

CALIFORNIA COASTAL COMMISSION

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY
455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105-2421
VOICE (415) 904-5200

**MEMORANDUM**

FROM: Alexis Barrera, Environmental Scientist
Camila Pauda, California Sea Grant Fellow

TO: Kate Huckelbridge, Executive Director

SUBJECT: Tijuana River Pollution Crisis in San Diego County

DATE: September 29, 2023

Issue:

International transboundary flows of sewage and wastewater from Mexico into Southern California are negatively impacting water quality, public access to beaches, public health, critical estuarine and marine habitat, agriculture, the local economy, border security personnel and U.S. military activities.

Background:

Since the 1930's, untreated wastewater from Tijuana, Mexico has flowed through the Tijuana River northward to the Tijuana Estuary in southern San Diego County, where it is then discharged off San Diego County's coast into the Pacific Ocean. Sewage and wastewater are also discharged into the ocean through the San Antonio de los Buenos Creek in Tijuana, Mexico which then flows northward through the ocean to southern San Diego County beaches. The current wastewater treatment infrastructure on both sides of the border is deteriorating and cannot adequately collect and treat the roughly 35 to 70 billion gallons per year of sewage and wastewater originating from Tijuana before it is released into the marine environment.

In January 2020, Congress passed the United States-Mexico-Canada Agreement (USMCA) Implementation Act, which appropriated \$300 million to the U.S.

Environmental Protection Agency (EPA) to help address the issue through architectural, engineering, planning, design, construction, and related activities in connection with the construction of high-priority wastewater facilities in the U.S.-Mexico border area. In addition, Mexico committed to fund and implement wastewater collection and treatment projects in Tijuana, both through the USMCA and International Boundary and Water

Commission (IBWC) Treaty Minute 328.¹ The California legislature also allocated \$35 million for border water quality improvement projects in the 2021 and 2022 Budget Acts. In November 2022, EPA and the U.S. Section of the IBWC released a Final Programmatic Environmental Impact Statement (PEIS) describing the high-priority wastewater collection and treatment facilities needed in the border area. The record of decision for this PEIS was signed in June 2023. This list of projects represents the most comprehensive plan established to date to help resolve the ongoing pollution crisis. The projects have been divided into “Core” and “Supplemental” projects, as shown in the table below. EPA and IBWC have concluded that implementation of the full list of projects is “the comprehensive solution” that “would nearly eliminate dry season beach impacts in southern San Diego County resulting from exposure to norovirus pathogens in untreated wastewater discharges.”² In May 2023, the Coastal Commission (Commission) provided unanimous support and concurrence with EPA and IBWC’s determination that the proposed Core Projects are consistent with the California Coastal Management Program (Consistency Determination No. CD-0009-22). The Commission also emphasized the need for immediate implementation of the projects that could be accomplished with the \$300 million in USMCA funding provided to EPA in 2020, requested quarterly progress reports and called on EPA and IBWC to expedite efforts to secure the additional funding needed for the remaining projects.

Those requests align with calls made by local and state political leadership that have identified this problem as an environmental and public health crisis needing significant and immediate federal attention and resources, including Governor Gavin Newsom, Lieutenant Governor Eleni Kounalakis, Senate President pro Tempore Toni Atkins, U.S. Senators Alex Padilla and Diane Feinstein, California Secretary of Natural Resources Wade Crowfoot, California Secretary of Environmental Protection Yana Garcia, the Congressional and State San Diego delegations and local elected officials including San Diego Mayor Todd Gloria, the San Diego Board of Supervisors Chair Nora Vargas, the Mayor of Imperial Beach and Mayors across South San Diego County and numerous additional local government leaders from throughout coastal California. **Appendix A** provides representative examples of letters to the President of the United State and federal agency officials that have been recently sent to describe and seek assistance to helping to resolve this federal and international issue.

¹ IBWC Treaty Minute No. 328 “Sanitation Infrastructure Projects in San Diego, California – Tijuana, Baja California for Immediate Implementation and for Future Development” [Min328.pdf \(ibwc.gov\)](#)

² [Final Programmatic Environmental Impact Statement for USMCA Mitigation of Contaminated Transboundary Flows Project \(epa.gov\)](#)

List of projects identified by EPA and IBWC as necessary to significantly reduce sewage and pollution discharge to the Pacific Ocean (“USMCA Projects”):
[Final Programmatic Environmental Impact Statement for USMCA Mitigation of Contaminated Transboundary Flows Project \(epa.gov\)](#)

Table 2-1. Projects Constituting Alternatives 1 and 2

Alternative		Project Title	Project Location
Alternative 1: Core Projects	Alternative 2: Core + Supplemental Projects	A. Expanded ITP Option A1: Expand to 40 MGD Option A2: Expand to 50 MGD Option A3: Expand to 60 MGD	U.S. only
		B. Tijuana Canyon Flows to ITP Option B1: Trenching via Smuggler's Gulch and Monument Rd Option B2: Trenchless Installation via Smuggler's Gulch and Under Mesa Option B3: Connect to Existing Canyon Collector System	U.S. and Mexico
		C. Tijuana Sewer Repairs	Mexico only
		D. APTP Phase 1	U.S. and Mexico
		E. APTP Phase 2	U.S. only
		F. U.S.-side River Diversion to APTP	U.S. only
		G. New SABTP	Mexico only
		H. Tijuana WWTP Treated Effluent Reuse	Mexico only
		I. ITP Treated Effluent Reuse	U.S. and Mexico
		J. Trash Boom(s)	U.S. only

*ITP – South Bay International Wastewater Treatment Plant; APTP – Advanced Primary Treatment Plant; SABT – San Antonio de los Buenos Treatment Plant; WWTP – Wastewater Treatment Plant

Evolving Cost Estimates for USMCA Projects:

\$300 million (2019, estimate in U.S.-Mexico-Canada Agreement (USMCA) Supplemental Appropriations Act: [Tijuana River Watershed Provisions in United States-Mexico-Canada Agreement \(USMCA\) | US EPA](#))

\$630 million (2021, revised EPA estimate: [EPA outlines \\$630M vision for curbing Tijuana sewage pollution in San Diego - The San Diego Union-Tribune \(sandiegouniontribune.com\)](#))

\$801 million (July 2022, estimate from US-Mexico agreement, Minute 328: [Statement of Intent and Minute 328 \(epa.gov\)](#))

\$900 million (September 2023, IBWC Commissioner Dr. Maria-Elena Giner estimate to San Diego Regional Water Board: https://cal-span.org/meeting/rwqcb-sd_20230913/ timestamp: 1:09:15.)

