



June 14, 2024

Mayor Keith Blackburn
Mayor John McCann
Mayor Richard Bailey
Mayor Dave Druker
Mayor Bill Wells
Mayor Tony Kranz
Mayor Dane White
Mayor Paloma Aguirre
Mayor Mark Arapostathis

Mayor Racquel Vasquez
Mayor Ron Morrison
Mayor Esther Sanchez
Mayor Steve Vaus
Mayor Todd Gloria
Mayor Rebecca Jones
Mayor John Minto
Mayor Lesa Heebner
Mayor John Franklin

SENT VIA EMAIL ONLY

Subject: Response to Request for Gubernatorial State of Emergency and Centers for Disease Control Intervention– Transboundary Pollution Environmental Crisis

Dear Mayors in San Diego County:

This letter is in response to your June 4, 2024, letter requesting a Gubernatorial State of Emergency (SOE) proclamation and the Governor's support for a request for intervention by the Centers for Disease Control (CDC) as a result of the Transboundary Pollution Environmental Crisis stemming from the international wastewater plant along the United States – Mexico Border.

This event remains ineligible for a Gubernatorial SOE, as well as California Disaster Assistance Act funding, under the California Emergency Services Act and in particular California Government Code §8558 (b). A primary factor in the Tijuana River Valley crisis is ongoing deferred maintenance of federal facilities and the need for capital improvements for infrastructure in both California and Mexico, necessitating binational cooperation and international diplomacy, and thus a federal response. Furthermore, as the impacts felt across San Diego are not because of a “natural catastrophe” or “fire, flood, or explosion,” as defined by the Stafford Act, the crisis cannot qualify for a Presidential Major Disaster Declaration which is the kind of declaration that would authorize the Federal Emergency Management Agency (FEMA) to allocate federal funds to support recovery efforts, including repairing and rebuilding infrastructure. Moreover,



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federal funds under the Stafford Act are never authorized for deferred maintenance.

One of the primary benefits of a Gubernatorial SOE is the ability to suspend state laws or regulations that would prevent, hinder, or delay mitigation of the effects of the emergency. However, as explained in more detail in the October 10, 2023, letter you reference, no one has identified any state laws or regulations that would be helpful to suspend, or other operational needs related to the Tijuana River that a State of Emergency would support. Your letter similarly does not identify any such state laws or regulations and, after their own review, neither the California Department of Public Health (CDPH) nor the California Environmental Protection Agency have identified any such state laws or regulations.

Furthermore, an emergency proclamation is not necessary for deployment of state resources. For instance, CDPH has actively engaged with San Diego County Public Health to review data and concurs with that local agency's conclusion that there is no evidence of increased infectious diseases, including gastrointestinal illness, in connection with the pollution crisis. CDPH continues to engage with local authorities to monitor the situation.

Governor Newsom has taken numerous other actions to ensure focus on a solution to the crisis including engaging with both federal and international partners to request urgent action and further funding. The Governor joined with state and local leaders throughout Southern California in their support of the late Senator Feinstein and Senator Padilla's call for \$310 million to address the Tijuana River crisis, which the Biden-Harris Administration subsequently incorporated into its supplemental appropriation request. The Governor urged Congress, by letter dated January 29, 2024, to approve a package of aid to address contamination in the cross-border river. This was met with a March 23, 2024, appropriation of \$103 million for the International Boundary and Water Commission. Moreover, there is active coordination between the U.S. Environmental Protection Agency and the U.S. Section of the International Boundary and Water Commission and Mexico's Comisión Nacional de Agua and the Comisión Estatal de Servicios Públicos de Tijuana to address wastewater and other pollution challenges along the United States - Mexico Border.

This is in addition to the substantial enforcement actions that state agencies have taken in response to the crisis over the years. This includes the issuance by the San Diego Regional Water Quality Control Board to the federal U.S. International Boundary and Water Commission of a Notice of Violation on September 5, and an enforcement order on December 18, 2023, for violations of a previously issued enforcement order and of its wastewater discharge permit. These enforcement orders prompted the facility to accelerate repairs to come into compliance with its permits.

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Finally, to be clear, a Gubernatorial emergency proclamation is not required for CDC to take action in connection with the crisis. As noted, the Governor has repeatedly insisted, and continues to advocate for federal authorities to take responsibility for addressing deficiencies of federal facilities in areas under federal jurisdiction. Such federal action, including by CDC, does not depend on a State of Emergency proclamation.

We will continue to monitor the situation in collaboration with San Diego County. In the meantime, please feel free to contact Ms. Bridget Kolakosky, Cal OES Deputy Director of Legislative and Government Affairs, at bridget.kolakosky@caloes.ca.gov with any questions.

Sincerely,

A handwritten signature in black ink that reads "Nancy Ward". The signature is written in a cursive, slightly slanted style.

NANCY WARD

Director

cc: Yana Garcia, Secretary for California Environmental Protection Agency
Dr. Tomás Aragón, Director of California Department of Public Health
Dr. Kate Huckelbridge, Executive Director of California Coastal Commission
Jeff Toney, OES Director, County of San Diego