

Texas Lawmakers Introduce WATER Bill Seeking Mexico To Deliver Water Into Rio Grande

On Monday, June 10, 2013, four Texas Congressmen introduced bills in the United States House and Senate that would seek to ensure that Mexico complies with obligations to deliver water into the Rio Grande River pursuant to a 1944 Treaty. The bill, titled the Working to Address Treaty Enforcement Rapidly for Texas (“WATER Act”) was introduced in the Senate by Senators John Cornyn and Ted Cruz. Companion legislation was introduced in the House of Representatives by Texas Representatives Filemon Vela and Mike Conaway.

The 1944 Treaty at issue, the “Treaty of the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande” requires that Mexico allow a set amount of water to flow into the Rio Grande, in exchange for Texas providing water to Mexico from the Colorado River. Specifically, the Treaty requires Mexico to provide 1.75 million acre feet per year (an average of 350,000 acre feet per year) into the Rio Grande.

The current 5 year cycle began in October 2010 and ends in October 2015. According to the Texas Commission on Environmental Quality, Mexico has delivered only 426,830 acre feet to date. The deficit, therefore, as of June 1, 2013 is 483,170 acre feet. Mexico argues that there is no per-year requirement of delivery, and that so long as they meet the 5-year requirement, they have fulfilled their obligations. United States lawmakers disagree, contending that under the Treaty, Texas must provide 350,000 acre feet per year, unless they are unable to do so because of extreme drought. According to lawmakers, only in extreme circumstances would Mexico be able to forego providing the water each year and rely upon the 5 year requirement.

Lawmakers and governmental agencies are concerned that Mexico will be unable to provide adequate amounts of water in the next two years to off-set this deficit. Given recent history, this appears to be a serious concern. In the first year of this cycle, Mexico provided 82% of the required 350,000 acre feet. In the second year, that number fell to only 29%, and currently, Mexico has provided a mere 6% of the required water this third year of the cycle.

Mexico’s failure to provide the water required by the Treaty comes, of course, while Texas is facing a record-setting drought. Farmers and ranchers, as well as municipalities along the border are in desperate need of additional surface water in the Rio Grande. As Senator Cruz stated, “As Texas faces one of the most severe drought conditions in recent memory, it is crucial that Mexico begin meeting its obligations to its water agreement with the U.S.” Senator Cruz went on to describe the water that Texas is owed as “essential to the livelihood of countless Texas families” and noted that ensuring that farmers and ranchers receive the water necessary to continue operations is critical to the State.

In light of this, Texas Congressmen saw the need for action. The WATER Act would require Mexico to submit information to the Secretary of State, who would prepare

quarterly reports detailing efforts taken by Mexico to meet their treaty obligations. Further, The Secretary of State would prepare an annual report describing the benefits to Texas from the Treaty. 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.