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## **Short Term Solutions, Interim Surplus Guidelines and the Future of the Colorado River Delta**

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### **ABSTRACT**

Interest in the Colorado River delta has risen dramatically over the past decade. Evidently, this interest has translated into greater scientific understanding and appreciation of the threat facing delta ecosystems. As the ecological significance and fragility of the delta is made apparent, political interest on both sides of the border has expanded. This increased attention coincides with a partial recovery in the delta. In the last two decades, floodwater releases from reservoirs in the United States and agricultural return flows from both sides of the border have contributed to improvement on about 150,000 acres. Maintaining the delta at its current state, however, will require some assurance that these unscheduled flows will continue to reach targeted restoration areas. Environmentalists have therefore concentrated their efforts on short-term solutions aimed at deliberate management of water that now flows into the delta. Ensuring the effectiveness of these solutions requires adding a minute to the 1944 Treaty between US and Mexico that will expressly dedicate water to delta conservation.

Domestic policies in both the United States and Mexico present potential barriers to adoption of an ecological minute. Mexico's uncertainty with regard to conservation, especially in the delta and Upper Gulf of California, is apparent in the divergent policies of that region. While in the United States, increasing competition for Colorado River water and California's dependence on surplus flows over and above its legal entitlement has tightened the noose around the River's neck. The newly implemented Interim Surplus Guidelines put in place to deal with California's overuse of mainstream water will likely impact the amount of flood flows currently reaching the delta. The viability of short-term solutions to delta water supply is, to a certain degree, dependent on California's ability to reduce consumptive use over a 15-year period. Moreover, the willingness of states and western water users to work toward a new minute depends on effective resolution of the California problem. Therefore, this paper will show how the ecological minute necessary for effective implementation and enforcement of short-term solutions hangs in the balance along with delta ecosystem health.

Part I of the paper details the history of agreements between the United States and Mexico relating to the Colorado River and discusses relevant aspects of the Law of the River. Part II

describes several proposals for securing delta water in the near-term, and explains why enforcement of these solutions requires a minute to the Treaty. Finally, Part III shows how domestic policies in both countries affect the viability of a minute, and examines the new Interim Surplus Guidelines and California's use of Colorado River water in excess of its entitlement.