

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREG ABBOTT, in his capacity as GOVERNOR
OF THE STATE OF TEXAS, and THE STATE OF
TEXAS,

Defendants.

Civil Action No. 1:23-cv-00853

I, Jennifer T. Pena, do declare as follows based on my personal knowledge, as well as information provided to me in the course of my official duties:

1. This declaration supplements my declaration of July 25, 2023.
2. On July 27 and 28, 2023, the USIBWC and the MXIBWC conducted an on-site, joint (binational) topographic survey of the floating barrier that Texas deployed in the Rio Grande in the vicinity of Eagle Pass, Texas. Survey participants were Sidney Rouch (USIBWC), Adrian Vallejo (USIBWC), Dilaida Sanchez (USIBWC), John Claudio (USIBWC), and Roberto Enriquez (MXIBWC).
3. The joint survey recorded the locations of the buoys and concrete anchors of the line of buoys that Texas deployed approximately two miles downstream of the Camino Real International Bridge, in the vicinity of 28° 40' 21" N, 100° 30' 14" W. The survey horizontal datum was North American Datum of 1983, U.S. State Plane Coordinate system Texas South Central Zone, U.S. Survey feet. The survey vertical datum was North American Vertical Datum of 1988.
4. Exhibit A is a true and correct copy of the final survey data, including the locations of the buoys and the anchors that were recorded in the joint binational survey. The

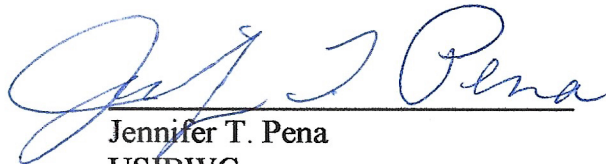
first column in the spreadsheet is the survey point identification number. The second column is northing in feet. The third column is easting in feet. The fourth column is vertical ground elevation in feet. The fifth column describes the object surveyed (abbreviations used in this column are: TG is top ground, RB is river bank, NG is natural ground). The surveyors recorded the western (Mexico-facing) side of each buoy.

5. The survey data reflect that the total length of the floating barrier is approximately 995 feet.
6. Pursuant to Article II of the 1970 Treaty, the International Boundary Line (IBL) in this region is “the middle of the channel occupied by normal flow,” as determined by the IBWC and updated after periodic surveys. Consistent with Article II(C) of the 1970 Treaty, the IBWC records the official IBL on aerial photographic mosaics of the Rio Grande. Under Article 25 of the 1944 Treaty, IBWC decisions that delineate changes to the official IBL “shall be recorded in the form of Minutes.” The current IBL delineation was recorded in 2009 as Minute 315 (see https://www.ibwc.gov/wp-content/uploads/2023/04/Minute_315.pdf).
7. A comparison of the recorded locations of the buoys to the official IBL, as defined in Minute 315, establishes that approximately 208 feet of the buoy line (in the upstream portion of the buoy alignment) are located within the United States, whereas approximately 787 feet of the buoy line (in the downstream portion of the buoy alignment) are located within Mexico.
8. Exhibit B is a true and correct copy of a figure prepared by USIBWC that plots the recorded locations of the buoys and anchors of the line of buoys from the joint binational survey against an approximation of the IBL as delineated by Minute 315, with United States territory on the east (righthand) side of the boundary and Mexican territory on the west (lefthand) side of the boundary.

