

Agreement Of Cooperation Between The United States Of America And The United Mexican States Regarding Pollution Of The Environment Along The Inland International Boundary By Discharges Of Hazardous Substances

The Government of the United States of America and the Government of the United Mexican States;

In recognition of Article 3 of the Agreement between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area;

Aware of the importance of preserving the environment along the joint inland international boundary;

Recognizing that pollution by hazardous substances causes or may cause damage to the environment along the joint inland boundary and may constitute a threat to the public health and welfare;

Have agreed as follows:

ARTICLE I

For the purpose of this Agreement:

(a) A 'polluting incident' means a discharge or the threat of a discharge of any hazardous substance on one side of the inland international boundary of a magnitude which causes, or threatens to cause, imminent and substantial adverse effects on the public health, welfare, or the environment.

(b) 'Environment' means the atmosphere, land, and surface and ground water, including the natural resources therein, such as fish, wildlife forests, crop and rangeland, rivers, streams, aquifers and all other components of the ecosystem.

(c) 'Hazardous substances' means elements and compounds which if discharged present or may present an imminent and substantial danger to the public health, welfare or the environment. According to the laws of each party and the determination of the Joint Response Team (JRT). The JRT and its responsibilities are defined in Appendix II.

(d) 'Border area along the joint inland international boundary' means the non-maritime area which is the area situated 100 km on either side of the inland international boundary.

ARTICLE II

The Parties agree to establish the 'United States-Mexico Joint Contingency Plan' (hereafter, 'The Plan') regarding polluting incidents of the border area along the joint inland international

boundary by discharges of hazardous substances. The object of the Plan is to provide cooperative measures to deal effectively with polluting incidents.

ARTICLE III

The Parties, consistent with their means, commit themselves to the development of response plans designed to permit detection of the existence or the imminent possibility of the occurrence of

polluting incidents, within their respective areas and to provide adequate response measures to eliminate to the extent possible the threat posed by such incidents and to minimize any adverse effects on the environment and the public health and welfare.

ARTICLE IV

The coordinating authority for the Plan for the United States of America is the United States Environmental Protection Agency. The coordinating authority for the Plan for the United Mexican States is the Secretaria de Desarrollo Urbano y Ecologia.

ARTICLE V

The Parties will consult and exchange up-to-date information under the Plan.

ARTICLE VI

A joint response with respect to a polluting incident will be implemented upon agreement of the Parties in accordance with the plan. When a joint response is implemented, the measures necessary to respond to the polluting incident will also be determined by agreement of the Parties in accordance with the Plan.

ARTICLE VII

Nothing in this Agreement shall be construed to prejudice other existing or future Agreements concluded between the two Parties, or affect the rights and obligations of the Parties under international agreements to which they are a party.

Nothing in this Agreement shall prejudice or otherwise affect the functions entrusted to the International Boundary and Water Commission, in accordance with the Water Treaty of 1944.

ARTICLE VIII

The Parties may, through an exchange of notes add technical Appendices to this Agreement, or amend existing Appendices. The Appendices to this Agreement and any additional agreed Appendices shall form an integral part of the Agreement.

ARTICLE IX

Pursuant to this Agreement, the Parties may conclude specific arrangements for the solution of common problems in the border area.

ARTICLE X

The National Coordinators shall be responsible for the development of an implementation schedule and putting the Plan into effect.

ARTICLE XI

(1) This Agreement shall enter into force upon the date of an exchange of notes informing each party that the other party has completed its necessary internal procedures.

(2) The present Agreement shall remain in force indefinitely unless one of the Parties notifies the other, through diplomatic channels, of its desire to denounce it, in which case the Agreement will terminate six months after the date of such written notification. Unless otherwise agreed, such termination shall not affect the validity of any arrangements made under this Agreement.

Done at San Diego on this 19 day of July, 1985 duplicate, in the English and Spanish languages, both texts being equally authentic.