Evolving Costs of Repairs to South Bay International Wastewater Treatment Plant:

No Need for Repairs Identified (May 2023, EPA/IBWC Consistency Determination; Programmatic Environmental Impact Report, EPA/IBWC, November 2022: [Final Programmatic Environmental Impact Statement for USMCA Mitigation of Contaminated Transboundary Flows Project \(epa.gov\)](#))

\$150 million (June 2023, San Diego Union Tribune: [San Diego's efforts to plug Tijuana sewage take a \\$150M hit - The San Diego Union-Tribune \(sandiegouniontribune.com\)](#))

\$190 million (September 2023, \$150M + \$8M (Tropical Storm Hilary Repairs) + \$32M (Storm Rehabilitation/Preparedness): IBWC Commissioner Dr. Maria-Elena Giner estimate to San Diego Regional Water Board, September 2023: https://cal-span.org/meeting/rwqcb-sd_20230913/ timestamp: 1:07:25)

Estimated Timeline of USMCA and Treaty Minute 328 Projects and Repairs to South Bay International Wastewater Treatment Plant (ITP):

USMCA and Treaty Minute 328 Projects (Oct. 3, 2023, email from EPA re “Update on wastewater infrastructure projects - Tijuana River watershed”):

- Record of Decision signed on Programmatic Environmental Impact Statement – June 9, 2023
- Mexico has completed the rehabilitation of the Oriente Collector, completed 20% of construction of the new International Collector, and will complete by December 2023 installation of both the pressurized lines carrying wastewater and river water to the coast
- Mexico will also soon begin repairs of Pump Station 1
- Mexico plans to issue a solicitation for bids on the design and construction of a new 18 million gallons per day (mgd) plant at San Antonio De Los Buenos in late 2023. Mexico expects to complete construction in 2025
- Mexico will construct 18 mgd San Antonio de los Buenos treatment plant with secondary treatment (oxidation ditch process) and new 656-foot ocean outfall by 2027
- Mexico Install 23,400-foot pipeline and two new pump stations to convey effluent from Arturo Herrera and La Morita wastewater treatment plants to Rodriguez Dam impoundment by 2027

- Phased approach for the expansion of ITP to a 50 mgd plant with a peak capacity of 75 mgd (allowing the plant to treat peaks in the volume of water entering the plant). Anaerobic digestion is not included. Although the estimated cost for this project exceeds available USMCA funding by \$310 million +/- 30%, EPA and USIBWC will proceed with a phased construction approach commensurate with available funding. Senators Alex Padilla and Dianne Feinstein [called upon Senate leadership](#) to include \$310 million in the upcoming emergency supplemental bill to allow complete up-front funding for the expansion of the plant, which would allow faster completion of construction. However, these additional funds are not secured at this time.
- IBWC will issue a pre-solicitation notice in mid-October and will solicit bids for this phased project in late fall 2023. Once selected, the design and construction contractors will develop an updated project schedule.

ITP Repairs: Junction Box 1 replacement, primary sedimentation tank cleaning and rehabilitation, and influent pumps rehabilitation; approximately 9-12 months (June-September 2024); IBWC Commissioner Dr. Maria-Elena Giner estimate to San Diego Regional Water Board, September 2023: https://cal-span.org/meeting/rwqcb-sd_20230913/

Adverse Impacts to Coastal Resources

Water Quality: Large amounts of untreated wastewater, sewage, trash, and other pollutants flow through the Tijuana River watershed and negatively impact water quality.

- The Tijuana River is listed as an impaired water body under Section 303 of the Clean Water Act.²
- An average of approximately 10 million gallons per day (MGD) (equivalent to 8,340 gallons per minute) of wastewater escapes the Tijuana metropolitan area wastewater collection system and flows into the Tijuana River, primarily because of sewer system deterioration and pump station mechanical failures (based on 2016–2019 data).³
- During large rain events, the flow rate in the Tijuana River can reach several billion gallons per day (equivalent to 2,083,333 gallons per minute). Following Tropical Storm Hilary, 2.3 billion gallons of untreated wastewater flowed through the Tijuana River, approximately 90% of which was rainwater.¹
- Approximately 35.5 MGD of mixed Tijuana River water and wastewater is discharged to the Pacific Ocean via San Antonio de los Buenos Creek. Approximately 28.2 MGD of that discharge is untreated wastewater.²
- A 2019 study by the International Boundary and Water Commission (IBWC) determined that an average of 1,590 tons per year of BOD₅ (used to measure the quantity of biodegradable organic matter contained in water) enter into the U.S. from the Tijuana River.²
- In late August 2023, 20,000 gallons of sewage spilled onto the street as a result of a failure at the Hollister Street pump station in Imperial Beach.⁴

³ Final Programmatic EIS: USMCA Mitigation of Contaminated Transboundary Flows Project

⁴ [Pump Failure Pushes 20,000 Gallons of Tijuana River Valley Sewage into South Bay Streets - Coronado Times](#)



Thousands of gallons of sewage spilled onto Hollister St. after a sump pump failure on August 28. (The Coronado Times)

Public Access: High levels of bacteria at beaches in southern San Diego County have resulted in widespread and continuous periods of extended beach closures.