9. The USIBWC acts as part of a public international organization when it conducts surveys along the IBL in concert with MXIBWC. For that reason, communications regarding such surveys that are exchanged between USIBWC and MXIBWC are considered the property and assets of the International Boundary and Water Commission, United States and Mexico, as an international organization. Longstanding IBWC policy prohibits the disclosure of all communications such as letters, technical information, studies, and data exchanged between the U.S. and Mexican Sections on such matters to anyone other than the two countries' foreign ministries, absent the concurrence of USIBWC and MXIBWC.
10. At the request of USIBWC Commissioner Maria-Elena Giner, MXIBWC Commissioner Adriana Reséndez Maldonado concurred in the joint binational survey results on August 14, 2023. The concurrence extends to both the survey data and the determinations in Paragraph 7 regarding the location of the floating barrier relative to the official IBL.
11. Also on August 14, 2023, both Commissioners authorized the disclosure of the joint binational survey results to the public.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 14, 2023



Jennifer T. Pena
USIBWC
4191 N. Mesa
El Paso, TX 79902

Exhibit A to the Supplemental Declaration of Jennifer T. Pena

2001	13431604	1486343	675.33	BUOY MEXICO SIDE
2002	13431592	1486344	675.193	BUOY MEXICO SIDE
2003	13431577	1486342	675.177	BUOY MEXICO SIDE
2004	13431562	1486340	675.243	BUOY MEXICO SIDE
2005	13431547	1486337	675.13	BUOY MEXICO SIDE
2006	13431534	1486329	674.81	BUOY MEXICO SIDE
2007	13431533	1486327	674.368	ANCHOR
2008	13431518	1486329	674.787	BUOY MEXICO SIDE
2009	13431502	1486332	674.878	BUOY MEXICO SIDE
2010	13431487	1486336	674.744	BUOY MEXICO SIDE
2011	13431472	1486341	674.878	BUOY MEXICO SIDE
2012	13431457	1486344	674.979	BUOY MEXICO SIDE
2013	13431442	1486347	674.755	BUOY MEXICO SIDE
2014	13431427	1486350	674.78	BUOY MEXICO SIDE
2015	13431412	1486352	674.425	BUOY MEXICO SIDE
2016	13431396	1486354	674.969	BUOY MEXICO SIDE
2017	13431381	1486357	674.857	BUOY MEXICO SIDE
2018	13431366	1486361	674.736	BUOY MEXICO SIDE
2019	13431351	1486365	674.831	BUOY MEXICO SIDE
2020	13431336	1486369	674.917	BUOY MEXICO SIDE
2021	13431320	1486372	674.774	BUOY MEXICO SIDE
2022	13431306	1486374	674.83	BUOY MEXICO SIDE
2023	13431290	1486377	674.841	BUOY MEXICO SIDE
2024	13431274	1486381	674.672	BUOY MEXICO SIDE
2025	13431259	1486385	675.078	BUOY MEXICO SIDE
2026	13431243	1486389	675.058	BUOY MEXICO SIDE
2027	13431228	1486393	675.043	BUOY MEXICO SIDE
2028	13431213	1486398	674.614	BUOY MEXICO SIDE
2029	13431197	1486403	674.621	BUOY MEXICO SIDE
2030	13431182	1486408	674.832	BUOY MEXICO SIDE
2031	13431167	1486412	674.802	BUOY MEXICO SIDE
2032	13431152	1486417	674.757	BUOY MEXICO SIDE
2033	13431137	1486422	674.655	BUOY MEXICO SIDE
2034	13431122	1486427	674.86	BUOY MEXICO SIDE

