



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/tmdls/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.

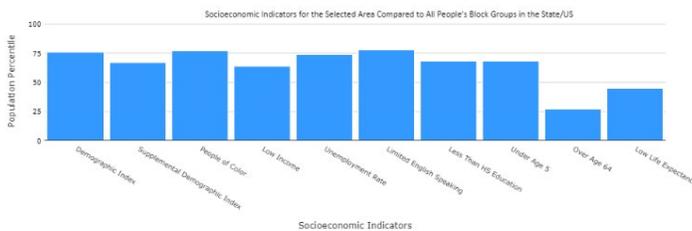
Status of South Bay International Treatment Plant (ITP)

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.