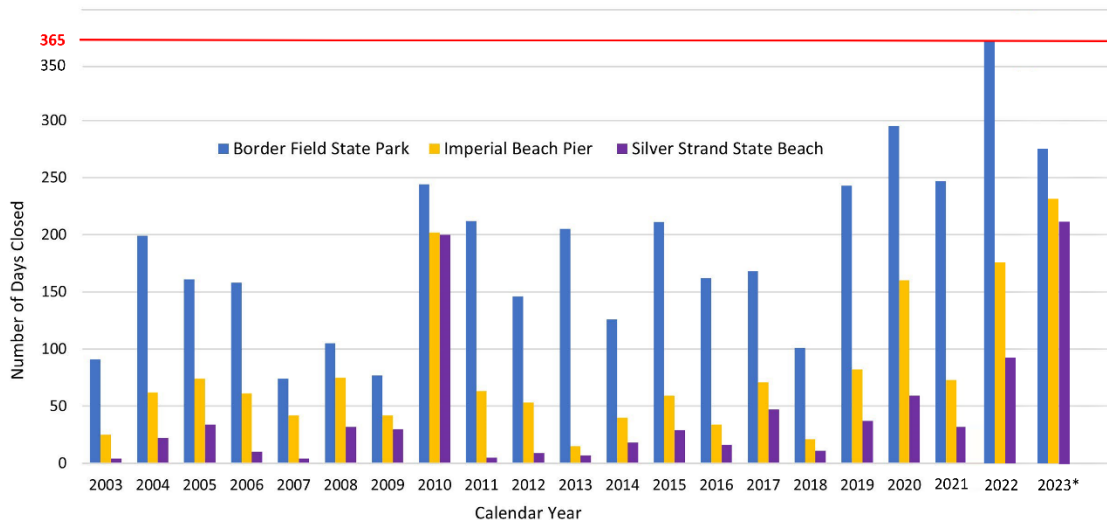
- 100% of beach closures at Imperial Beach Pier, Silver Strand State Beach, and Border Field State Park in 2023 have been due to sewage or high levels of bacteria in the water.⁵
- Imperial Beach Pier, Silver Strand State Beach, and Border Field State Park are all currently closed due to contaminated transboundary flows.
- South San Diego Bay communities have faced 655 consecutive days of beach closures along Border Field State Park, as of September 26, 2023.⁶
- Border Field State Park has experienced an increase of closures in recent years, which include 101 days in 2018; 243 days in 2019; 295 days in 2020, 246 days in 2021, and 365 days in 2022.⁷

⁵ [Beach Monitoring Data - State Water Resources Control Board](#)

⁶ [Mayors of San Diego County State of Emergency Request Letter, September 14, 2023](#)

⁷ [City Council Resolution No. 2023-32 – City of Imperial Beach](#)

- In May 2022, San Diego County adopted a new water quality monitoring method for measuring bacteria levels at beaches which led to an increase of beach closures and warning days in southern San Diego County.



Annual Beach Closures in Southern San Diego County (2003-2023). *Data is through September 27, 2023. All beaches are currently closed. (City of Imperial Beach and State Water Resources Control Board)

Biological Resources: Untreated sewage in the Tijuana River adversely affects the unique and sensitive areas in South San Diego County including the Tijuana River National Estuarine Research Reserve (TRNERR), the Tijuana River Mouth State Marine Conservation Area, and the Tijuana River Estuary Critical Coastal Area. These areas support federal and state listed endangered species such as the California least tern and Western snowy plover.⁸

- The TRNERR is Southern California’s largest coastal wetland and is listed as a United Nations Ramsar Wetland of International Importance.
- Untreated sewage and floodwaters could introduce high nutrient loads, most notably nitrogen and phosphorus.⁹ Increased nutrient loading may alter the health and abundance of plants and may contribute to anoxic conditions (low dissolved oxygen levels) which are dangerous for fish.^{10,11}
- Other issues like excessive sediment and trash can smother and damage the estuary, preventing the estuary from naturally alleviating pollution impact.
- The sewage may also adversely affect the marine environment. Exposure to the discharge effluent and associated environmental effects have the potential to degrade the Tijuana River Mouth State Marine Conservation Area and reduce

⁸ CD-137-96

⁹ *ibid.*

¹⁰ *ibid.*

¹¹ http://levin.ucsd.edu/publications/2010update/Moseman_Valtierri%20et%20al.%202010%20Ecol%20Appl..pdf

the fitness and survival of Endangered Species Act-listed marine mammals and sea turtles.

- Excess nutrients and heavy metals from the sewage may change community composition of benthic environments.
- Benthic organisms may absorb these heavy metals, therefore introducing the contaminants to the food web. In turn, the heavy metals may bioaccumulate in other organisms, such as fish and move up the food chain to marine mammals and seabirds.
- All of these factors together result in a significant and potentially long-lasting contamination burden for coastal resources including the land, plants, animals, and waters.

Agricultural: Tijuana River Valley has a long agricultural history dating back to the 19th century. Agriculture has been in decline for many years due to disturbances to the natural ecosystem including salt intrusion into the water table, illegal dumping, off-road vehicle riding, and water pollution primarily from locations upstream in Mexico.¹²

- Today, the agricultural fields, equestrian facilities, ranches, and smaller, community-oriented gardens and farms meant to create a resilient local food system have the potential to be negatively affected by the continuous presence of sewage, wastewater pollution and sedimentation.¹³
- Although surface runoff and groundwater supplies are insufficient to support the agricultural sector and additional demand is met with imported water, the surface water quality of Tijuana River is highly variable.
- Surface water quality has been affected by occasional large volumes of untreated wastewater flow into the Tijuana River, posing risks to the environment.¹⁴

¹² https://sdcwa.org/sites/default/files/files/environmental-docs/tijuana-river-mitigation/Section3_0_EnvironmentalAnalysis.pdf

