



OFFICE OF THE COMMISSIONER  
UNITED STATES SECTION

INTERNATIONAL BOUNDARY AND WATER COMMISSION  
UNITED STATES AND MEXICO

September 13, 2024

San Diego County, Air Pollution Control District  
Attention: Compliance Division  
10124 Old Grove Road  
San Deigo, CA 92131-1649

Dear Sir or Ma'am,

USIBWC is in receipt of the August 30, 2024, Notice of Violation (NOV) 668, sent by the San Diego Air Pollution Control District (District). The NOV states that the following were violated:

- Section 51 of the District Rules
- Section 41700 of the California Health and Safety Code

According to NOV 668:

By discharging from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of such person or the public or which cause or have a natural tendency to cause injury or damage to business or property. Specifically, by allowing the discharge of untreated wastewater into the Tijuana River Valley, which created and continues to create odors that affect a considerable amount of people in the surrounding community.

The equipment type cited is "sewage treatment facility."

USIBWC is also in receipt of your letter sent August 19, 2024, from Deputy Director Mahiany Luther, which explains that the District's issuance of its NOV reflects the District's belief that the USIBWC's equipment is a cause of the transboundary flows and resulting odors in the Tijuana River valley. This response references both NOV-668 and the District's August 19 letter.

USIBWC agrees that transboundary flows of untreated wastewater are unacceptable and is working diligently to reduce and stop those flows and, by extension, the odors associated with them. USIBWC looks forward to meeting with the District "to discuss the steps being taken to resolve these issues and protect the health and well-being of the affected communities," as the District stated in its letter of August 19, 2024. But we do not agree that transboundary flows and associated odors are "cause[d]" by USIBWC's "discharge" of "air contaminants" "from any source," as the District alleges in NOV 668. Cal. Health Safety Code § 41700.

In its August 19 letter, the District "concur[s]" that "the source of the odors" in the Tijuana River Valley "is mainly due to Tijuana River flows." But that letter, and NOV 668, seem to presume that those odors are caused by USIBWC's South Bay International Wastewater Treatment Plant (Plant). That presumption is incorrect.

Wastewater that flows across the border through the Tijuana River does not pass through any USIBWC-owned treatment works. Mexico operates a river diversion facility (PB CILA) that, when operational, captures up to 30 million gallons per day (MGD) of dry weather flow and conveys it to a pumping station (PB-1), which sends water to the San Antonio de los Buenos treatment facility (SAB). Any dry weather transboundary flow in the Tijuana River is attributable to breakdowns somewhere in Mexico-side conveyance and pumping infrastructure, which USIBWC does not own, operate, or control. PB CILA was not designed to divert river water to the Plant; the Plant was not designed to treat flows in the river, which contain both untreated wastewater and treated effluent from the La Morita and Arturo Herrera treatment plants in Tijuana;<sup>1</sup> and the Plant does not and is not alleged to discharge wastewater to the Tijuana River. In no sense, then, is USIBWC's US-side Plant a cause of Tijuana River flows that cause odors in the Tijuana River Valley. The statement in the District's August 19 letter that "[i]f the plant and associated pumps were fully operational, even at current capacity, the odor nuisances would be significantly reduced" is wrong.

Since January, flows in the Tijuana River's main channel (as measured by a gauge immediately inside the United States) have averaged 45 MGD and reached as much as high as 7 BGD. As a result, conditions in the Tijuana River Valley have deteriorated, to the detriment of residents in the area and also those who work in close proximity to the river, including USIBWC staff.

To address this issue through the diplomatic front, USIBWC has briefed U.S. State Department officials, including the U.S. Ambassador to Mexico, about the unusually high volumes of transboundary wastewater flows entering the United States via the Tijuana River during the current dry season, and helped the State Department draft a diplomatic note asking the Mexican government to identify and repair impaired facilities that cause transboundary flows. USIBWC and the Consul General have also convened three binational meetings in Tijuana since April 2024 that have included in-depth discussion about sources of flows in the Tijuana River and about measures to mitigate those flows.

On an operational level, USIBWC is working with its partners in Mexico through weekly Commissioner-level meetings and review of satellite and aerial imagery, among other things. USIBWC is also jointly funding (with IBWC's Mexican Section) a study to identify sources of flows in the Tijuana River, which is scheduled to be completed by November 2024. USIBWC Commissioner Giner discussed these efforts in greater detail during her August 14, 2024 presentation to the Regional Water Quality Control Board, San Diego Region, a video of which is available here: [https://www.waterboards.ca.gov/sandiego/board\\_info/agendas/2024/aug/bd-mtg08142024.m4a](https://www.waterboards.ca.gov/sandiego/board_info/agendas/2024/aug/bd-mtg08142024.m4a).

