

Staff Report 02

PROPOSED ACTION:

Consider supporting President Biden's request to include \$310 million in an emergency supplemental bill for essential upgrades and expansion of the federally operated South Bay International Wastewater Treatment Plant, by sending a letter requesting that Congress expeditiously approve the funding and address the severe Tijuana River transboundary pollution crisis.

SUMMARY:

In October of this year, President Joe Biden requested that \$310 million in emergency funding to support the ongoing design and construction at the South Bay International Wastewater Treatment Plant be included in a supplemental funding request. The \$310 million would supplement the \$300 million that Congress approved in 2021 to cover the expansion of the South Bay treatment plant. The funding is urgently needed to address the transboundary pollution from Mexico into Southern California—a severe crisis that is negatively impacting public health due to reduced air and water quality, damaging critical coastal and estuarine habitat, affecting border security and military personnel, and hurting local businesses and tourism. Commission staff recommend that the Commission approve and sign a letter to Congress supporting both the request of \$310 million in emergency funding and its expeditious approval.

BACKGROUND:

The Commission has jurisdiction over tide and submerged land located in and near the Tijuana River Watershed. The Commission leases tide and submerged land in the Tijuana River Estuary to the California Department of Parks and Recreation for the Border Field State Park and to the U.S. Fish and Wildlife Service for the Tijuana River National Estuarine Research Reserve. The City of San Diego and the U.S. Section of the International Boundary and Water Commission lease tide and submerged land in the Pacific Ocean for an outfall associated with the South Bay International Wastewater Treatment Plant.

The Tijuana River Watershed is regulated by various agencies. The International Boundary and Water Commission (IBWC) is a binational agency that oversees water treaties between the United States and Mexico, and is the federal entity charged with implementing international agreements that regulate water quality along the United States – Mexico border.

The U.S. Section of the IBWC operates the South Bay International Wastewater Treatment Plant and other water quality infrastructure on the U.S. side of the border intended to protect California's water quality from transboundary pollution flowing through the Tijuana River.

The San Diego Regional Water Quality Control Board administers water quality laws, including the Clean Water Act. The U.S. Environmental Protection Agency has a border office focused on issues related to the Tijuana River Valley; and the City of Imperial Beach, County of San Diego, and the City of San Diego operate the valley's treatment plant and do most of the monitoring associated with it.

The federal water quality infrastructure managed by the U.S. IBWC fails to protect California's water quality, due to both insufficient treatment capacity and poor repair, resulting in decades of polluted waters in Southern California. In the last five years, over 100 billion gallons of trans-boundary flows, containing untreated sewage and debris have flowed from Mexico into Southern California through the Tijuana River Valley. These trans-boundary flows significantly impact nearby coastal communities and estuarine habitats. In Imperial Beach, the main beach has been closed for most of the last two years due to excessive and unsafe levels of bacteria from untreated sewage flows that pose a health risk to the public. Increasingly concerning are the recent reports of public health impacts owing to poor air quality conditions caused by the bacteria and pollutants in the water. Affected communities report experiencing increases in gastrointestinal and lung issues, and that the ongoing pollution crisis has taken a toll on their mental health. The pollution also shuts beach access and results in economic consequences linked to decreased recreation and tourism.

Throughout this crisis, the Commission has vigorously advocated for a resolution. The Commission has commented on the environmental review of infrastructure projects, advocated and supported legislation to direct funding and resources toward addressing the crisis, and in April 2022, reached a settlement, in partnership with a coalition of government agencies and clean water advocates, with the U.S. Section of the IBWC on cross-border water pollution in the Tijuana River Valley. As part of the settlement, the IBWC agreed to improve its canyon collector network, support a main channel berm, improve its stakeholder communication, and take other steps to address pollution that flows across the border.

Recent actions to address the crisis include Congress passing the United States-Mexico Canada Agreement Implementation Act in January 2020, which resulted in a \$300 million appropriation to the U.S. EPA to address the issue. Also, through the United States-Mexico Canada Agreement and the IBWC, Mexico committed to fund and implement wastewater collection and treatment projects in Tijuana.

In 2021 and 2022, the California Budget Acts allocated \$35 million for border water quality improvement projects. The State Water Resources Control Board announced that six projects are planned along the Tijuana and New Rivers from these funds. And in November 2022, the U.S. EPA and IBWC released a Programmatic Environmental Impact Statement for infrastructure improvement projects. The Record of Decision, signed in June 2023, identifies the actions that the U.S. EPA and IBWC seek to implement. These include core projects to expand the South Bay International Wastewater Treatment Plant, manage Tijuana canyon flows to the International Wastewater Treatment Plant, implement Tijuana sewer repairs, and build an Advanced Primary Treatment Plant. Additional supplemental projects were also identified and included in the Record of Decision. Many of these projects, however, will require additional environmental review and funding that has not yet been secured.

After reassessing the funds needed to fully plan, design, and implement the expansion of the South Bay International Wastewater Treatment Plant, including accounting for inflation, the U.S. EPA and IBWC determined additional funds were necessary. In response, Governor Gavin Newsom, Lieutenant Governor and State Lands Commission Chair Eleni Kounalakis, and other federal, state, and local political leaders in California have called on the Biden administration and Congress to support additional funding. The Biden administration's request to include \$310 million in the supplemental funding bill is critically necessary to ensure that the U.S. EPA and IBWC are able to continue making progress on implementing the South Bay International Wastewater Treatment Plant expansion.