For the United States of America

For the United Mexican States

JOINT CONTINGENCY PLAN

APPENDIX I

1. On-Scene Coordinator

1.1 As soon as the Agreement enters into force each party will designate, without waiting for a polluting incident to occur, officials responsible for exercising in its territory the functions and responsibilities described in Section 1.2. Said officials will have the title of "On-Scene Coordinator" (OSC). Each Party will also designate officials who will have advisory and liaison functions. Said officials will have the title of "Advisory and Liaison Coordinator" (ALC). Each Party will divide its territory into areas and will designate OSCs and ALCs for each of those areas,

1.2 The functions and responsibilities of the On-Scene Coordinator will be:

- (a) To coordinate and direct measures related to the detection of polluting incidents;
- (b) To coordinate and direct response measures;
- (c) To authorize the use of dispersants and other chemical products in accordance with their respective laws and national policy, provided that such use:
 - (i) prevents or substantially reduces the risk to human life and health or the risk of fire;
 - (ii) prevents or reduces a threat to the environment; or
 - (iii) appears to be the most effective method to reduce the overall adverse effects of the polluting incident.
- (d) To determine the facts concerning the polluting incident, including the nature, quantity and location of the pollutant, the direction and probable time of travel of the pollutant, the available resources and those required, and the potential impacts on public health and welfare and on the environment,
- (e) To determine priorities and to decide when to initiate a joint response in accordance with this Agreement;
- (f) To notify immediately the two Chairmen of the Joint Response Team (JRT) (see Appendix II) about every polluting incident which has occurred, or which is in imminent danger of occurring, which in the judgement of the OSC may require the initiation of a joint response.
- (g) To recommend to the Chairman of the JRT of his country that he formally propose to the Chairman of the JRT of the other Party the initiation of the joint response envisaged in Article VI, for a specific pollution incident;
- (h) To make detailed situation reports to the Joint Response Team (JRT) described in Appendix II about all aspects of the polluting incident and of the response operation.
- (i) To keep a journal of the events occurring during the polluting incident which will be available to the JRT.
- (j) To recommend to the Co-Chairmen of the JRT, after consultation with the ALC, the termination of a joint response action;

(k) To prepare and submit to the JRT, with the advice of the ALC, a final report on each polluting incident, which includes any recommendation for the handling of future incidents;

1.3 If response action is required in the territories of both Parties, the OSC's of both Parties will coordinate the measures to be adopted through the collaboration of both ALC's.

1.4 in accordance with national legislation and as soon as the Agreement enters into force, special customs, immigration and other necessary authorization mechanisms will be sought by each Party.

APPENDIX II

2. Joint Response Team (JRT)

2.1. As soon as the Agreement enters into force, the coordinating authorities of each Party will designate, without waiting for a polluting incident to occur, its members on the JRT and will communicate its designations to the other party.

2.2. The United States coordinating authorities will designate the U.S. Co-Chairman of the JRT. The Mexican coordinating authorities will designate the Mexican Co-Chairman of the JRT,

2.3. When the JRT meets in the United States of America, the U.S. Co-Chairman will preside. When the JRT meets in Mexico, the Mexican Co-Chairman will preside.

2.4. As soon as the U.S. and Mexican sections of the JRT are designated, the Co-Chairmen jointly will call a first meeting to begin developing procedures for a carrying out of a joint response to a polluting incident. The JRT will meet as many times, both in periodic planning meetings and in emergency meetings, as may be decided by the Co-Chairmen,

2.5. Upon being notified of a polluting incident the Co-Chairman of the JRT will immediately acknowledge receipt of the notification. They will consult and may decide to formally propose to their respective National Coordinators the initiation of the joint response. If the National Coordinators decide to initiate a joint response, the U.S. National Coordinator shall immediately notify its decision to the United States Department of State and the Mexican National Coordinator shall immediately notify its decision to the Mexican Secretariat of Foreign Relations. Each Party shall promptly notify the other through diplomatic channels whether it agrees to initiate a joint response.

2.6. When the two Parties have agreed to initiate a joint response to a polluting incident, the functions and responsibilities of the JRT will be the following:

(a) Based on the OSC's initial notification, advise the OSC under Appendix I, paragraph 1.2, about measures needed to respond to the incident and what resources under Appendix I, are available to carry out those measures.

(b) To evaluate and make recommendations concerning the Measures taken by the OSC.

(c) To provide continuing advice to the OSC.

(d) To consider the journal and reports of the OSC and recommend to the National Coordinators improvements needed in the Plan.

(e) Based on the reports of the OSC, to assess the possible impacts of the polluting incident and to recommend measures necessary to mitigate the adverse effects of such incident.

(f) To take measures to coordinate and use to the maximum the resources which agencies or persona of the United States of America, or of the United Mexican States, or of a third party can contribute.

2.7. The JRT will make decisions by the agreement of the Co-Chairmen.

2.8. Upon the recommendation of the OSC and the ALC to terminate the joint response, the Co-Chairmen shall consult with the National Coordinators and the joint response may be terminated by mutual agreement. The U.S. National Coordinator shall immediately notify the decision to the U.S. Department of State and the Mexican National Coordinator to the Mexican Secretariat of Foreign Relations.