In addition to these actions, Mexico is currently undertaking a host of upgrades to its conveyance and treatment system that, collectively, will reduce incidence of transborder river flows. Those projects are memorialized in Treaty Minute 328, which USIBWC negotiated with its Mexican counterpart, and which became a binding binational agreement when approved by the governments

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<sup>1</sup> Because Tijuana River flow is a combination of wastewater and treated effluent, it can upset the biological processes that the Plant employs, which are calibrated to treat unadulterated wastewater. But as a limited mitigation measure, USIBWC can accept a fraction of flows that Mexico diverts to PB-1 when PB-1 is unable to divert all of that flow to SAB. The Plant does so today and has done so throughout 2024.

of the United States and Mexico. Minute 328 is available here: <https://www.ibwc.gov/wp-content/uploads/2022/11/Min328.pdf>. Updates on Minute 328 projects are available here: [Status of Statement of Intent and Minute 328 Projects \(ibwc.gov\)](#). These projects include but are not limited to major upgrades and repairs to PB CILA, PB 1, and SAB. On this side of the border, USIBWC is also overseeing substantial upgrades and repairs to existing Plant systems and a substantial increase of the Plant's capacity.

As a result of these measures, on September 12, 2024, for the first time in months, the Tijuana River had no transboundary flow for portions of the day. Much work remains, and USIBWC is committed to ensuring that recent progress continues. But that commitment to improving border sanitation, which USIBWC takes seriously, does not extend USIBWC's jurisdiction or control into another sovereign country, where wastewater is discharged. USIBWC thus does not and could not "allow" the discharge of untreated wastewater" in transboundary flows, as the NOV 668 alleges.

As to the narrower issue of the Hollister Street pumping station, the subject of NOV 560, USIBWC is nearing completion of repairs and expects to return that pumping stations to service by September 15. At that time, the Plant will again receive dry weather transboundary flows from the canyon collectors located at Goat Canyon and Smuggler's Gulch. In addition, USIBWC has procured additional replacement parts for that pumping station so that it can bring Hollister back online more quickly in the event of a future malfunction. It has also replaced sandbags atop the terminal weirs of the Goat Canyon and Smuggler's Gulch collectors to increase, as much as practicable, the ability of those collectors to detain dry weather transboundary flows. And USIBWC continues to request that its Mexican counterparts work to develop and implement sediment-management practices in Mexico to prevent the recurrence of transboundary flows with high sediment content.

Those high sediment volumes caused equipment damage at the Hollister Street pumping station, which led to the station's closure. Transboundary flows have always contained some sediment and debris, and the collectors are designed, based on historic parameters, to allow sediment to settle out of flows before those flows are conveyed to Hollister Street Pumping Station or the Plant. These passive systems functioned for decades. But over the last year, USIBWC has seen unprecedented sediment volumes through Smuggler's Gulch and Goat Canyon. USIBWC believes that this increase is attributable to major highway construction that parallels stretches of the international boundary.

For scale, in the first seven months of 2024, USIBWC removed from its facilities *more than five times* the sediment it removed in an average 12-month period (over the previous ten years). The canyon collectors and Hollister Street pump station were not designed to, and could not, handle that volume of sediment. The District's suggestion that the pump station malfunctioned for some other reason is incorrect.

USIBWC also disputes that there are reasonable grounds to infer a causal connection between odor complaints in the Tijuana River Valley and the Hollister Pump Station coming offline. In its August 19 letter, the District states that the alleged "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." But the increase in odor complaints that the District cites—approximately 1,000 "[s]ince July 21, 2024"—do not correspond to the date that Hollister was taken offline, which was June 17, 2024. Indeed, no complaints listed on the District's portal correspond to that date or the days immediately following it.

The location of complaints also do not correspond to the locations of Goat Canyon, Smuggler's Gulch. And the volumes of transboundary flow that are passing through Goat Canyon and Smuggler's Gulch are less than one percent of the flow that has been passing through the Tijuana River.

For all of these reasons, USIBWC disputes that "failure of [its] equipment has created, and continues to create, a public nuisance that significantly impacts the communities surrounding the Tijuana River in San Diego County," as the District claims in its August 19 letter.

Sincerely,

Morgan Rogers, PE  
Area Operations Manager  
San Diego Field Office  
United States Section, International Boundary &  
Water Commission (IBWC)