

**INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO
MEXICAN SECTION**

**(Seal
Secretariat of
Foreign Relations)**

**TRANSLATION
No.: CEU 00919/05
File: CEU/280**

DISCREET

Ciudad Juárez, Chih., July 7, 2005

ENG. BERNARDINO OLAGUE
PRINCIPAL ENGINEER
INTERNATIONAL BOUNDARY AND WATER COMMISSION
THE COMMONS BUILDING C-100
4171 NORTH MESA
EL PASO, TEXAS 79902-1422

I reference your courteous letter Numbers US 040/05, US 044/05 and US 106/05 dated February 8, 2005, February 11, 2005, and April 22, 2005, respectively, and my letter No. CEU 00254/05 dated February 23, 2005, and the meetings dated February 1, 2005 and April 12, 2005, in regards to the implementation of Minute 311 of this Commission, for the construction of facilities for wastewater treatment in the city of Tijuana, B.C.

In this regard, I allow myself to express to you the following understandings of the Mexican Section:

1. The elaboration of the Supplemental Environmental Impact Statement (SEIS) is an internal process of the United States to comply with the environmental legislation of your country. Of this internal process, the United States will select an alternative and will subsequently propose the options of the facilities to be constructed in Mexico for Mexico's consideration.
2. The alternative selected by the United States should have the necessary flexibility that allows incorporating requirements of Mexico such as the site selection, treatment technology, odor control, handling of sludge, environmental protection, reuse and final disposal of effluent, congruence with the wastewater plan for the city of Tijuana and with the urban development plan for the city of Tijuana, among other aspects established in Minute 311.
3. In the April 12th meeting, the United States section mentioned that it was still evaluating the outline and the requirements for complying with bid standards of both countries and mentioned in general form that it was considering a contracting process in two phases. In the first phase, the United States section will contract a service provider that will seek for financing sources, and in the second phase will contract for services of design,

construction, and facility operation and maintenance; however, details were not presented on how this concept will be implemented.

4. The Mexican Section in turn pointed out that any contract to be implemented in Mexico, should have Mexico’s total support, and its terms should be consulted with Mexico; it is necessary that the Mexican section have a better understanding of how the United States visualizes the contracting and administration of the project in question and understand the draft contracts that the USA is considering in order to be able to comment on them. Before that, I ask that you not formalize any document that involves work with my country without the express consent of this Mexican Section.
5. In the matter of a project in Mexico, the responsible Mexican authorities should have a decisive role in the approval of the different phases of the project, from the site selection and treatment technology, design, construction, operation, maintenance, commercialization of the effluent, to the handing over of the works at the conclusion of the contract, even the contracting and administration aspects of the project.

In this context, in order to have the possibility of conducting the respective consultation with the responsible Mexican authorities and commenting formally on this subject, we will wait for the United States section to present to us its proposed plan for the implementation of Minute 311, indicating the alternative it presents for negotiation in Mexico, the proposed construction and administration plans, including the corresponding draft contracts, and pointing out any restrictions or limitations placed upon the United States section by legislation of your country that is considered relevant for the implementation of the referenced project in Mexico.

Finally, I reiterate to you our best disposition to continue our discussions on this subject, including aspects like the formation of the binational technical group, discussion of the facility sites in Mexico; treatment technology, odor control and sludge management; the general analysis of the technical, environmental, and social aspects; the contracting and administration of the project; reuse, disposal, and/or commercialization of the effluent; facility ownership, such as handing it over at the conclusion of the contract, among other aspects that require definition within the context of Minute 311.

I take this opportunity to reiterate to you the assurances of my most distinguished consideration.

SINCERELY,
(Signed)
LUIS ANTONIO RASCON MENDOZA
PRINCIPAL ENGINEER

**INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO
MEXICAN SECTION**

(Seal
Secretariat of
Foreign Relations)

TRANSLATION
No.: CEU 01063/05
File: CEU/280

DISCREET

Ciudad Juárez, Chih., July 28, 2005

BERNARDINO OLAGUE
PRINCIPAL ENGINEER
INTERNATIONAL BOUNDARY AND WATER COMMISSION
THE COMMONS BUILDING C-100
4171 NORTH MESA
EL PASO, TEXAS 79902-1422

I refer to the United States Section bulletin dated July 27, 2005, relative to the implementation of the Wastewater Treatment Project in Tijuana, B.C., within Commission Minute 311.

In regards to this matter, I permit myself to present to you the Mexican Section concerns in relation to the points made known to the public in the referenced bulletin.

- In the first place, the Key Milestones mentioned correspond to the United States Section, not to the Commission. The publication of the SEIS, as well as the start of negotiations with the BAJAGUA Company, are matters that the United States Section has undertaken unilaterally. We understand the first because of your country's legislative requirements, and the second one at your own determination. With respect to that, through letter NO. CEU 00919/05 dated July 7, 2005, we have requested that no document be formalized implicating work in Mexico without the express consent of the Mexican Section.
- Secondly, it points out that the **preferred alternative** is alternative 4c, BAJAGUA proposal, and that the site and treatment facilities will be the ones proposed by BAJAGUA. Mexico has always pointed out the necessity that the proposal presented by the United States for its consideration needs to have adequate flexibility for adapting to the necessities of the city of Tijuana (letters CEU 00254/05 and CEU 00919/05 dated February 23 and July 7 of 2005, respectively, and the meetings of February 1 and April 12 of 2005). In that sense, it is of concern that aspects that may not be possible in practice are announced publicly.
- Also, it is a concern that a plan for contracting and administration that the United States Section has not formally presented within the Commission is announced publicly. The

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plan includes two phases, first the contracting through sole-source negotiations with BAJAGUA as owner of the facilities and services, and subsequent contracting by BAJAGUA through public solicitation for engineering, construction, and O&M. This plan was outlined in a general manner in the Commission meeting with its technical advisors on April 12, 2005 where the Mexican delegation requested a formal presentation in order to be able to comment on it, which has not happened to this date, nevertheless, it has already been made public.

Finally, I propose that we hold a meeting on August 5 regarding the referenced project in order to consolidate a joint plan regarding this matter that will allow insuring the success of the same.

I take this opportunity to reiterate to you the assurances of my most distinguished consideration.

SINCERELY,

(Signed)

ENG. LUIS ANTONIO RASCÓN MENDOZA
PRINCIPAL ENGINEER