2035	13431107	1486432	674.577	BUOY MEXICO SIDE
2036	13431092	1486438	674.607	BUOY MEXICO SIDE
2037	13431077	1486443	674.545	BUOY MEXICO SIDE
2038	13431062	1486448	674.399	BUOY MEXICO SIDE
2039	13431046	1486453	674.611	BUOY MEXICO SIDE
2040	13431031	1486458	674.333	BUOY MEXICO SIDE
2041	13431016	1486463	674.158	BUOY MEXICO SIDE
2042	13431001	1486467	674.158	BUOY MEXICO SIDE
2043	13430985	1486472	674.316	BUOY MEXICO SIDE
2044	13430970	1486477	674.17	BUOY MEXICO SIDE
2045	13430956	1486483	673.958	BUOY MEXICO SIDE
2046	13430940	1486489	673.751	BUOY MEXICO SIDE
2047	13430925	1486492	673.814	BUOY MEXICO SIDE
2048	13430910	1486497	674.137	BUOY MEXICO SIDE
2049	13430895	1486503	673.756	BUOY MEXICO SIDE
2050	13430880	1486509	673.746	BUOY MEXICO SIDE
2051	13430866	1486515	673.639	BUOY MEXICO SIDE
2052	13430850	1486519	673.751	BUOY MEXICO SIDE
2053	13430835	1486523	673.756	BUOY MEXICO SIDE
2054	13430820	1486528	673.542	BUOY MEXICO SIDE
2055	13430805	1486534	674.025	BUOY MEXICO SIDE
2056	13430790	1486540	673.775	BUOY MEXICO SIDE
2057	13430775	1486544	673.593	BUOY MEXICO SIDE
2058	13430760	1486548	673.819	BUOY MEXICO SIDE
2059	13430745	1486552	673.696	BUOY MEXICO SIDE
2060	13430731	1486559	673.645	BUOY MEXICO SIDE
2061	13430716	1486564	673.393	BUOY MEXICO SIDE
2062	13430702	1486569	673.55	BUOY MEXICO SIDE
2063	13430686	1486573	674.276	BUOY MEXICO SIDE
2064	13430672	1486578	673.423	BUOY MEXICO SIDE
2065	13430657	1486583	673.098	BUOY MEXICO SIDE
2066	13430646	1486584	674.182	BUOY MEXICO SIDE
2067	13430646	1486585	672.846	BUOY MEXICO SIDE
2068	13430644	1486588	673.217	BUOY MEXICO SIDE

2069	13430647	1486589	673.869	BUOY US SIDE
2070	13430656	1486590	674.903	ANCHOR #2
2071	13430741	1486561	675.433	ANCHOR #2 1.0 DIA
2072	13430749	1486560	675.712	ANCHOR #1 4X2
2073	13430773	1486553	675.399	ANCHOR #1 4X2
2074	13430798	1486546	675.984	ANCHOR #1 4X2
2075	13430798	1486543	675.839	ANCHOR #2 1.0 DIA
2076	13430816	1486539	675.733	ANCHOR #1
2077	13430828	1486533	675.774	ANCHOR #2 1.0 DIA
2078	13430840	1486530	675.844	ANCHOR #1
2079	13430865	1486522	676.006	ANCHOR #1
2080	13430871	1486521	675.847	ANCHOR #2
2081	13430896	1486510	675.679	ANCHOR #1
2082	13430901	1486507	675.924	ANCHOR #2
2083	13430920	1486501	675.792	ANCHOR #1
2084	13430947	1486493	675.698	ANCHOR #2
2085	13430970	1486485	675.785	ANCHOR #1
2086	13430977	1486482	675.943	ANCHOR #2
2087	13430994	1486477	676.098	ANCHOR #1
2088	13431023	1486468	676.06	ANCHOR #2
2089	13431046	1486460	676.158	ANCHOR #1
2090	13431054	1486458	676.374	ANCHOR #2
2091	13431071	1486453	676.303	ANCHOR #1
2092	13431095	1486444	676.433	ANCHOR #1
2093	13431101	1486442	676.326	ANCHOR #2
2094	13431122	1486435	676.343	ANCHOR #1
2095	13431130	1486432	676.4	ANCHOR #2
2096	13431146	1486427	676.511	ANCHOR #1
2097	13431170	1486420	676.467	ANCHOR #1
2098	13431176	1486418	676.445	ANCHOR #2
2099	13431198	1486412	676.264	ANCHOR #1
2100	13431205	1486409	676.428	ANCHOR #2
2101	13431222	1486405	676.427	ANCHOR #1
2102	13431247	1486397	676.253	ANCHOR #1

