



OFFICE OF THE COMMISSIONER
UNITED STATES SECTION

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO

February 19, 2021

Mr. Luis A. Plancarte
Chairman, Board of Supervisors
County of Imperial
940 Main Street
El Centro, CA 92243

Dear Mr. Plancarte:

The International Boundary and Water Commission, United States Section (USIBWC) is in receipt of your letters dated October 20, 2020 and November 10, 2020 concerning water quality issues in the New River in California. In your letters, you note your approval of the Imperial County declaration of emergency and request assistance from the USIBWC to address matters of poor water quality in the New River. We are also in receipt of your draft MOU proposing coordination and collaboration on water quality standards, testing and construction of a wastewater treatment facility and we offer you the following response and look forward to continuing to work with you and other stakeholders on these issues.

The USIBWC has recognized, along with our counterparts in Mexico, the need to improve water quality in the New River. In the application of the 1944 Water Treaty, the International Boundary and Water Commission, U.S. and Mexico (IBWC) develop Minutes that contain the actions projects that both countries agree to implement. Under Minute 264, signed in 1980, the IBWC established goals for water quality and measures to improve infrastructure in Mexico and treatment of industrial and domestic wastewater in Mexico.

Since the signing of the Minute 264, Mexicali has constructed and expanded two wastewater treatment plants, installed infrastructure and pumping systems, and continues to work closely with other Mexican agencies to address industrial flows to the New River. As such, trend analysis has shown a marked improvement in bacteria levels in the New River and has met the goals with minor exceedances since November 2017. As these goals are not regulatory standards from either country, the values do not meet those standards but are rather indicators of the improvements made with the efforts of both countries.

Minutes 274 and 288 provided for funding and solutions for improved infrastructure in Mexico including additional pumping stations and additional collectors to remove untreated wastewater from the New River and divert that wastewater for treatment into treatment plants in Mexico. Minute 288, signed in 1992, has been recognized as one of the most comprehensive Minutes which has created significant improvements throughout Mexicali.

4191 N. Mesa Street • El Paso, Texas 79902-1423
(915) 832-4100 • Fax: (915) 974-2270 • <http://www.ibwc.gov>

With the signing of the Agreement between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area, known as the La Paz Agreement, on August 14, 1983, and the creation of the North American Development Bank (NADB) under the North American Free Trade Agreement in 1994, the United States Environmental Protection Agency (USEPA) and NADB have been providing funds and solutions to resolve border issues related to water and wastewater infrastructure. The USIBWC works closely with both the EPA and the NADB to assist with projects and the resources necessary to identify and resolve the water quality issues.

In order to continue the dialog, obtain cooperation of agencies at all levels of government in both countries, and to elevate sanitation issues, the IBWC formed a Binational Technical Committee (BTC) to address New River issues. At the BTC meetings, continued problems and needs are vetted and highlighted for action by the committee. It is in this venue that the IBWC has requested the development of a binational notification protocol and at the time of this writing, has created a draft document that has been formally reviewed by stakeholders in the United States and Mexico. The binational protocol will ensure that Imperial County and local stakeholders in the U.S. and Mexico are notified when USIBWC is alerted of problematic transboundary flows. The document is under review by the new administration in Mexicali and is expected to be finalized in the next few weeks. With Mexico's approval, this will become the standard operating procedure for all notifications of problematic flows from Mexico entering the United States in the New River.

Even without the binational notification protocol in place, agencies in Mexico have been implementing the notification process. However, the Mexicali utility provided only 24 hours' notice to the IBWC of a planned bypass on September 18th, 2020, that was necessary to upgrade pumping infrastructure. The USIBWC relayed this information to the BTC participants and stakeholders of the planned work. The USIBWC has repeatedly advised the utility and other Mexican officials that in preparation for planned repairs, the utility should make provisions for capturing any flows resulting from a bypass. The event on September 18th, 2020, did result in a measurable increase in bacteria as determined by the USIBWC, which gathered samples during the event and shared the results with the BTC and local stakeholders. Other than that bypass tied to infrastructure improvement, the City of Mexicali had only one other bypass in 2020, and none so far this year.