Staff recommends that the Commission send a letter to Congress expressing support for President Biden's supplemental funding request and urging Congress to expeditiously provide funding and all other support necessary to finally address the Tijuana River transboundary pollution crisis.

EXHIBIT:

- A. Proposed letter expressing Commission support for President Biden's request to include \$310 million in an emergency supplemental bill for essential upgrades and expansion of the federally operated South Bay International Wastewater Treatment Plant

RECOMMENDED ACTION:

It is recommended that the Commission:

Authorize sending a letter to the United States Congress supporting the inclusion and approval of President Biden's request of \$310 million in an emergency supplemental bill for essential upgrades and expansion of the federally operated South Bay International Wastewater Treatment Plant substantively in the form attached as Exhibit A.

EXHIBIT A

Tijuana River Letter

STATE OF CALIFORNIA

GAVIN NEWSOM, Governor

CALIFORNIA STATE LANDS COMMISSION

ELENI KOUNALAKIS, *Lieutenant Governor*
MALIA M. COHEN, *Controller*
JOE STEPHENSHAW, *Director of Finance*



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November 21, 2023

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Chuck Schumer
Majority Leader
U.S. Senate
Washington, D.C. 20515

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
Washington, D.C. 20515

Dear Speaker Johnson, Majority Leader Schumer, Minority Leader Jeffries, and
Minority Leader McConnell:

The California State Lands Commission respectfully requests that you include \$310 million in the emergency supplemental bill to upgrade and expand the federally operated South Bay International Wastewater Treatment. This funding is included in the President's supplemental funding request and is critical to addressing the dire and worsening Tijuana River transboundary pollution crisis that has sickened tens of thousands of U.S. citizens, damaged irreplaceable estuarine and marine habitats, and closed off access to public beaches. This public health and environmental crisis, exacerbated by Hurricane Hillary, is also detrimental to national security and military personnel.

In the last five years, more than 100 billion gallons of toxic sewage, industrial waste, garbage, and other pollution have flowed over the U.S.-Mexico border and into Southern California's coastal communities and habitats. This is a staggering figure worthy of pause. Southern California beaches have been closed for hundreds of days each year. The main beach in Imperial Beach has been closed for most of the last two years because of unsafe bacteria levels from sewage flows. The bacteria and pollutants also become aerosolized, meaning that people breathe in the contaminants even if they do not enter the polluted water. Affected communities experience gastrointestinal and lung

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issues, and it takes a toll on their mental health. The ripple effects on the economy owing to decreased recreation and tourism are lasting. The transboundary pollution crisis is also a national security and natural disaster issue. Military personnel experience delays and interruptions in Navy training operations along the affected coastline and in San Diego Bay and are left vulnerable to illness, including gastrointestinal and respiratory issues. U.S. Border Patrol agents have increasingly reported health issues, including headaches, rashes, infections, and breathing problems associated with the transboundary flows.

Last August, Hurricane Hilary brought the sewage systems to the brink of collapse. During and after the storm, two billion gallons of contaminated water flowed across the border into the United States, and Imperial Beach had its first ever boil water advisory. It is difficult to overstate the magnitude of this crisis. The conditions it has created are appalling and untenable. The ocean at Imperial Beach is so polluted that people can't swim in it and kids can't play in it. The aerosolized pollution is absorbed into the atmosphere and into people's lungs. Another hurricane or natural disaster could cripple the wastewater treatment plant and unleash a true catastrophe that will cost millions more to repair.

The California State Lands Commission, comprised of California's Lieutenant Governor, California's State Controller, and the Governor's Director of Finance, has jurisdiction over tide and submerged land in and near the Tijuana River Watershed. For years, the Commission has vigorously advocated for a resolution to the transboundary pollution crisis. The Commission has commented on the environmental review of infrastructure projects, advocated and supported legislation to direct funding and resources toward addressing the crisis, and was part of a coalition of government agencies and clean-water advocates that secured a settlement with the U.S. Section of the International Boundary and Water Commission on cross-border water pollution in the Tijuana River Valley.

President Biden's \$310 million in emergency funding would supplement the \$300 million that Congress secured in 2021 to expand the South Bay International Wastewater Treatment Plant so that it can double the amount of raw sewage it treats each day. This expansion is part of a \$630 million upgrade project the U.S. Environmental Protection Agency planned to start this year—before learning that the treatment plant is in such a state of disrepair that it would cost roughly \$150 million to fix it before it can be expanded.

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It is critical that Congress quickly approves the President's proposal and address this crisis. The South Bay International Treatment Plant is federally operated, and federal funding is the only way to restore and expand its ability to protect the public. Thank you for your consideration of our request and attention to this matter.

Sincerely,

Eleni Kounalakis
Chair

Malia M. Cohen
Commissioner

Joe Stephenshaw
Commissioner

cc: Senator Alex Padilla
Senator Laphonza Butler
Representative Scott Peters
Representative Mike Levin
Representative Sara Jacobs
Gavin Newsom, Governor of California
Wade Crowfoot, California Natural Resources Agency Secretary
Yana Garcia, Secretary for Environmental Protection, CalEPA
President Pro Tempore Toni Atkins, California State Senate
Speaker Robert Rivas, California State Assembly