

Viviane Marquez-Waller
1620 Seacoast Drive # D
Imperial Beach, CA 92132

Mr. Keith Yaeger
RWQCB, San Diego Region

Subject: Comment - Tentative Cease and Desist Order No. R9-2021-0107

Dear Mr. Yaeger,

Thank you for the opportunity to comment on the Tentative Cease and Desist Order No. R9-2021-0107 (CDO). Following are my comments.

- As part of the requirements for the CDO, I would like to see a significant investment in an on-call as-needed contractor. This process is often used with agencies like the IBWC that know that they consistently need maintenance, repairs and parts. It is unconscionable that an important repair like the sluice gates in Box 1 is delayed for months as work is put to bid and contracts signed. It should go without saying that IBWC should have on-site available inventory of parts for routine and anticipated replacements and repairs.
- It is time to consider the best approach without consideration of Mexico's infrastructure. The last 2 years have proven unequivocally, Mexico's infrastructure cannot be relied upon and fails on a consistent basis. We need a diversion system and a pump station on the U.S. side of the border to send effluent to IBWC when CILA and/or the Mexican diversion system is not working properly.
- In the CDO, the RWQCB identifies numerous violations during a very short period of time (November 2020 through January 2021) for Finding 7 and 2 months for Finding 8). The many violations listed in Findings 7-10 are during a year with one of the region's lowest reported rainfall in decades (San Diego County received less than 4 inches of rain during the time period the violations took place).
- During only this short period of time, the IBWC reported: **46 violations of effluent discharge** limitations (Section 7 a., b., and c., averaging one every other day!) and **10 violations of canyon collectors flow reports** (Section 8),

(including single day flows of 325,000, 314,000 and 141,000 gallons) totaling almost a million gallons of transboundary flow at Stewarts Drain in November and December 2020 alone. We understand the IBWC has been plagued with change in personnel, however, this federal agency is clearly not providing reporting or corrective actions as required. Their non-compliance is further exasperated by their flagrant repeated non-responsiveness to RWQCB letters and requests for information.

I have several recommendations for inclusion in the CDO.

- IBWC should be required to clean up transborder trash; it is insufficient and non-productive to require only assessment and monitoring without effective removal of trash.
- IBWC should be required to have a vacuum truck on-site to remediate smaller flows and stagnant ponded wastewater from canyons and the river on a regular basis and be treated at the Treatment Plant.
- Yogurt Canyon should become part of the IBWC's responsibility as the transborder sewage in that canyon is already sufficient to 'be collected by a vacuum truck'.
- IBWC should not receive their 2021 permit until they have adequately addressed all items in Table 2. I also believe Table 2 should include a clause that adds:

'provide and repair any and all additional items or issues as needed, to be in compliance with their 2021 Tentative Permit'.

The seriousness and number of violations addressed in this CDO, show a flagrant disregard of the responsibility the IBWC has in protecting our region's health and environment. Seeing these violations on paper may obfuscate the on-the-ground reality, that our largely minority south bay region is affected by the air pollution IBWC's (and Mexico's) negligence has created, the water pollution IBWC's (and Mexico's) negligence has created and the land pollution the IBWC's (and Mexico's) massive sewage flows have created. In addition, the IBWC's (and Mexico's) negligence has resulted in our underserved communities being denied use of their City, County, State and Federal parks, lands and ocean in the Tijuana

River Valley due to closure and pollution for several years, including during the pandemic, when access was even more critical.

I request that the RWQCB has the CDO review and adoption prior to the Permit renewal (International Boundary and Water Commission Tentative Order No. R9-2021-0001 National Pollutant Discharge Elimination System Program Permit renewal), so that the excessive violations can be part of the renewal approval or denial consideration(s).

I would also like the Board to consider denying the permit until violations cease or at the very least renew the permit for a shorter period of time, to see how the IBWC performs in the coming months. In fact, I believe it would be unethical for IBWC to receive or accept a permit with conditions they know they cannot meet for 6 months or more.

Because the IBWC Treatment Facilities is the only sewage treatment plant existing in the world that treats exclusively sewage from a foreign country, it may be time to consider bringing grievances to the Federal, State Department level. The State Department may be better equipped than the IBWC to negotiate with Mexico to fix their side of the problem.

We know that the IBWC can do better and we as a nation, and certainly as a region, deserve better. Thank you for your continued efforts on behalf of our environment, waterways and ocean.

Viviane Marquez-Waller

Viviane Marquez-Waller

CC: President Joseph Biden
Vice President Kamala Harris
Secretary of State Antony Blinken,
Governor Gavin Newsom
Senator Feinstein
Senator Alex Padilla
Congressman Levin
Mayor Serge Dedina

Councilmember Paloma Aguirre