2103	13431252	1486395	676.559	'ANCHOR #2	
2104	13431274	1486388	676.295	'ANCHOR #1	
2105	13431282	1486388	676.458	'ANCHOR #2	
2106	13431299	1486383	676.408	'ANCHOR #1	
2107	13431324	1486378	676.326	'ANCHOR #1	
2108	13431329	1486377	676.399	'ANCHOR #2	
2109	13431352	1486370	676.451	'ANCHOR #1	
2110	13431356	1486369	676.41	'ANCHOR #2	
2111	13431377	1486366	676.368	'ANCHOR #1	
2112	13431402	1486360	676.687	'ANCHOR #1	
2113	13431406	1486361	676.459	'ANCHOR #2	
2114	13431427	1486354	676.245	'ANCHOR #1	
2115	13431437	1486355	676.402	'ANCHOR #2	
2116	13431452	1486350	676.738	'ANCHOR #1	
2117	13431477	1486344	676.556	'ANCHOR #1	
2118	13431481	1486344	676.54	'ANCHOR #2	
2119	13431503	1486340	676.362	'ANCHOR #1	
2120	13431508	1486339	676.617	'ANCHOR #2	
2121	13431529	1486337	676.748	'ANCHOR #1	
2122	13431549	1486344	676.498	'ANCHOR #2	
2123	13431553	1486344	676.761	'ANCHOR #1	
2124	13431577	1486347	676.844	'ANCHOR #1	
2125	13431583	1486350	676.776	'ANCHOR #2	
2126	13431602	1486349	676.716	'ANCHOR #1	
2127	13431628	1486351	676.407	'ANCHOR #1	
2128	13431654	1486352	676.844	'ANCHOR #1	
2129	13431679	1486348	676.958	'ANCHOR #1	
2130	13431704	1486342	676.943	'ANCHOR #1	
2131	13431676	1486331	676.548	'ANCHOR #1	
2132	13431651	1486335	676.488	'ANCHOR #1	
2133	13431653	1486380	676.579	TG	
2134	13431617	1486395	676.518	TG	
2135	13431474	1486439	676.028	TG	
2136	13431331	1486478	675.989	TG	

2137	13431184	1486517	675.829	TG	
2138	13431042	1486555	675.321	TG	
2139	13430898	1486604	672.71	TG	
2242	13430755	1486640	672.015	TG	
2140	13431607	1486466	675.285	TG	
2141	13431493	1486516	674.947	TG	
2142	13431345	1486551	672.642	TG	
2143	13431189	1486588	672.456	TG	
2144	13431601	1486303	676.238	ANCHOR #1	
2145	13431576	1486309	676.211	ANCHOR #1	
2146	13431518	1486312	675.96	ANCHOR #1	
2147	13431494	1486317	676.113	ANCHOR #1	
2148	13431446	1486329	676.408	ANCHOR #1	
2149	13431422	1486335	676.277	ANCHOR #1	
2150	13431369	1486340	676.395	ANCHOR #1	
2151	13431345	1486348	676.338	ANCHOR #1	
2152	13431289	1486357	676.527	ANCHOR #1	
2153	13431265	1486365	676.259	ANCHOR #1	
2154	13431217	1486386	676.43	ANCHOR #1	
2155	13431193	1486395	676.608	ANCHOR #1	
2156	13431141	1486411	676.252	ANCHOR #1	
2157	13431116	1486419	676.312	ANCHOR #1	
2158	13431065	1486435	676.05	ANCHOR #1	
2159	13431041	1486444	676.098	ANCHOR #1	
2160	13430991	1486462	675.874	ANCHOR #1	
2161	13430966	1486471	675.547	ANCHOR #1	
2162	13430913	1486488	675.485	ANCHOR #1	
2163	13430889	1486497	675.444	ANCHOR #1	
2164	13430836	1486514	675.449	ANCHOR #1	
2165	13430811	1486521	675.219	ANCHOR #1	
2166	13430762	1486539	675.203	ANCHOR #1	
2167	13430738	1486547	675.1	ANCHOR #1	
2168	13430725	1486556	675.127	ANCHOR #1	
2169	13430700	1486563	675.279	ANCHOR #1	