¹³ Tijuana River Valley Community Garden, Wild Willow Farms, Pixca

¹⁴ https://sdcwa.org/sites/default/files/files/environmental-docs/tijuana-river-mitigation/Section3_0_EnvironmentalAnalysis.pdf



Sewage flows through canal from Mexico near San Ysidro, March 28, 2019. (KPBS/ Matt Hoffman)

Environmental Justice

Imperial Beach is a working-class community that is located next to the U.S.-Mexican border and is majority Latino. Similarly, the surrounding neighborhoods that are also part of South San Diego County, such as National City, San Ysidro, and Chula Vista, have similar characteristics. These communities have high levels of low-income residents and are also highly isolated linguistically— meaning English proficiency may be lacking within households. These characteristics, coupled with the ongoing untreated wastewater and other pollution fouling the beaches and communities in this region, create a pressing environmental justice concern.

- According to CalEnviroScreen, the average poverty percentile¹⁵ value, the average percent Latino, and the average linguistic isolation percentile¹⁶ value of the communities of Imperial Beach, National City, San Ysidro, and Chula Vista are near or above 50%.
- South San Diego County beaches and communities have been fouled by sewage and pollution from the Tijuana River since the 1930s.
- The health of residents and visitors is at risk to air- and water-borne pathogens from the wastewater.

¹⁵ Meaning the percent of people living below twice the poverty level is higher than a percentage (e.g. 50%) of the census tracts in California; from [CalEnviroScreen 4.0 Data Dashboard](#)

¹⁶ The linguistic isolation indicator measures the percentage of households in the census tract where no one over fourteen speaks English well; from CalEnviroScreen 4.0 Data Dashboard

- Coronado is largely dependent on coastal tourism to support hotel and hospitality jobs. With local beaches being closed, the jobs of service workers, many who also live in Imperial Beach, may be at risk.
- Regarding ocean pollution and fishing on the Coronado beach, some residents have stated they wouldn't eat anything caught there and are careful not to wade out too far into the water.¹⁷
- Closed, polluted beaches represent another barrier to coastal access as local inland beach goers must travel even longer to find clean, open beaches to visit. The beaches of Imperial Beach and Coronado are the closest beaches to these South San Diego County neighborhoods. During August 9, 2023, public comments to the Coastal Commission, a National City resident stated that it takes two hours on the bus to travel from National City to Imperial Beach. A resident of La Mesa, an inland neighborhood, also stated that travel time is 2 hours to reach Imperial Beach.



Smugglers Canyon, August 20, 2023 (IBWC)

¹⁷ <https://www.sandiegouniontribune.com/news/environment/story/2023-05-26/coronado-beaches-closed-tijuana-sewage-memorial-day>

Other Adverse Impacts

Public Health: Contaminated flows of untreated wastewater and sewage pose a substantial health risk to residents and recreational users at beaches in southern San Diego County.

- Human health concerns arise from the flow of untreated sewage and the accumulation of trash introducing toxic substances, encouraging the spread of disease vectors from ponded water, and contributing to odor issues.
- Researchers from Scripps Institution of Oceanography at University of California, San Diego, developed a model estimating up to 4.5% of all swimmers at Imperial Beach would fall ill due to contaminated flows from the San Antonio de los Buenos Creek discharge. That percentage is likely to increase as contaminated flows continue.¹⁸



Closed beach warning sign in San Diego County (NBC San Diego)

Economy: Local business owners have stated that the local economy and tourism are negatively impacted by the pollution and beach closures. Public comments provided at the August 9, 2023, Coastal Commission meeting include:

- A local business owner stated that their business has seen a decrease in business of 40% - 50% per day because fewer people are visiting the beach.
- A union representative in that same meeting also stated that hotel and hospitality workers of Imperial Beach are also negatively impacted due to the pollution and beach closures.

¹⁸ [Feddersen et al 2021 AGU GeoHealth Revised.pdf \(ucsd.edu\)](#)

- Representatives of youth-serving nonprofits YMCA Camp Surf and Outdoor Outreach also stated that their organizations have been greatly impacted. YMCA Camp Surf has lost up to 40% of business and Outdoor Outreach had to cancel 60 outings last year due to beach closures and ocean pollution.



Imperial Beach, February 2023 (Nelvin C. Cepeda / The San Diego Union-Tribune)

Border Security Personnel/U.S. Military: Poor coastal water quality from transboundary pollution flows in the Tijuana River, its canyon tributaries and the ocean have the potential to negatively affect U.S. Customs and Border Protection (CBP) personnel and U.S. Navy trainings, activities, and staff.

- In-water Navy trainings and activities have been relocated, rescheduled, and cancelled due to poor coastal water quality.¹⁹
- In addition, the health of CBP agents and U.S. Coast Guardsmen appears to be affected. Local news articles as well as Surfrider San Diego have reported agents avoiding bringing their boots and gear home and falling ill due to viruses and bacteria like the Hepatitis A virus and Methicillin-resistant *Staphylococcus aureus* bacteria (MRSA).^{20,21}

¹⁹ Navy Region Southwest. (2022). U.S. House of Representatives Armed Services Committee: Tijuana River Sewage Impacts on Training/Training Ranges.

²⁰ <https://www.surfrider.org/news/the-impact-of-toxic-border-pollution-on-us-border-patrol>

²¹ <https://thecoronadonews.com/2023/03/promises-promises-tijuana-sewage-crisis-sickens-tens-of-thousands/>

- Members of the public, including local doctors, have stated in public comments in Coastal Commission meetings that local military and CBP personnel have skin and lung infections, which colloquially is referred to as the “IB Rash.”



