

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4794

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IN THE SENATE OF THE UNITED STATES

OCTOBER 7, 2004

Received

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## AN ACT

To amend the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 to extend the authorization of appropriations, and for other purposes.

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

1 **SECTION 1. ACTIONS TO BE TAKEN.**

2 (a) **SECONDARY TREATMENT.**—Section 804(a)(1) of  
3 the Tijuana River Valley Estuary and Beach Sewage  
4 Cleanup Act of 2000 (22 U.S.C. 277d–44(a)(1); 114 Stat.  
5 1978) is amended by striking “Subject to” and all that  
6 follows through “of this Act,” and inserting “Pursuant to  
7 Treaty Minute 311 to the Treaty for the Utilization of  
8 Waters of the Colorado and Tijuana Rivers and of the Rio  
9 Grande, dated February 3, 1944,”.

10 (b) **CONTRACT.**—Section 804(c) of such Act is  
11 amended as follows:

12 (1) By striking paragraph (1) and inserting the  
13 following:

14 “(1) **IN GENERAL.**—Notwithstanding any provi-  
15 sion of Federal procurement law, the Commission  
16 may enter into a multiyear fee-for-services contract  
17 with the owner of a Mexican facility in order to  
18 carry out the secondary treatment requirements of  
19 subsection (a) and make payments under such con-  
20 tract, subject to the availability of appropriations  
21 and subject to the terms of paragraph (2).”.

22 (2) In paragraph (2)(I) by striking “, with such  
23 annual payment” and all that follows through the  
24 period at the end and inserting “, including costs as-  
25 sociated with the purchase of any insurance or other  
26 financial instrument under subparagraph (K). Costs

1 associated with the purchase of such insurance or  
2 other financial instrument may be amortized over  
3 the term of the contract.”.

4 (3) In paragraph (2) by redesignating subpara-  
5 graphs (J) through (P) as subparagraphs (L)  
6 through (R), respectively, and by inserting after sub-  
7 paragraph (I) the following:

8 “(J) Neither the Commission nor the  
9 United States Government shall be liable for  
10 payment of any cancellation fees if the Commis-  
11 sion cancels the contract.

12 “(K) The owner of the Mexican facility  
13 may purchase insurance or other financial in-  
14 strument to cover the risk of cancellation of the  
15 contract by the Commission. Any such insur-  
16 ance or other financial instrument shall not be  
17 provided or guaranteed by the United States  
18 Government, and the Government may reserve  
19 the right to validate independently the reason-  
20 ableness of the premium when negotiating the  
21 annual service fee with the owner.”.

22 (4) By striking paragraphs (2)(L) and (2)(M)  
23 (as redesignated by paragraph (3) of this sub-  
24 section) and inserting the following:

1           “(L) Transfer of ownership of the Mexican  
2           facility to an appropriate governmental entity,  
3           other than the United States, if the Commis-  
4           sion cancels the contract.

5           “(M) Transfer of ownership of the Mexican  
6           facility to an appropriate governmental entity,  
7           other than the United States, if the owner of  
8           the Mexican facility fails to perform under the  
9           contract.”.

10          (5) In paragraph (2)(N) (as redesignated by  
11          paragraph (3) of this subsection) by inserting after  
12          “competitive procedures” the following: “under ap-  
13          plicable law”.

14          **SEC. 2. IMPLEMENTATION OF NEW TREATY MINUTE.**

15          Section 805 of the Tijuana River Valley Estuary and  
16          Beach Sewage Cleanup Act of 2000 (22 U.S.C. 277d-45;  
17          114 Stat. 1980) is amended—

18                 (1) in the section heading striking “**NEGOTIA-**  
19                 **TION OF**”; and

20                 (2) by adding at the end the following:

21                 “(c) **IMPLEMENTATION.**—In light of the continuing  
22                 threat to the environment and to public health and safety  
23                 within the United States as a result of the river and ocean  
24                 pollution in the San Diego-Tijuana border region, the  
25                 Commission is requested to give the highest priority to the

1 implementation of Treaty Minute 311 to the Treaty for  
2 the Utilization of Waters of the Colorado and Tijuana Riv-  
3 ers and of the Rio Grande, dated February 3, 1944, which  
4 establishes a framework for the siting of a treatment facil-  
5 ity in Mexico to provide for the secondary treatment of  
6 effluent from the IWTP at the Mexican facility, to provide  
7 for additional capacity for advanced primary and sec-  
8 ondary treatment of additional sewage emanating from the  
9 Tijuana River area, Mexico, and to meet the water quality  
10 standards of Mexico, the United States, and the State of  
11 California consistent with the provisions of this title, in  
12 order that the other provisions of this title to address such  
13 pollution may be implemented as soon as possible.”.

14 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

15 Section 806 of the Tijuana River Valley Estuary and  
16 Beach Sewage Cleanup Act of 2000 (22 U.S.C. 277d-46;  
17 114 Stat. 1981) is amended by striking “a total of  
18 \$156,000,000 for fiscal years 2001 through 2005” and  
19 inserting “such sums as may be necessary”.

Passed the House of Representatives October 6 (leg-  
islative day, October 7), 2004.

Attest:

JEFF TRANDAHL,

*Clerk.*