



INTERNATIONAL BOUNDARY AND WATER COMMISSION  
UNITED STATES AND MEXICO

August 13, 2009

OFFICE OF THE COMMISSIONER  
UNITED STATES SECTION

Mr. Jeff Ruch, Executive Director  
PEER  
2000 P Street NW, Suite 240  
Washington, DC 20036  
fax: 202-265-4192

Dear Mr. Ruch:

With great dismay, I read PEER's August 10, 2009 news release, "Obscure Border Agency Worst in Federal Government," which was based on obsolete and inaccurate information about the U.S. Section of the International Boundary and Water Commission (USIBWC). Since the allegations mentioned in your news release first surfaced a number of years ago, the USIBWC has made a tremendous effort to resolve them. I would like to take this opportunity to set the record straight and I hope you will consider including some of this information on your web page.

Your news release accurately recounts that a 2005 State Department Office of the Inspector General (OIG) report identified a number of internal management problems. However, you fail to point out that all of the management problems identified in the report have been addressed and resolved. The four-year old report you cite reflected problems that existed in 2004 and 2005 during the 20-month tenure of a former USIBWC Commissioner, who was asked to resign by the White House. Once he stepped down in 2005, the USIBWC took quick action to address the report's recommendations. All of the recommendations assigned to the USIBWC for action have been closed. The OIG conducted a Compliance Follow-up Review of the Inspection of the U.S. Section of the International Boundary and Water Commission in October 2006 and issued a Report of Inspection (Report Number ISP-C-07-04) in which the OIG stated that the USIBWC "has conscientiously and assertively complied with OIG's recommendations for which it had responsibility...." The report also stated, "The USIBWC complied not only with the substance but also in the spirit of the recommendations. As a result, agency administrative operations today are more efficient and effective." The full text of this Compliance Follow-up Review is available at: <http://oig.state.gov/documents/organization/121823.pdf>.

The Compliance Follow-up Review also noted that the USIBWC completed an Office of Management and Budget (OMB) Program Assessment Rating Tool exercise and achieved a rating of "Effective (92 percent)"-- OMB's highest rating. This Program Assessment is available at: <http://www.whitehouse.gov/omb/expectmore/summary/10004636.2006.html>

Your press release also states that two Commission dams have been rated "unsafe." This is a false statement. The two international storage dams were rated in accordance with the U.S. Army Corps of Engineers Dam Safety Action Classes. *Neither of the two dams in question was rated as Dam Safety Action Class I (Unsafe).* Regarding the issue of dam safety, the Program

Assessment stated, "The Commission is achieving its goal of reducing risk to life and property from dam failure. Independent inspections are conducted at storage and diversion dams by a panel of experts every five years to identify deficiencies and safety improvements. The Commission has increased the implementation of safety recommendations from 33% in 2000 to 80% in 2007."

In accordance with recommendations from the 2007 Safety of Dams inspection, IBWC in 2008 convened a bi-national panel of experts to review Amistad Dam, which has been affected by naturally-occurring sinkholes. Previous treatment of the sinkholes was not deemed effective so additional studies have been conducted so that other treatments can be developed. The dam safety issues are not due to agency negligence but, rather, adequate agency oversight has ensured detection of the dam safety issues, communication with the public about these matters, and efforts to address them quickly and comprehensively. The 2007 Safety of Dams report for Amistad Dam stated, "The project appears in excellent visual condition and appears generally well maintained. IBWC has made good progress in accomplishing recommendations from previous reports." The full report is available at [www.ibwc.gov/Files/SOD\\_Report\\_Amistad.pdf](http://www.ibwc.gov/Files/SOD_Report_Amistad.pdf), including a summary of the Dam Safety Action Classes used by the U.S. Army Corps of Engineers.

Similarly, the 2007 Safety of Dams inspection report at Falcon Dam ([www.ibwc.gov/Files/SOD\\_Report\\_Falcon.pdf](http://www.ibwc.gov/Files/SOD_Report_Falcon.pdf)) found the dam to be well maintained but recommended additional study to determine if the Dam Safety Action Class rating is justified.

You also state that two water treatment plants located in Nogales, Arizona and San Ysidro, California are both under court orders to clean up their effluent. Please note that the USIBWC does operate two *wastewater* treatment plants in these locations. The City of Nogales, Arizona, with whom the USIBWC jointly owns the Nogales plant, recently completed a technology upgrade of that plant to bring it into full compliance with its NPDES permit and Aquifer Protection Permit. Additional information is available at:  
[www.nogaleswastewater.com/pdf/press061609.pdf](http://www.nogaleswastewater.com/pdf/press061609.pdf).