Coronado Beach, May 2023 (Nelvin C. Cepeda/The San Diego Union-Tribune)

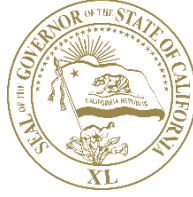
Information Urgently Needed:

1. Funding:
 - a. What is the current cost and timeline for ITP repairs? What is the current cost and timeline to implement USMCA projects?
 - b. What is the current cost and timeline for the San Antonio de los Buenos Treatment Plant repairs in Mexico? What is the current cost and timeline for building the new Tijuana River diversion system?
 - c. What options are available to facilitate and expedite comprehensive funding for the USMCA projects?
2. Public Health:
 - a. Expanding on studies by researchers at Scripps Institution of Oceanography and UC San Diego, what are the comprehensive impacts on public health from transboundary flows?
 - b. What resources do the surrounding communities need to address associated health impacts from the water and air pollution?
3. Biological Impacts (long-term monitoring, adaptive management):

- a. TRNERR, California Water Boards, County of San Diego and other agencies and non-governmental organizations are monitoring water quality. What else needs to be monitored and are there data gaps?
 - b. Does management of the surrounding environment (e.g. the Tijuana River Estuary) need to adapt?
4. Public access:
- a. What alternative recreational activities can residents access, given continued closures of local beaches?
 - b. What can be done in the immediate term to improve ocean water quality and reduce beach closures?

APPENDIX A

Letters from State Leadership and Congressional Representatives



OFFICE OF THE GOVERNOR

August 9, 2023

The Honorable President Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington DC, 20500

Dear President Biden,

I write to request your urgent assistance to secure federal funding in a supplemental appropriations measure and the Administration's FY 2025 budget to repair the South Bay International Treatment Plant (ITP) in San Diego, California, which is owned and administered by the U.S. Section of the International Boundary and Water Commission (IBWC). As a result of needed upgrades and repairs to the ITP, untreated wastewater is polluting the beaches of Southern California, resulting in months of beach closures and an ongoing environmental and public health crisis. We need our federal partners to address this federal responsibility.

The ITP is in very poor condition and in non-compliance with its Clean Water Act discharge permit, impacting the United States Environmental Protection Agency and IBWC's ability to fulfill their commitments under the U.S.-Mexico-Canada Agreement Implementation Act. The ITP also requires upgrades to expand its capacity to treat increased amounts of wastewater. I urge you to build federal funding into a supplemental appropriations bill and your FY 2025 budget to address the much needed repairs and plant expansion. Without this funding, sewage will continue to flow untreated, contaminating the beaches of Southern California.

Over the last year, Southern California communities have experienced unprecedented beach closures. Imperial Beach was closed 249 days last year due to untreated sewage in the water, and has been closed for much of this year. Silver Strand has been closed for 122 days, and closures have extended north to Coronado, where beaches have been closed due to sewage for 51 days this year. Transboundary pollution is not a new issue, but the heavy rains California experienced earlier this year strained the ITP's already aging infrastructure. Southern California communities urgently need federal action to address this environmental and public health crisis; they cannot afford further delays in funding and implementation.

In 2020, Congress appropriated \$300 million to the U.S. Environmental Protection Agency (EPA) through the U.S.-México-Canada Agreement implementing legislation to expand the ITP's treatment capacity and other infrastructure projects. I ask that you direct EPA and IBWC to utilize this existing funding immediately to complete the repairs and deferred maintenance that are necessary to proceed with the plant's expansion. In addition, I ask that you dedicate funding in a supplemental appropriations bill and your FY 2025 budget to complete construction of the expansion of the ITP so that it has the capacity to treat all wastewater before it enters the Tijuana River. This funding is critically important to stop the ongoing harmful discharges into the marine environment that are impacting ecosystems, species, and public health in coastal communities across San Diego County.

Thank you for your consideration of this request to secure the needed funding to address this acute problem affecting Californians.

Sincerely,



Gavin Newsom
Governor of California

Congress of the United States

Washington, DC 20515

October 6, 2023

The Honorable Brian A. Nicholas
Assistant Secretary of State for Western Hemisphere Affairs
U.S. Department of State
Bureau of Western Hemisphere Affairs
Washington, D.C. 20520

Dear Assistant Secretary Nicholas:

We write today to better understand how the South Bay International Wastewater Treatment Plant (SBIWTP) deteriorated to its current dilapidated state.

This critical facility, managed by the U.S. International Boundary and Water Commission (USIBWC), treats sewage originating from Baja California, Mexico that discharges to the Pacific Ocean and flows upwards onto San Diego's shores. This contaminated water contains raw sewage, industrial waste, trash, and even toxic chemicals. Over the last 20 years, the population of Baja California has grown by more than 1 million people, yet the capacity at the plant has not increased since it was first constructed in 1997.

The San Diego Congressional delegation secured \$300 million within the United States-Mexico-Canada Agreement to fund projects to address transboundary pollution in the Tijuana River Valley, including the doubling of capacity at SBIWTP from 25 million gallons per day (mgd) to 50 mgd. We've also secured additional funding through increased appropriations to the Border Water Infrastructure Program. Additionally, the Government of Mexico has [contributed over \\$50 million](#) towards the construction, operation, and annual maintenance of the treatment plant. However, [in June](#), our offices learned that the treatment plant is in such dire shape that significantly more funding is needed to rehabilitate the plant before the USIBWC can expand it. There are concerns, that without additional funding, these new costs jeopardize the United States' ability to fulfill its [Minute 328 treaty](#) obligations.

In Assistant Secretary Durakoglu's [letter](#) to Rep. Peters dated September 3, 2023, the State Department highlighted the deferred fundamental repairs and excess wastewater flows from Mexico beyond the plant's capacity as the "main reasons the plant is in poor condition today." However, it remains unclear how the plant fell behind on maintenance since it was previously expanded in 2002.

