutions to sanitation problems are still subject to governmental approval, once approval is given, government obligations arise as to the development of necessary works.<sup>37</sup> The respective governments are also *bound* to grant jurisdiction to their Sections over works wholly within their country; hence a growth in the Commissions apolitical status.<sup>38</sup>

In this respect the Commission is not substantially deviating from its established case by case approach to water and boundary matters. The new Minute, in conjunction with the Water Treaty remains far from a comprehensive agreement on sanitation and pollution for the time being. Subsequent Sections 5 through 8 specify that where responsibility for solving "border sanitation problems" has been determined, the appropriate government or governments jointly discharge their obligations "with the greatest speed and timeliness possible,"<sup>39</sup> that the IBWC's national Sections be given the "necessary authority and support" by their respective governments,<sup>40</sup> and that the Commission keep its member governments informed on progress towards the solution of border sanitation problems.<sup>41</sup>

The amplification of the powers and functions of the IBWC within the sphere of water relations represents an important step forward in bilateral cooperation. It is, however, important to recognize the limitations of Minute 261. It does not, for instance, apply to air pollution. Nor does it commit the IBWC to any specific or unilaterally preferred problem or project, or any timetable for the settlement of problems outside the specific context of a particular Minute. It does not commit the Commission to uphold any specific environmental standards which may be preferred by one or the other nation; a problem noted in the prefatory statement of Minute 261.<sup>42</sup>

Irrespective of what some may see as its shortcomings, Minute 261 substantially augments the Commission's previous powers in the pollution area. It promises a more concerted bilateral effort to

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37. *Id.* at §§ 4, 5 & 6.

38. *Id.* at § 7.

39. *Id.* at §§ 5 & 6.

40. *Id.* at § 7.

41. *Id.* at § 8. The employment of the word "urgently" in Section 5, with respect to the obligations of a single government, seems to be an obvious Mexican concession to the United States which has previously felt that Mexico procrastinated in the implementation of solutions to border sanitation problems. *See, e.g.,* Statements Concerning Border Sanitation Problems, *supra* note 1.

42. Minute 261, *supra* note 26, at preface.

resolve an array of environmental problems beyond those concerned only with human waste and their attendant controversies. Mr. Robert Ybarra, Secretary of the United States Section of the Commission, has stated that Minute 261 is, in his view, the most significant development of the Commission's authority since Minute 242 in 1973.<sup>43</sup> While the Minute is not likely to make the problems themselves any more tractable, it certainly must be viewed as an extremely positive measure insofar as it resolves fundamental ambiguities concerning the proper role of the Commission and commits it to action in this sphere.

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43. Interview with Mr. Robert Ybarra, Secretary, U.S. Section, International Boundary and Water Commission, United States and Mexico, El Paso, Texas (May 22, 1980). *See generally*, Minute 242 *supra* note 14. In dealing with the Colorado River salinity problem, Minute 242 resulted in binding Mexico and the United States to take certain remedial steps to allocate waters and control their agricultural consumption, and enter into any necessary financial agreements.

**APPENDIX****MINUTE NO. 261****INTERNATIONAL BOUNDARY AND WATER COMMISSION UNITED STATES AND MEXICO  
RECOMMENDATIONS FOR THE SOLUTION TO THE  
BORDER SANITATION PROBLEMS**

The Commission met in the offices of the United States Section in El Paso, Texas at 5:00 p.m. on September 24, 1979 to comply with instructions given by Presidents Jimmy Carter and Jose Lopez Portillo, in the Joint Communique of February 16, 1979 to recommend measures that may be adopted within the context of existing agreements to achieve further progress towards a permanent solution to the border sanitation problems.

The Commission examined the provisions of the 1944 Water Treaty and observed that by the terms of Article 3, the two Governments obligated themselves to give preferential attention to the solution of all border sanitation problems. In addition it noted that the same Article 3, together with Articles 2 and 24, give the Commission the authority to meet this obligation.

The Commission agreed to define as a "border sanitation problem" each case in which the waters that cross the boundary, including coastal waters, or that flow in the limitrophe reaches of the Rio Grande and the Colorado River, have sanitary conditions that present a hazard to the health and well-being of the inhabitants of either side of the border or impair the beneficial uses of these waters.

The Commission noted that each country in dealing with its sanitation problems has its own quality standards, determined by the authorities responsible for safeguarding public health and well-being of its inhabitants, and recognized that there exists a growing cooperation between such authorities.

The Commission reviewed the measures that each Government has undertaken to improve the quality of the waters along the border and noted that, although each Government has taken in its territory interim relief and long-term measures to resolve the border sanitation problems, some of these problems persist and in certain cases inadequately treated sanitary wastes cross the border from one country to the other or are discharged into the rivers that form the boundary, to threaten the health and well-being of in-

habitants on one or both sides of the border or impair the beneficial uses of these waters. [sic]

The Commission observed that, in addition to resolving the existing border sanitation problems, it is necessary that the two Governments take timely measures to prevent any other border sanitation problems which could otherwise occur.

Accordingly, the Commission submits for the approval of the two Governments the following recommendations:

1. That the two Governments recognize as a "border sanitation problem", as referred to in Article 3 of the Water Treaty of 1944, each case in which, in the judgement of the Commission, the waters that cross the border, including coastal waters, or flow in the limitrophe reaches of the Rio Grande and the Colorado River, have sanitary conditions that present a hazard to the health and well-being of the inhabitants of either side of the border or impair the beneficial uses of these waters.
2. That to discharge the obligation contracted under Article 3 of the Water Treaty of 1944, the Commission give permanent attention to border sanitation problems and give currently existing problems immediate and priority attention.
3. That to resolve existing sanitation problems in a timely manner and to prevent future problems, the competent agencies of each Government provide to their respective Section of the Commission the information and technical advice that it requires.
4. That for each of the border sanitation problems, the Commission prepare a Minute for the approval of the two Governments, in which there would be included, identification of the problem, definition of conditions which require solution, specific quality standards that should be applied, the course of action that should be followed for its solution, and the specific time schedule for its implementation.
5. That in each case where the approved course of action provides that a border sanitation problem be corrected by one of the two Governments, that Government urgently develop the plans and designs for the works necessary therefor and upon their approval by the Commission, said Government proceed to carry out the construction, operation and maintenance, with the greatest speed and timeliness possible. [sic]
6. That in each case where the approved course of action provides that a border sanitation problem be jointly corrected by the two Governments, the Commission develop the plans and designs for the works necessary therefor, as well as the division of work and cost between the two countries, submit them for ap-

approval of the two Governments, and upon such approval, each Government through its Section of the Commission proceed to carry out the construction, operation and maintenance, with the greatest speed and timeliness possible. [sic]

7. That the two Governments give their respective Sections the necessary authority and support so that they, in accordance with the terms of Article 24 (b) of the Water Treaty of 1944, can exercise jurisdiction over sanitation works undertaken in their respective countries to correct the border sanitation problems, including their construction, operation and maintenance. [sic]

8. That the Commissioners keep each other informed of the progress of the work in their respective countries and that the Commission, through the respective Sections, keep the Governments informed on the progress in the solution to the border sanitation problems.

9. That this Minute requires specific approval of the two Governments.

El Paso, Texas

September 24, 1979.