



San Diego County
**Air Pollution
Control District**

August 19, 2024

U.S. INTERNATIONAL BOUNDARY AND WATER COMMISSION
San Diego Office
Morgan Rogers
Area Operations Manager
2995 Clearwater Way
San Diego, CA 92154

Mr. Rogers,

The San Diego Air Pollution Control District (District) has reviewed your letter (attached) in response to the Notice of Violation (NOV) APCD2024-NOV-000560, issued by the District to the U.S. International Boundary and Water Commission (USIBWC) on July 29, 2024.

The NOV was issued for violations of District Rule 51 and the California Health and Safety Code, Section 41700. Both regulations apply to any source of air pollution that creates a public nuisance, regardless of whether the source requires a permit or is permitted by the District. Therefore, the statement in the USIBWC's letter asserting that "*USIBWC is only liable under its permit if it discharged air contaminants within the meaning of these provisions*" is inaccurate.

The malfunctions at the pump stations have exacerbated the public health crisis that continues to negatively impact the communities surrounding the Tijuana River in San Diego County. As stated in your letter, "*Flows enter the United States from Mexico, and some are captured by the Goat Canyon and Smuggler's Gulch canyon collectors ('collectors') and are sent via pipeline to the Hollister Pump Station where they are routed to the South Bay International Wastewater Treatment Plant.*" Consequently, when the pump stations are inoperative, additional untreated flows are not processed by the wastewater treatment facility, leading to further discharges of untreated sewage into the Tijuana River and odors in the surrounding communities.

The USIBWC's letter highlights how construction sites in Mexico contribute to a significant buildup of sediment at both collectors, and states: "*The Hollister Pump Station failure on June 17 was due to the large and unexpected amount of sediment contained within recent flows from Mexico sent to the pump station from the canyon collectors. This sediment overwhelmed the Hollister Pump Station, ultimately leading to its failure. This was not due to inadequate maintenance of the pump station.*" However, the letter fails to mention the lack of maintenance of the equipment at the pump stations and collectors operated by USIBWC. In fact, USIBWC representatives reported to District staff that the existing Hollister surge tank has been operating five years beyond its expected lifespan. Additionally, maintenance records provided by USIBWC indicate that proper maintenance has not been conducted. However, please be advised that both SDAPCD Rule 51

and California Health and Safety Code section 41700 are strict liability statutes, such that the odor nuisance caused by this equipment failure constitutes a violation of these provisions, regardless of the cause of the equipment failure.

Moreover, the letter does not address the deficiencies in the infrastructure under USIBWC's jurisdiction, which have significantly contributed to the public nuisance documented by the District. According to the USIBWC's website¹, its mission is to "provide binational solutions to issues that arise during the application of United States-Mexico treaties regarding boundary demarcation, national ownership of waters, sanitation, water quality, and flood control in the border region." Furthermore, the website² states: "The South Bay International Wastewater Treatment Plant (SBIWTP) was designed to deal with the growing demand for the treatment of wastewater resulting in the contamination of the Tijuana River in the United States. It has been an ongoing concern since 1934 when the International Boundary Commission (IBC) was instructed by the United States and Mexican governments to cooperate in the preparation of a report on the Tijuana sewage problem. The SBIWTP is capable of providing secondary treatment for 25 million gallons per day (mgd) average daily flows of sewage in excess of the Tijuana sewage system capacity, but has expansion capability of up to 100 mgd." Based on this information, addressing contamination in the Tijuana River clearly falls under the jurisdiction of the USIBWC.

Your letter acknowledges that the source of the odors is mainly due to the Tijuana River flows, which the District concurs. However, it is important to emphasize that the public nuisance was specifically documented by the District when the pump stations became inoperative, resulting in the discharge of additional untreated sewage into the Tijuana River. You also mentioned that the Tijuana River transboundary flow rate on July 29th was 52.5 million gallons per day. If the plant and associated pump stations were fully operational, even at current capacity, the odor nuisances would be significantly reduced.

In short, the failure of USIBWC equipment has created, and continues to create, a public nuisance that significantly impacts the communities surrounding the Tijuana River in San Diego County. This crisis has disproportionately affected communities of color, perpetuating a longstanding pattern of environmental and economic injustice. The following points substantiate the public nuisance caused by the USIBWC:

- Since July 21, 2024, the District has responded to approximately 1,000 odor complaints from community members around the Tijuana River. The District documented strong odors and the significant impact on the communities surrounding the Tijuana River during a period when the USIBWC's pump stations were inoperative. When the pump stations are not operational additional untreated sewage is discharged into the Tijuana River, as opposed to being processed by the wastewater treatment plant. The public nuisance documented by the District is a result from deficiencies in the infrastructure operated by the USIBWC and the lack of maintenance of its equipment.

¹ [Home - IBWC](#)

² [Wastewater Treatment Plants - IBWC](#)

- There have been studies, such as the study published by San Diego State University (SDSU),³ reporting the levels of contamination in the soil, water, and air.
- Ongoing beach closures, including Imperial Beach that has been closed for over 900 consecutive days, based on water sample results⁴ continue to indicate high levels of contamination in the Tijuana River.

The public nuisance documented by the District is primarily due to a combination of outdated infrastructure and inadequate maintenance, both of which fall under the responsibility of the USIBWC. These ongoing issues have led to the discharge of untreated sewage into the Tijuana River, creating a public nuisance in violation of District Rule 51 and state law. It is imperative that USIBWC allocate the necessary attention and resources to address these concerns to prevent further harm to the affected communities.

We strongly urge USIBWC to take immediate and effective measures to address and prevent further untreated discharges into the Tijuana River Valley. Given the severity and continuing nature of the situation, and in light of USIBWC's response, should this nuisance situation continue, the District may seek an Order of Abatement from the District Hearing Board pursuant according to California Health and Safety Code § 42451.

Before seeking an Order of Abatement, the District proposes a meeting with USIBWC leadership to discuss the steps being taken to resolve these issues and protect the health and well-being of the affected communities.

If you have any questions or need further clarification, please do not hesitate to contact William Jacques, Chief of Compliance at William.Jacques@sdapcd.org.

Sincerely,



Mahiany Luther
Deputy Director

³ [tijuana-sewage-contamination-public-health-crisis-white-paper-021424.pdf \(sdsu.edu\)](#)

⁴ [Search Beach Monitoring Data | California State Water Quality Control Board](#)