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Regional Leaders Announce Settlement in Tijuana River Valley Sewage Litigation

SUCCESSFUL CONCLUSION TO LONG-RUNNING LAWSUITS
ANNOUNCED BY SAN DIEGO AREA,
FEDERAL, STATE AND LOCAL ORGANIZATIONS

SAN DIEGO – A four-year effort to advocate for and protect San Diego’s environment and residents took a prominent step forward today when the plaintiffs in three separate lawsuits announced a comprehensive settlement agreement with the U.S. Section of the International Boundary and Water Commission (USIBWC) to mitigate raw sewage and toxic chemicals polluting San Diego area communities and beaches. The Cities of Imperial Beach and Chula Vista, and the Port of San Diego filed the first lawsuit in 2018, which was followed by separate court actions filed by the City of San Diego, California San Diego Regional Water Quality Control Board, California State Lands Commission, and Surfrider Foundation. USIBWC was the defendant in all the lawsuits.

“This settlement is a major milestone that represents the success our region has made in taking a unified approach to finally put an end to the unacceptable conditions that have allowed for millions of gallons of untreated sewage to pollute our beaches and waterways in the Tijuana River

Valley,” Mayor Todd Gloria said. “Our region is committed to continuing to work collaboratively with the federal government to make progress on the priorities outlined in the settlement, including utilizing the \$300 million in committed federal funding.”

Pursuant to the settlement, USIBWC – which owns and supervises the operation and maintenance of the South Bay International Wastewater Treatment Plant in the Tijuana River Valley – agreed to diligently mitigate water that flows across the border and regularly share information with stakeholders on its progress for a period of seven years. The agreement is pending implementation of the EPA’s Comprehensive Infrastructure Solution, a holistic approach to permanently addressing water pollution from the Tijuana River Watershed. The EPA plan already includes \$300 million in committed federal funding.

“This historic victory for our region follows years of hard work by multiple cities and environmental protection groups united to clean up the Tijuana River and protect the health of residents and visitors,” City Attorney Mara W. Elliott said. **“My office is proud to have helped craft this solution after years of vigorous litigation and negotiation with the federal government. We look forward to swift construction of the facility, and continued engagement by the federal government to clean up what is often called the worst water pollution problem in the Western Hemisphere.”**

USIBWC’s South Bay International Wastewater Treatment Plant is designed to receive and treat up to 25 million gallons per day of wastewater and sewage from Mexico. Per the settlement, USIBWC will:

- Propose to construct another temporary sediment berm to intercept transboundary flows.
- Implement measures to inspect and maintain canyon collectors to divert transboundary flows.
- Expediently notify stakeholders and the public about flows and explain remedial actions.
- Continue complying with notifications requirements of the 2021 NPDES permit.
- Expand the scope of Citizens’ Forum Meetings to include updates and a forum of public discussion regarding USIBWC’s pollution control efforts in the Tijuana River Flood Control Channel.
- Seek participation in CILA’s regular transboundary flow investigations.
- Draft an action plan to minimize canyon collector transboundary flows at Stewart’s Drain.
- Propose that the Minute 320 BCG pursue an agenda that focuses on water quality monitoring and assessing the ongoing conditions in the Tijuana River and the Tributary Canyons.
- Assess the feasibility and funding for sediment and trash removal in the Flood Control Channel.

If USIBWC violates any settlement term at any time, the California San Diego Regional Water Quality Control Board, California State Lands Commission, Surfrider Foundation, City of Imperial Beach, City of Chula Vista, City of San Diego, and the Port of San Diego can revive their lawsuits, file new lawsuits for any alleged violations of the Clean Water Act or Resource Conservation and Recovery Act, or both.

“The State Lands Commission has been deeply involved in resolving the Tijuana River pollution crisis,” said State Controller and State Lands Commission Chair Betty Yee. **“This settlement, and the collaborative approach underpinning it, will prevent damage to California’s public lands and help us achieve one of our core mandates—providing public access to California’s beautiful beaches and the Pacific Ocean.”**

In January 2020, Congress enacted the United States-Mexico-Canada Agreement Implementation Act (USMCA), which appropriated \$300 million for the construction of infrastructure to reduce the amount of polluted water flowing to U.S. sections of the Tijuana River Valley. Per the USMCA, the EPA is responsible for expending the funding on projects that will reduce the water entering California.

“The settlement of this litigation is truly a watershed moment and an important step in the long struggle to control and remediate pollution in the Tijuana River Valley and Estuary,” said Dave Gibson, executive officer for the San Diego Regional Water Quality Control Board. **“These waters are among the most impaired in California and resolving this issue is critical for transitioning to an effective, credible and sustainable binational approach to sewage and other waste flows in the Tijuana River watershed. Together, we have not only agreed to coordinated and outcomes-based actions, we have also crafted a holistic approach embraced by US EPA through implementation of the United States-Mexico, Canada Agreement funding provided by Congress.”**

“This settlement agreement marks not only a great accomplishment after months of negotiations by attorneys but also years of strong Surfrider advocacy for clean border water now,” said the Surfrider Foundation’s Senior Legal Director, Angela Howe. **“We couldn’t be more thrilled to see real water quality solutions coming forth at the border.”**

“The transition from the litigation phase of this critical effort into the project planning and implementation stage represents a step forward,” said Imperial Beach Mayor, Serge Dedina. **“Without the relentless efforts of our partners at the State of California, the Port of San Diego, the City of San Diego, the City of Chula Vista and the Surfrider Foundation, this day would have never arrived. This is not the end of the struggle, only a transition. It is essential that our residents, partners, legislative representatives and the federal government work together effectively to resolve this situation quickly and in a manner that will last for generations.”**

“This is great news for Chula Vista, South County, and the entire San Diego region,” said Chula Vista Mayor Mary Casillas Salas. **“This litigation was a critical jumpstart, and we’re looking forward to cooperating with local, state and federal officials, to further address a challenging environmental problem that crosses international boundaries. In addition to political will, we needed funding, and I appreciate the leadership at the federal level to provide \$300 million to address the water pollution in our Tijuana River Watershed. With the case behind us, our focus now turns to working with our partners to ensure that federal pollution control infrastructure is constructed with the utmost expedience.”**

“Clean water is essential to maintain the environmental integrity of our nation’s waters and is fundamental for the Port and the region to thrive. As one of the original filers and leaders in the litigation against the IBWC, the Port is proud to be part of the coalition of state and local agencies and organizations working together to finally solve this public health and environmental crisis,” said Chairman Dan Malcolm, Port of San Diego Board of Port Commissioners. **“The solutions resulting from our lawsuit will, in the near-term, reduce the flows of toxic sewage and trash through the Tijuana River Valley and into the Pacific Ocean while the EPA utilizes the \$300 million secured by**

our local Congressional delegation to implement long-term solutions. As an environmental champion and the state-designated trustee for beach and submerged lands in Imperial Beach, we are committed to continue working with our regional, state and local partners for the health and safety of our communities.”

The settlement resolves the following litigation:

- City of Imperial Beach, *et al.* v. USIBWC, *et al.* (Case No. 3:18-cv-00457-JM-JLB)
- Surfrider Foundation v. USIBWC *et al.* (Case No. 3:18-cv-01621-JM-JLB)
- People of the State of California, Ex. Rel. The Regional Water Quality Control Board, San Diego Region, *et al.* v. USIBWC, *et al.* (Case No. 3:18-cv-02050-JM-JLB)

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