2170	13431474	1486555	689.773	2000	CHK IN
2171	13431703	1486452	675.578	RB	
2172	13431608	1486473	675.805	RB	
2173	13431510	1486507	675.55	RB	
2174	13431417	1486549	673.607	RB	
2175	13431416	1486543	672.448	NG	
2176	13431323	1486571	672.197	RB	
2177	13431224	1486594	672.305	RB	
2178	13431132	1486631	673.32	RB	
2179	13431036	1486660	673.848	RB	
2180	13430945	1486693	674.412	RB	
2181	13430846	1486725	674.477	RB	
2182	13430751	1486753	674.06	RB	
2183	13430659	1486796	674.872	RB	
2184	13430564	1486827	674.78	RB	
2185	13430532	1486732	672.671	NG	
2186	13430627	1486701	673.436	NG	
2187	13430722	1486669	672.394	NG	
2188	13430817	1486639	672.204	NG	
2189	13430912	1486608	672.785	NG	
2190	13431007	1486576	674.172	NG	
2191	13431197	1486513	675.741	NG	
2192	13431292	1486482	675.748	NG	
2193	13431387	1486451	675.667	NG	
2194	13431482	1486419	675.927	NG	
2195	13431577	1486389	675.896	Line0042	
2196	13431672	1486358	675.456	NG	
2197	13431681	1486376	677.537	NG ISLAND	
2198	13431689	1486382	678.088	NG ISLAND	
2199	13431703	1486387	678.354	NG ISLAND	
2200	13431717	1486384	678.943	NG ISLAND	
2201	13431726	1486385	679.105	NG ISLAND	
2202	13431729	1486391	679.319	NG ISLAND	
2203	13431729	1486401	678.782	NG ISLAND	

2204	13431710	1486403	679.174	NG ISLAND	
2205	13431680	1486410	678.36	NG ISLAND	
2206	13431654	1486416	678.43	NG ISLAND	
2207	13431634	1486421	677.714	NG ISLAND	
2208	13431613	1486426	677.035	NG ISLAND	
2209	13431605	1486427	677.139	NG ISLAND	
2210	13431612	1486409	677.069	NG ISLAND	
2211	13431637	1486407	677.657	NG ISLAND	
2212	13431656	1486400	678.216	NG ISLAND	
2213	13431670	1486384	678.333	NG ISLAND	
2214	13431609	1486168	673.989	NG	
2215	13431514	1486199	674.692	NG	
2216	13431419	1486230	674.865	NG	
2217	13431325	1486261	674.808	NG	
2218	13431230	1486292	674.495	NG	
2219	13431135	1486324	673.984	NG	
2220	13431039	1486355	673.7	NG	
2221	13430945	1486386	673.749	NG	
2222	13430849	1486417	674.135	NG	
2223	13430754	1486448	674.05	NG	
2224	13430660	1486479	674.344	NG	
2225	13430565	1486511	674.898	NG	
2226	13430470	1486542	674.346	NG	
2227	13430501	1486637	673.521	NG	
2228	13430596	1486607	673.045	NG	
2229	13430461	1486516	675.243	RB	
2230	13430550	1486493	675.176	RB	
2231	13430654	1486461	674.079	RB	
2232	13430747	1486426	674.992	RB	
2233	13430838	1486382	675.344	RB	
2234	13430939	1486344	674.603	RB	
2235	13431026	1486313	674.481	RB	
2236	13431118	1486278	674.263	RB	
2237	13431205	1486245	675.427	RB	

2238	13431306	1486205	675.018	RB	
2239	13431410	1486160	675.944	RB	
2240	13431498	1486133	675.758	RB	
2241	13431582	1486103	675.031	RB	

Exhibit B to the Supplemental Declaration of Jennifer T. Pena



Eagle Pass / Piedras Negras Reference IBWC International Boundary Maps - 2008 - Ortho 154