A response to the questions below will help us better understand how the deterioration of a facility crucial to the public health of the people of our region happened:

- Who was responsible for ensuring its maintenance?
- When did USIBWC become aware of the deteriorated condition of the plant? Were these conditions reported to the State Department and/or the Office of Management and Budget?
- Is a contractor partially responsible for the plant deterioration?

- If the answer to the previous question is yes, is there currently a claim against the responsible contractor?
- What steps is the State Department taking to more quickly pursue the repair, rehabilitation and expansion of the plant as described during IBWC's [presentation](#) to the California Regional Water Quality Control Board on September 13, 2023? And what measures are being taken to ensure the plant does not reach such a deteriorated state in the future?
- As outlined in Minute 328, Mexico will bear the cost of flow treated at SBIWTP in excess of the volume of 25 mgd (1,100 lps). Please provide details on the number of violations, fines due, and payment timelines.
- As outlined in Minute 328, Mexico shall pay a share of operation and maintenance of projects. Please provide the compliance status of this provision.

We appreciate your responses and look forward to working together to rehabilitate and expand SBIWTP.

Sincerely,



Scott H. Peters
Member of Congress



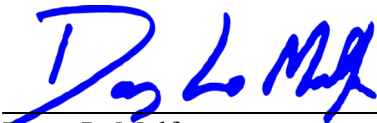
Darrell Issa
Member of Congress



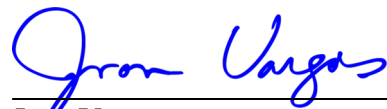
Ken Calvert
Member of Congress



Mike Levin
Member of Congress



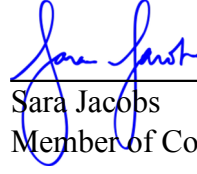
Doug LaMalfa
Member of Congress



Juan Vargas
Member of Congress



David G. Valadao
Member of Congress



Sara Jacobs
Member of Congress



June 30, 2023

Senator Alex Padilla
United States Senate
112 Hart Senate Office Building
Washington DC, 20510

Senator Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington DC, 20510

Congressman Scott Peters
U.S. House of Representatives
1201 Longworth, House Office Building
Washington DC, 20515

Congresswoman Sara Jacobs
U.S. House of Representatives
1314 Longworth, House Office Building
Washington DC, 20515

Congressman Juan Vargas
U.S. House of Representatives
2334 Rayburn, House Office Building
Washington DC, 20515

RE: Request for Additional Resources to Address Tijuana River Sewage Flows

As California's Secretaries for Environmental Protection and Natural Resources and as Chairs of the California California-México Border Relations Council and the California Ocean Protection Council, we request your support in fulfilling federal commitments to the San Diego-Tijuana region under the U.S.-México-Canada Agreement (USMCA) as it relates to the South Bay International Treatment Plant (ITP) in San Diego, managed by the International Boundary and Water Commission (IBWC)¹. On June 19, 2023, CalEPA made a similar request to Secretary of State Antony J. Blinken and U.S. Environmental Protection Agency (US EPA) Administrator Michael Regan.

The ITP is in non-compliance with its Clean Water Act (33 U.S.C. § 1251 et seq.) discharge permit², resulting in impaired water quality discharges into the marine environment and impacting the US EPA and IBWC's ability to fulfill their commitments under the USMCA Implementation Act.³

Currently, all southern San Diego beaches, up to and including Coronado, are closed due to the human health and environmental risks posed by sewage flows from the

¹ U.S. Env'tl. Protection Agency, U.S. Int'l Boundary & Water Comm'n, Joint Record of Decision for the Final Programmatic Environmental Impact Statement for United States-Mexico-Canada Agreement (June 6, 2023), <https://www.epa.gov/system/files/documents/2023-06/usmca-eis-record-decision.pdf>.

² State Water Resources Control Bd., Tijuana River Valley TMDLs for Indicator Bacteria and Trash (June 22, 2023) https://www.waterboards.ca.gov/sandiego/water_issues/programs/tmdl/tijuanarivervalley.html.

³ 19 USC § 4501 (2020)

Tijuana River. This escalation resulted in the County of San Diego Board of Supervisors declaring a state of emergency on June 27, 2023.⁴

To fulfill federal commitments made to address cross boundary pollution and because we cannot afford to delay vital infrastructure, we ask that you include funding for the rehabilitation of the ITP in Fiscal Year 2024 appropriations bills.

The IBWC has requested additional resources to address these challenges and to repair essential ITP components necessary to comply with its Clean Water Act obligations and to begin the expansion work under the USMCA Implementation Act. Without the repair of these essential ITP components, U.S. EPA and IBWC cannot proceed with the ITP expansion.

Background

In 2020, Congress appropriated \$300 million through the USMCA directing U.S. EPA to plan, design, and construct infrastructure to address the decades-old problem of transboundary pollution in the San Diego-Tijuana region; including flows contaminated with sewage, trash, and sediment.

Subsequently, in 2021, U.S. EPA developed a comprehensive infrastructure solution in coordination with IBWC and the USMCA Eligible Public Entities. This solution combines several projects that together will reduce sewage and wastewater in the Tijuana River. In July 2022, the U.S. and México signed Minute 328 and a bilateral Statement of Intent to launch a series of short- and long-term projects – the highest priority U.S. project is the expansion of the ITP from its current capacity of 25mgd to 50mgd.⁵

The communities in the San Diego-Tijuana region have long awaited major infrastructure investments to improve the impaired flows impacting human health and their coastal wetlands.

Deferred Maintenance

In 2022, the IBWC conducted an evaluation of the ITP to identify rehabilitation needs in preparation for its expansion under the USMCA. The evaluation identified total rehabilitation needs ranging from \$116-\$245 million with the cost to rehabilitate essential components required before proceeding with expansion ranging from \$70-\$140 million.

During the recent May 4, 2023, meeting of the USMCA Eligible Public Entities stakeholder group, the IBWC explained that the significant rehabilitation needs are due to deferred maintenance given its limited operations and maintenance budget.

