

US-Mexico-Canada (USMCA) Implementing Legislation – Section 821 to Address Tijuana River Valley/San Diego Area Transboundary Pollution and Border Water Infrastructure Program

Internal deliberative pre-decisional - FOR USE BY 2024 PRESIDENT-ELECT TRANSITION TEAM MEMBERS ONLY

ISSUE SUMMARY:

Pollution carried by rivers in Mexico into the U.S., referred to as transboundary pollution, has imposed significant economic and environmental impacts in border communities, particularly in San Diego County, CA. In the last several years, over 300 million gallons of raw sewage have flowed into San Diego County due to deficiencies in Mexico's wastewater infrastructure. The problem is severe, and spills increasingly result in beach closures in the cities of Imperial Beach, San Diego, and Coronado. Congressional members representing border communities, the Mayors of Imperial Beach, San Diego, and Coronado, and County Supervisors have engaged with the EPA to explore technical and financial solutions to the problem.

In January 2020, the United States-Mexico-Canada Agreement (USMCA) was signed into public law after ratification by Congress. Section 821 of the USMCA Implementation Act charged the EPA to carry out the planning, design, construction, and operation and maintenance of high priority treatment works within the 'covered area,' which includes the portion of the Tijuana River watershed that is in the United States, in coordination with eligible public entities. Under Section 821, the high priority treatment works will treat wastewater (including stormwater), nonpoint sources of pollution, and related matters resulting from international transboundary water flows originating in Mexico. The EPA was also appropriated \$300 million under Title IX of the USMCA Implementation Act for architectural, engineering, planning, design, construction, and related activities in connection with the construction of high priority wastewater facilities around the United States-Mexico Border.

KEY POINTS:

- In the 1990s, the EPA and Mexico negotiated agreements and constructed the South Bay International Wastewater Treatment Plant (SBIWTP) in San Diego, an ocean outfall, and a wastewater diversion system in Mexico. The U.S. Section of the International Boundary and Water Commission (USIBWC) owns and operates this plant. USIBWC is an Agency of the U.S. State Department.
- The EPA is providing technical and financial support to USIBWC to rehabilitate and expand the capacity of the SBIWTP. In 2021, the EPA completed a feasibility study of ten potential projects (including the SBIWTP expansion) to address polluted transboundary flows.
- The EPA completed the National Environmental Policy Act (NEPA) environmental review process on June 9, 2023.
- The EPA transferred approximately \$2.9M of USMCA funds to the USIBWC for SBIWTP expansion planning and pre-design work. This work was completed in November 2023 and in August 2024, USIBWC issued a contract for design and construction of the SBIWTP expansion.
- In January 2024, the EPA and USIBWC signed a second interagency agreement for \$290M of USMCA funds. The EPA transferred these funds to USIBWC in September 2024 to be used for the design and construction of the SBIWTP expansion.
- In March 2024, Congress appropriated \$156M in construction funding to USIBWC, of which the USIBWC has indicated \$110M will be directed to the SBIWTP expansion project.
- In parallel to the \$300M USMCA infrastructure effort, OWM, R6, and R9 manage the Border Water Infrastructure Program (BWIP). Under this program, the EPA awards grants to the North American Development Bank and works closely with the Mexican Water Agency (CONAGUA). Mexico-side projects must benefit the U.S. and require a 50% match from Mexico.
- In Tijuana, the EPA's BWIP investments have leveraged an additional \$72 million from Mexico to construct much-needed wastewater infrastructure. Despite these investments, wastewater systems face increasing

challenges as components are nearing the end of their useful life and rapid population growth leads to construction of more housing developments on erosive hillsides without wastewater connections.

- In July 2022, the EPA was able to leverage \$330M in USMCA and BWIP funds to obtain a \$144M commitment from Mexico, as memorialized in IBWC Minute 328 and the EPA-CONAGUA Statement of Intent.
- The BWIP will likely be used as the primary mechanism to fund the long-term projects selected by the Administrator for USMCA purposes.

ONGOING/UPCOMING REVIEWS FOR FY2024:

- As the lead on the SBIWTP expansion project, the USIBWC awarded a contract for the design and construction of the expansion in August 2024.
- Region 9 intends to select and co-fund high priority projects through the BWIP to address transboundary wastewater problems along the Arizona/Sonora and California/Baja California borders.

KEY EXTERNAL STAKEHOLDERS:

<input checked="" type="checkbox"/> Congress	<input type="checkbox"/> Industry	<input type="checkbox"/> States	<input type="checkbox"/> Tribes	<input checked="" type="checkbox"/> Media	<input checked="" type="checkbox"/> Other Federal Agency
<input checked="" type="checkbox"/> NGO	<input checked="" type="checkbox"/> Local Governments	<input checked="" type="checkbox"/> Public			

MOVING FORWARD:

- The EPA continues to work closely with USIBWC on the SBIWTP rehabilitation and expansion project.