In November 2008, the USIBWC awarded a construction contract to upgrade the California plant to bring it into compliance with applicable water quality standards (see the announcement at [www.ibwc.gov/Files/PressRelease\\_111308.pdf](http://www.ibwc.gov/Files/PressRelease_111308.pdf) and the monthly construction progress report at [www.ibwc.state.gov/Files/SBIWTP\\_Const\\_Report\\_012409.pdf](http://www.ibwc.state.gov/Files/SBIWTP_Const_Report_012409.pdf)). Due to funding limitations, the USIBWC and EPA decided to construct the plant in stages and began operations at the advanced primary treatment level in the 1990s in the interest of immediately addressing public health and environmental concerns. Litigation and lack of funding had made it impossible for the Commission to construct secondary treatment facilities until now.

In 2008, Nogales, Sonora and Nogales, Arizona (the PEER release incorrectly identifies the town of "Ambos, Mexico," which does not exist) both experienced flooding during a major storm. Nogales, Sonora suffered greater damage in the flood due to inadequate and aging infrastructure on the Mexican side of the border (an underground drainage tunnel on the Mexican side

collapsed; the problem was exacerbated by other urban storm drainage issues on the Mexican side). It is completely inaccurate to say that any flood damage was caused by failure of the USIBWC to maintain a drainage channel. Operation and maintenance of the drainage channel in the United States, known as the Nogales Wash, has been under responsibility of the City of Nogales, Arizona since 1949 although the federal government continues to cooperate with the City to address transboundary stormwater issues, including those related to Nogales Wash. Mexican officials have also alleged that border fencing and a border wall erected by U.S. Customs and Border Protection exacerbated flooding on the Mexican side.

The USIBWC also takes issue with your suggestion that \$220 million in Recovery Act funding appropriated to USIBWC is being used to build “questionable agricultural levees.” Recovery Act funds are being used to raise and rehabilitate aging Rio Grande flood control levees in Texas and New Mexico to bring them into compliance with FEMA standards. The work is being conducted on existing levees, many of which were built 40-70 years ago. The USIBWC began a multi-year program to rehabilitate its levee system in 2001. The levee rehabilitation program has enjoyed broad stakeholder support. The work had previously been planned by the USIBWC to be implemented over 20 years based on previous funding levels but the Recovery Act allows for the levee rehabilitation effort to be implemented much more quickly. Levee segments lacking adequate height or that are structurally deficient are being rebuilt in order of priority by risk to population, property, and economic development. Recovery Act funds are being spent with an unprecedented level of transparency and accountability. Each week the USIBWC reports expenditures, major activities undertaken, and planned activities. These reports are available on [www.recovery.gov](http://www.recovery.gov) and [www.state.gov/recovery](http://www.state.gov/recovery). The money is being used to ensure that communities along the Rio Grande have adequate protection in the event of a 100-year flood. The PEER release inaccurately implies that the USIBWC is spending the funds needlessly to construct a new levee system in unpopulated areas.

Your press release also references surveys of USIBWC employees conducted in 2007 and 2008, which reflected some dissatisfaction with agency leadership. A new agency head, Commissioner C.W. “Bill” Ruth, was appointed in November 2008 (he was a long-time manager at USIBWC who retired in 1998 and came out of retirement to lead the agency following the sudden death of the previous Commissioner in a tragic airplane crash). To address concerns identified in the employee surveys, Commissioner Ruth hired a consultant to assess agency leadership and is in the process of contracting for a comprehensive independent analysis of the agency’s effectiveness in meeting its strategic goals. He is committed to restoring personnel’s confidence in the agency’s managers. The Obama Administration has requested that Commissioner Ruth remain in office until such time as it names a new U.S. Commissioner.

Regarding the alleged lack of oversight, let me point out that the USIBWC operates under the foreign policy guidance of the Department of State and is subject to audit, inspection and investigation by the Office of Inspector General for the U.S. Department of State and the Broadcasting Board of Governors. Like any other federal agency, the USIBWC complies with all applicable federal laws for internal controls and accountability.

You state in your news release that the leadership of USIBWC should be swept out. Apparently, you are not aware that the leadership criticized in the OIG report was swept out four years ago and the problems you cite in your press release have either all been resolved, were falsely stated by you, or are currently being addressed. I strongly encourage you to review the supporting materials I cite in this letter, include links to these materials on your web page, and correct your inaccurate press release or retract it in its entirety. Failure to do so seriously jeopardizes your organization's credibility as a government watchdog.

Sincerely,

A handwritten signature in black ink, appearing to read "Sally E. Spener", with a long horizontal flourish extending to the right.

Sally E. Spener  
Public Affairs Officer

cc: Mr. Howard Wilshire, Chairman of the Board