⁴ Cnty. of San Diego, *Proclamation of a Location Emergency for U.S.-Mexico Transboundary pollution environmental crisis and Request for Federal State of Emergency* (June 27, 2023), <https://bosagenda.sandiegocounty.gov/cobservice/cosd/cob/content?id=0901127e80fe305d>

⁵Minute No. 328, Sanitation Infrastructure Projects in San Diego, California – Tijuana, Baja California for Immediate Implementation and for Future Development, Mexico-U.S. International Boundary and Water Commission, § I(A), July 19, 2022.

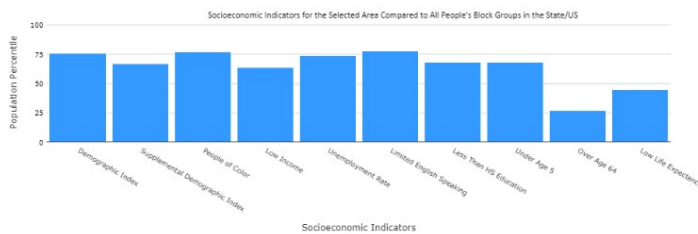
Status of South Bay International Treatment Plant (ITP)

The ITP is currently operating but is in very poor condition⁶ – its primary sedimentation tanks are off-line and the sluice gate that controls influent flows into the plant from Tijuana is inoperable.⁷ Consequently, over the last year, IBWC has consistently violated its discharge permit under the Clean Water Act and has experienced over 100 permit limit exceedances resulting in impaired water quality discharges into the marine environment.⁸

Without proper repair of existing facilities, the plant cannot be expanded, which will result in continued beach closures; the beach immediately north of the border has been closed due to bacteria exceedances since December 8, 2021.

Socioeconomic Indicators

According to census data the population within the Tijuana Estuary is over 60% Latino. CalEnviroScreen 4.0⁹ also shows high levels of poverty and linguistic isolation in the area. Below is a graph from EJ Screen¹⁰ that displays the socioeconomic indicators of Imperial Beach compared to the rest of the U.S. population. It is important to note the below data is for the City of Imperial Beach. Southeast City of San Diego communities are also within the Tijuana Estuary and have a higher number of people of color, higher rates of limited English speakers, and higher rates of people without a high school education compared to the City of Imperial Beach.¹¹



⁶U.S. Env'tl. Protection Agency, *USMCA Mitigation of Contaminated Tijuana Transboundary Flows Project* (Nov. 19, 2021), <https://www.epa.gov/system/files/documents/2021-12/usmca-baseline-conditions-summary-technical-document.pdf>

⁷ U.S. Env'tl. Protection Agency, *Feasibility Analysis for Project 3: Treat Wastewater from the International Collector at the South Bay International Wastewater Treatment Plant* (Sept. 17, 2021) https://www.epa.gov/system/files/documents/2021-12/usmca-feasibility-analysis_project-3_expand-itp-for-ic-flow.pdf

⁸ In 2018, in response to continued wastewater flows into the Tijuana River Valley within San Diego County, and alleged NPDES permit violations at the Plant, several lawsuits were filed in U.S. District Court against USIBWC, including one by the State (*People of the State of California ex rel. the San Diego Regional Water Quality Control Board, et al., v. International Boundary and Water Commission, United States Section*, No. 3:18-cv-02050-JM-JLB, which was resolved through a settlement agreement in April 2022. Plaintiffs settled that litigation in part because the USMCA comprehensive suite of projects would address transboundary flows.

⁹ The CalEnviroScreen 4.0 tool shows cumulative impacts in California communities by census tract. Off. Env'tl. Health Hazard Asses, *CalEnviroScreen 4.0*, <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>.

¹⁰ U.S. Env'tl. Protection Agency, *EJScreen Version 2.0*, <https://ejscreen.epa.gov/mapper/>.

¹¹ *Id.*

We must deliver on our cross-boundary promises, particularly as it aligns with the Biden-Harris Administration's approach to advancing environmental justice as affirmed by Executive Order 14008 on Tackling the Climate Crisis at Home and Abroad¹² and Executive Order 14096 on Revitalizing Our Nation's Commitment to Environmental Justice for All¹³. Climate change will only exacerbate current conditions for the overburdened communities in the San Diego-Tijuana region if we do not act now.

As the interconnected border region of California and México continues to face unprecedented challenges, our collaboration has never been more important. Border affairs initiatives and relationships are a top priority for Governor Gavin Newsom, his administration, and the State of California, as we know they are also for the Biden-Harris administration. We look forward to continuing to build on our vital collaborative efforts. The IBWC and successful investment in capacity to treat transboundary wastewater is key to our success.

We thank you for your consideration of this request to use your congressional authority to request appropriations for the rehabilitation of the ITP and to fulfill Biden-Harris Administration's commitment to advancing environmental justice. Please let us know if you have any questions.



Yana Garcia
Secretary for Environmental Protection

Chair, California-México
Border Relations Council¹⁴



Wade Crowfoot
Secretary for Natural Resources

Chair, California Ocean
Protection Council¹⁵

CC: Tom Perez, Director, White House Office of Intergovernmental Affairs

¹² Exec. Order No. 14,008, 86 Fed. Reg. 7619 (Jan 27, 2021).

¹³ Exec. Order No. 14,096, 88 Fed. Reg. 25251 (Apr. 21, 2023).

¹⁴ The California-Mexico Border Relations Council is the central organizational body that coordinates interagency projects, programs, initiatives, and partnerships along the California-Mexico border. It also serves as a representative body of the State of California whose goal is to continue to develop and enhance cross-border relations between California and Mexico.

¹⁵ The Ocean Protection Council is a Cabinet-level state body that works jointly with state and federal agencies, NGOs, tribes, and the public to ensure that California maintains healthy, resilient, and productive ocean and coastal ecosystems.