As with all systems, continued growth in the region and degradation of the system due to age, infrastructure needs have arisen and created environmental issues that need to be addressed. In July 2016, the USEPA and NADB performed a diagnostic study to look at the state of the Mexicali, BC sanitation network infrastructure. A report of the findings provided recommendations for solutions to the issues evaluated. This study was performed in response to the continued bypasses into the New River and breaks in the Mexicali sanitation network. Action items from this USEPA and NADB effort include:

1. To prevent bypasses of untreated wastewater to the New River, CESPM needed mobile pumping trucks to bypass wastewater around breaks and construction. NADB contracted for the purchase of emergency equipment for CESPM and delivered 4 mobile pumping systems in February 2018. This equipment has been used in the prevention of bypasses into

the New River. Even with the continued issues in the Mexicali infrastructure, no bypasses to the New River have occurred since September 2018.

2. EPA and NADB are exploring options for acquiring additional equipment for CESPM in a Border Environment Infrastructure Fund project.
3. The California Environmental Protection Agency and EPA discussed the possibility of using the Clean Water State Revolving Fund to fund future infrastructure on the U.S. side of the border.
4. CalEPA and other stakeholders signed an MOU on October 30, 2017 for Phase 1 of the New River Improvement Project; Phase 1 was completed October 2018 however Phase 2, which is the construction of the project, is not fully funded. Funding to construct the project is estimated at \$27.6 million and thus far \$10 million has been obtained through California's Proposition 68.

With these improvements, there is still a need for continued work and funding to complete the recommendations. The strategic plan developed by Mexico, that is based on the recommendations and findings of the diagnostic, have a current price tag of around \$153,720,000. The resources are not available in Mexico to address all of the funding requirements needed. The USIBWC, USEPA, and NADB have met several times during 2020 to discuss the resources and capabilities of the agencies to further address the identified needs in the New River, to include assisting with the New River Improvement Project. The Minutes negotiated by the IBWC emphasize joint, binational solutions and the USIBWC will continue to pursue international solutions. The USIBWC does not currently have the funding nor the authority to construct a water treatment plant in the United States.

As noted in your letter, the water quality standards for bacteria are not being met for beneficial uses in either country. Stakeholders in the region have requested that the IBWC consider development of a new Minute to the 1944 Treaty to require adherence to water quality standards in each respective country. The USIBWC agrees that the water quality goals as specified under IBWC Minute 264 have to be revised and we are working with our counterparts in Mexico to identify potential ways to address this issue.

Also requested in your letter is the development of new testing protocols that meet the goals of Imperial County and the Regional Board. The USIBWC discussed with the previous Mexican administration the development of a binational water quality study to gather much needed water quality data in the New River which would assist in identifying prevalent issues in both countries. As the USIBWC changes administration and the Mexican Section has changed, the discussion will have to be re-initiated.

The USIBWC has purchased the necessary equipment to begin running E. Coli samples alongside our current analysis of fecal coliforms to provide bacteria data commensurate with other United States agencies testing programs. Because of the current pandemic, USIBWC has not been able to collect samples in Mexico. However, samples are still being collected in the New River at the International Boundary in the United States which provides the necessary information for assessing the bacterial impacts from flows in Mexico to the New River and the effectiveness of their treatment plant. USIBWC will request that Mexico collect samples for the remaining sites located in Mexico.

The USIBWC currently provides a web portal to view the location of water quality monitoring stations in the New River using geographic information systems software (GIS) that includes a download feature to have access to spreadsheet software such as Microsoft Excel. USIBWC staff have been adding site specific pages to the main USIBWC website and will begin to prepare a page for the New River. Until a new webpage is added, please continue to use the current link to New River data at: <https://usibwc.maps.arcgis.com/home/index.html>. The USIBWC will consider your request to add a New River, site-specific information as it makes updates to its website.

The USIBWC is committed to listening to the concerns of our stakeholders and working with our partnering agencies on both sides of the border to address issues affecting both countries. We are aware of your concerns and are working diligently to bring resolution to them.

If you have any questions, please contact Mr. Ramon Macias at (915) 832-4749 or by email at ramon.macias@ibwc.gov.

Sincerely,

DANIEL
AVILA

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by DANIEL AVILA
Date: 2021.02.19
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Daniel Avila, P.E.
Acting Commissioner