

106TH CONGRESS
1ST SESSION

H. R. 3378

To authorize certain actions to address the comprehensive treatment of sewage emanating from the Tijuana River in order to substantially reduce river and ocean pollution in the San Diego border region.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 1999

Mr. BILBRAY (for himself and Mr. FILNER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize certain actions to address the comprehensive treatment of sewage emanating from the Tijuana River in order to substantially reduce river and ocean pollution in the San Diego border region.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tijuana River Valley
5 Estuary and Beach Sewage Cleanup Act of 1999”.

1 **SEC. 2. FINDINGS.**

2 (a) IN GENERAL.—The Congress finds that it is nec-
3 essary to take appropriate actions to address the com-
4 prehensive treatment of sewage emanating from the Ti-
5 juana River in order to substantially reduce river and
6 ocean pollution in the San Diego border region.

7 (b) FACTORS.—Congress bases the finding under
8 subsection (a) on the following factors:

9 (1) The San Diego border region is adversely
10 impacted from cross border raw sewage flows that
11 affect the environment and the health and safety of
12 citizens in the United States and Mexico.

13 (2) The United States and Mexico have agreed,
14 pursuant to the Treaty for the Utilization of Waters
15 of the Colorado and Tijuana Rivers and of the Rio
16 Grande, dated February 3, 1944, “to give pref-
17 erential attention to the solution of all border sanita-
18 tion problems”.

19 (3) The United States and Mexico recognize the
20 need for utilization of reclaimed water to supply the
21 growing needs of the City of Tijuana, Mexico, and
22 the entire border region.

23 (4) Current legislative authority regarding
24 funding of the IWTP limits the geographic scope of
25 proposed options for treatment of effluent from the
26 IWTP.

1 (5) This Act provides authority to take action
2 to address the comprehensive treatment of sewage
3 emanating from the Tijuana River in order to sub-
4 stantially reduce river and ocean pollution in the
5 San Diego border region and to exploit effective rec-
6 lamation opportunities.

7 **SEC. 3. PURPOSES.**

8 The purposes of this Act are as follows:

9 (1) Subject to the negotiation and approval of
10 a new or modified Treaty Minute under section 6, to
11 authorize the Commission to provide for secondary
12 treatment of effluent of the IWTP in Mexico.

13 (2) Subject to the negotiation and approval of
14 a new or modified Treaty Minute under section 6, to
15 authorize the Commission to provide for the develop-
16 ment of a privately-funded Mexican Facility, through
17 the execution of a fee-for-services contract with the
18 owner of such facility, in order to provide for—

19 (A) secondary treatment of effluent from
20 the IWTP, if such treatment is not provided for
21 at a facility in the United States; and

22 (B) additional capacity for primary and
23 secondary treatment of up to 50 mgd of sewage
24 in order to fully address the trans-border sani-
25 tation problem.

1 (3) To request the Secretary to initiate negotia-
2 tions with Mexico, within 60 days after the date of
3 the enactment of this Act, for a new Treaty Minute,
4 or a modification of Treaty Minute 283, so as to
5 allow for the siting of sewage treatment facilities in
6 Mexico, provide for additional treatment capacity
7 (up to 50 mdg) for the treatment of additional sew-
8 age emanating from the Tijuana area, and to ad-
9 dress other matters necessary for compliance with
10 the provisions of this Act.

11 (4) To provide such other authority as may be
12 necessary to implement a comprehensive solution to
13 the trans-border sanitation problem as soon as prac-
14 ticable.

15 **SEC. 4. DEFINITIONS.**

16 In this Act:

17 (1) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Environ-
19 mental Protection Agency.

20 (2) COMMISSION.—The term “Commission”
21 means the United States section of the International
22 Boundary and Water Commission, United States
23 and Mexico.

24 (3) IWTP.—The term “IWTP” means the Ad-
25 vanced Primary Wastewater Treatment Facility con-

1 structured under the provisions of the Federal Water
2 Pollution Control Act of 1987, section 510 of the
3 Water Quality Amendments Act of 1987, and Treaty
4 Minutes to the Treaty for the Utilization of Waters
5 of the Colorado and Tijuana Rivers and of the Rio
6 Grande, dated February 3, 1944.

7 (4) SECRETARY.—The term “Secretary” means
8 the Secretary of State.

9 (5) MEXICAN FACILITY.—The term “Mexican
10 Facility” means the proposed public/private waste-
11 water treatment facility to be constructed within
12 Mexico for the purpose of treating sewage flows gen-
13 erated within Mexico, which flows impact the surface
14 waters, health, and safety of the United States and
15 Mexico, to be authorized by this Act.

16 (6) MGD.—The term “mgd” means million gal-
17 lons per day.

18 **SEC. 5. ACTIONS TO BE TAKEN BY THE ADMINISTRATOR**
19 **AND THE COMMISSION.**

20 (a) AUTHORITY.—

21 (1) Subject to the negotiation and conclusion of
22 a new Treaty Minute or the amendment of Treaty
23 Minute 283 under section 6, and notwithstanding
24 section 510(b)(2) of the Water Quality Amendments
25 Act of 1987, the Commission is authorized to pro-

1 vide for the secondary treatment of effluent from the
2 IWTP in Mexico.