June 19, 2023

Secretary Antony J. Blinken
U.S. Department of State
Harry S Truman Federal Building
2201 C Street NW
Washington, D.C. 20520

Administrator Michael Regan
US Environmental Protection Agency
1200 NW Pennsylvania Avenue
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Washington, D.C. 20460

RE: Additional Resources for the Rehabilitation of the IBWC South Bay International Treatment Plant

As the Secretary Environmental Protection of California, and the Chair of the California-Mexico Border Relations Council, I request your support in fulfilling the federal commitments to the San Diego – Tijuana region under the U.S.-Mexico-Canada Agreement (USMCA) as it relates to the South Bay International Treatment Plant (ITP) in San Diego, managed by the International Boundary and Water Commission (IBWC).

The ITP is in very poor condition and in non-compliance with its Clean Water Act discharge permit¹, impacting the United States Environmental Protection Agency (U.S. EPA) and IBWC's ability to fulfill their commitments under the USMCA Implementation Act.

It is CalEPA's understanding that IBWC has requested additional resources from the Department of State to repair the essential ITP components necessary to comply with its Clean Water Act obligations and to begin the expansion work. We fully support this IBWC request and want to emphasize that without the repair of these essential ITP components, U.S. EPA and IBWC cannot proceed with the ITP expansion.

The communities along San Diego-Tijuana region have long awaited major infrastructure investments to improve the impaired flows impacting human health and their coastal wetlands. This problem has escalated, as we have seen 500 consecutive days of beach closures and the plume of wastewater pollution spread. I feel compelled to write in support of this request because we cannot afford to delay vital infrastructure and must deliver on our cross-boundary promises, particularly as it aligns with the Biden-Harris Administration's approach to advancing environmental justice as affirmed by [Executive Order 14008](#) on Tackling the Climate Crisis at Home and Abroad.

¹ https://www.waterboards.ca.gov/sandiego/water_issues/programs/tmdls/tijuanarivervalley.html

Background

In 2020, Congress appropriated \$300 million through the USMCA directing U.S. EPA to plan, design, and construct infrastructure to address the decades-old problem of transboundary pollution in the San Diego/Tijuana border; including: flows contaminated with sewage, trash, and sediment.

Subsequently, in 2021, U.S. EPA developed a comprehensive infrastructure solution in coordination with IBWC and the USMCA Eligible Public Entities. This solution combines several projects that together will reduce sewage and wastewater in the Tijuana River. In July 2022, the U.S. and Mexico signed Minute 328 and a bilateral Statement of Intent to launch a series of short- and long-term projects; the highest priority U.S. project being the expansion of the ITP from its current capacity of 25mgd to 50mgd.

Deferred Maintenance

In 2022, the IBWC conducted an evaluation of the ITP to identify rehabilitation needs in preparation for its expansion under the USMCA. The evaluation identified total rehabilitation needs ranging from \$116-\$245 million with the cost to rehabilitate essential components required before proceeding with expansion range between \$70-\$140 million.

During the recent May 4, 2023, meeting of the USMCA Eligible Public Entities stakeholder group, the IBWC explained that the significant rehabilitation needs are due to deferred maintenance given its limited operations and maintenance budget.

Status of South Bay International Treatment Plant (ITP)

The ITP is currently operating but is in very poor condition – its primary sedimentation tanks are off-line and the sluice gate that controls influent flows into the plant from Tijuana is inoperable. Consequently, over the last year, IBWC has consistently violated its discharge permit under the Clean Water Act and has experienced over 100 permit limit exceedances resulting in impaired water quality discharges into the marine environment.²

Without proper repair of existing facilities, the plant cannot be expanded, which will result in continued beach closures; the beach immediately north of the border has been closed due to bacteria exceedances since December 8, 2021, to present. Currently, all southern San Diego beaches up to, and including, Coronado, are closed, resulting in the cancellation of numerous community festivals and events, with significant negative impacts to the local economies.

² In 2018, in response to continued wastewater flows into the Tijuana River Valley within San Diego County, and alleged NPDES permit violations at the Plant, several lawsuits were filed in U.S. District Court against USIBWC, including one by the State (*People of the State of California ex rel. the San Diego Regional Water Quality Control Board, et al., v. International Boundary and Water Commission, United States Section*, No. 3:18-cv-02050-JM-JLB, which was resolved through a settlement agreement in April 2022. Plaintiffs settled that litigation in part because the USMCA comprehensive suite of projects would address transboundary flows.

Socioeconomic Indicators

According to census data within the Tijuana Estuary, there is an average of over 60% Latino population. CalEnviroScreen 4.0³ also shows high levels of poverty and linguistic isolation in the area. Below is a graph from EJ Screen⁴ that displays the socioeconomic indicators of Imperial Beach compared to the rest of the U.S. population.



Cross Border Relationships

Lastly, as the interconnected border region of California and Mexico continues to face unprecedented challenges, our collaboration has never been more important. Border affairs initiatives and relationships are a top priority for me as California's Secretary for Environmental Protection and Chair of the California California-Mexico Border Relations Council,⁵ and I look forward to continuing to build on our vital collaborative efforts. You play a pivotal role into our collective successes.

We thank the Biden-Harris Administration's commitment to advancing environmental justice and to your consideration of the IBWC's request. Please let me know if you have any questions.

Yana Garcia
Secretary for Environmental Protection
Chair, California-Mexico Border Relations Council

CC: Martha Guzman Aceves, U.S. EPA, Regional Administrator, Region 9

³ The CalEnviroScreen 4.0 tool shows cumulative impacts in California communities by census tract.

<https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

⁴ <https://ejscreen.epa.gov/mapper/>

⁵ The California-Mexico Border Relations Council is the central organizational body that coordinates interagency projects, programs, initiatives, and partnerships along the California-Mexico border. It also serves as a representative body of the State of California whose goal is to continue to develop and enhance cross-border relations between California and Mexico.