3 (2) Subject to subsection (b) and notwith-
4 standing any other provision of law, in order to pro-
5 vide for sewage treatment in Mexico, the Commis-
6 sion is authorized to enter into a fee-for-services
7 contract with the owner of the Mexican Facility in
8 order to provide for the following:

9 (A) The secondary treatment of effluent
10 from the IWTP, if such treatment is not pro-
11 vided for at a facility in the United States.

12 (B) The primary and secondary treatment
13 not more than 50 mgd of additional sewage
14 from the Tijuana area so as to ensure to the ex-
15 tent possible that untreated sewage will not
16 flow into the United States through the Tijuana
17 River.

18 (b) CONTRACT.—Any contract under subsection (a)
19 shall provide for the following:

20 (1) Transportation of the advance primary ef-
21 fluent from the IWTP to the Mexican Facility for
22 secondary treatment.

23 (2) Treatment of effluent from the IWTP to
24 the secondary level in a manner which is in compli-

1 ance with applicable water quality laws of the
2 United States, California, and Mexico.

3 (3) Return conveyance of any such treated ef-
4 fluent that cannot be reused in either Mexico or the
5 United States to the South Bay Ocean Outfall for
6 disposition into the Pacific Ocean.

7 (4) Sewage treatment capacity which provides
8 for primary and secondary treatment of up to 50
9 mgd of sewage in addition to the capacity required
10 to treat the advanced primary effluent from the
11 IWTP.

12 (5) A contract for a term of 30 years.

13 (6) Appropriate arrangements for the moni-
14 toring and verification of compliance with applicable
15 United States, California, and Mexican water quality
16 standards.

17 (7) Arrangements for the appropriate disposi-
18 tion of sludge, produced from the IWTP and the
19 Mexican Facility, at a location or locations in Mex-
20 ico.

21 (8) Payment of appropriate fees by the Com-
22 mission to the owner of the Mexican Facility for
23 sewage treatment services with the annual amount
24 payable to reflect all costs associated with the devel-

1 opment, construction, operation, and financing of
2 the Mexican Facility.

3 (9) Provision for the transfer of ownership of
4 the Mexican Facility to the United States if the
5 Commission fails to perform its obligations under
6 the fee-for-services contract and provision for a can-
7 cellation fee by the United States to the owner of
8 the Mexican Facility, which shall be established in
9 amounts declining over the term of the contract an-
10 ticipated to be sufficient to repay construction debt
11 and other amounts due to the owner that remain
12 unamortized due to early termination of the con-
13 tract.

14 (10) A contract to which the Contract Disputes
15 Act (41 U.S.C. 601–613) and the Federal Acquisi-
16 tion Regulations (41 C.F.R. Chapters 1–99) do not
17 apply.

18 **SEC. 6. NEGOTIATION OF NEW TREATY MINUTE.**

19 (a) CONGRESSIONAL STATEMENT.—In light of the
20 existing threat to the environment and to public health
21 and safety within the United States as a result of the river
22 and ocean pollution in the San Diego United States-Mex-
23 ico border region, the Secretary is requested to give the
24 highest priority to the negotiation and execution of a new
25 Treaty Minute, or a modification of Treaty Minute 283,

1 consistent with the provisions of this Act, in order that
2 the other provisions of this Act to address such pollution
3 may be implemented as soon as possible.

4 (b) NEGOTIATION.—

5 (1) The Secretary is requested to initiate nego-
6 tiations with Mexico, within 60 days after the date
7 of the enactment of this Act, for a new Treaty
8 Minute or a modification of Treaty Minute 283 con-
9 sistent with the provisions of this Act.

10 (2) A new Treaty Minute or a modification of
11 Treaty Minute 283 under this Act shall be subject
12 to the provisions of the National Environmental Pol-
13 icy Act of 1969 (NEPA).

14 (3) A new Treaty Minute or a modification of
15 Treaty Minute 283 under paragraph (1) should ad-
16 dress the following:

17 (A) The siting of treatment facilities in
18 Mexico and in the United States.

19 (B) The secondary treatment of effluent
20 from the IWTP at the Mexican Facility if such
21 treatment is not provided for at a facility in the
22 United States.

23 (C) Provision for the primary and sec-
24 ondary treatment of up to 50 mgd of sewage,
25 in addition to treatment capacity for the ad-

1 vanced primary effluent from the IWTP at the
2 Mexican Facility, to be funded by the United
3 States.

4 (D) Provision for any and all approvals
5 from Mexican authorities necessary to facilitate
6 water quality verification and enforcement at
7 the Mexican Facility.

8 (E) Any terms and conditions considered
9 necessary to allow for use in the United States
10 of treated effluent from the Mexican Facility, if
11 there is reclaimed water which is surplus to the
12 needs of users in Mexico and such use is con-
13 sistent with applicable California law.

14 (F) Any other terms and conditions consid-
15 ered necessary by the Secretary in order to fully
16 implement the provisions of this Act.

17 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated such sums
19 as may be necessary to carry out this Act.

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