

**Statement of Maria Elena Giner  
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**International Boundary and Water Commission  
United States and Mexico**

**Before the Committee on Transportation and Infrastructure  
Subcommittee on Water Resources and the Environment  
U.S. House of Representatives  
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Thank you for inviting me to testify regarding the Fiscal Year 2024 budget request for the U.S. Section of the International Boundary and Water Commission, United States and Mexico (USIBWC). We welcome the opportunity to discuss opportunities to improve infrastructure and the quality of life in the United States along the U.S. border with Mexico.

Everything the USIBWC does safeguards the lives, health, property and prosperity of U.S. citizens residing in the border area, whether agency activities are related to flood prevention, water pollution mitigation, or the efficient and equitable distribution between the United States and Mexico of water from the Colorado River and the Rio Grande. Promoting environmental justice is at the forefront of our concerns, since the border communities we serve are some of the most disadvantaged in the United States: the average income in most border counties is less than half the average of the states in which they are located. These communities often lack the resources to effectively manage challenges

such as the historic drought in the American Southwest or cross-border wastewater flows entering the United States from Mexico.

The USIBWC's mission is to provide binational solutions to issues that arise during the application of treaties between the United States and Mexico regarding, among other things, water quality and flood control in the border region, including constructing, rehabilitating, operating and maintaining flood control systems, storage dams with hydroelectric power plants, and wastewater treatment plants, as directed by Congress. The International Boundary and Water Commission (IBWC) is an international body composed of a U.S. Section and a Mexican Section, each headed by an Engineer Commissioner appointed by the President of their country. Each Section is funded and administered independently of the other. The U.S. Section is an independent federal agency that operates under the foreign policy guidance of the U.S. Department of State and is funded through the annual Department of State, Foreign Operations, and Related Programs Appropriations Act.

For over a century, the IBWC has worked to promote bi-national cooperation and partnership, dating back to the temporary boundary

commissions established by the Treaty of Guadalupe, the Gadsden Treaty, and an 1882 Convention to map the international boundary between the United States and Mexico. The U.S. and Mexican governments established what became the IBWC (then the International Boundary Commission) in 1889, initially to resolve boundary-related differences arising along the border. The 1944 U.S.-Mexico water treaty established the key organizational components of the modern-day IBWC and its two sections. Today, the IBWC is charged with applying binational boundary and water treaties, including water distribution and flood management of the transboundary rivers.

The USIBWC's activities include:

- preservation and demarcation of the international land boundary along the States of California, Arizona and New Mexico, and Texas, including at international ports of entry;
- preservation and demarcation of the international boundary defined by the Rio Grande along the State of Texas and the Colorado River along the State of Arizona, including at international bridges;
- determination and accounting for national ownership of the waters of the

Rio Grande and Colorado River and allocation of water between Mexico and the United States during severe drought;

- operation and maintenance of flood control systems consisting of over 500 miles of river and floodway levees, 20,000 acres of floodplains, 700 hydraulic structures, 100 hydrologic gaging stations, and four diversion dams;
- operation and maintenance of two international storage dams and associated hydro-electric power plants;
- operation and maintenance of two wastewater treatment facilities in the United States;
- maintenance of two international bridges in the El Paso/Ciudad Juarez area;
- water quality monitoring for bi-national IBWC-approved projects and exchange of data; and
- review of all plans for new international bridges, border crossings, and pipe and power lines that cross the international boundary to ensure compliance with boundary treaty requirements.

## *Priority Issues*

### *Water Delivery*

As the Western United States faces unprecedented severe drought conditions, the USIBWC's ability to negotiate international agreements, known as Minutes, with Mexico under the 1944 Water Treaty allows our respective countries to develop solutions to current issues, and our water accounting function helps ensure the equitable distribution of the waters of the Rio Grande and Colorado Rivers is in accordance with the treaties and Minutes. For the Colorado River basin, USIBWC helped develop and implement Minutes 319 and 323, ensuring that if the United States makes a shortage declaration, Mexico will take cuts to Colorado River water deliveries along with the Lower Colorado River Basin in the United States. The Bureau of Reclamation made shortage declarations in 2021 and 2022, forcing automatic water delivery cuts, and expects to make a similar declaration in August 2023. USIBWC's budget provides for work to implement drought planning and water conservation in the Colorado River Basin, including working with Reclamation and Mexico to

prepare to implement cuts in Mexico. We are consulting with other federal agencies with the aim of building a climate science department within the USIBWC, to better forecast anticipated precipitation levels.

Since 2021, Mexico has saved water under the Binational Water Scarcity Contingency Plan agreed to in Minute 323, a plan that complements savings undertaken in the United States under the domestic Lower Basin Drought Contingency Plan approved by Congress in 2019. Under the terms of Minute 323 and related Minutes, Mexico has conserved hundreds of thousands of acre-feet of water, adding to volumes conserved in the United States, to help boost Lake Mead elevation and delay or reduce mandatory reductions to users in both countries. Past Mexican conservation has raised Lake Mead's elevation as much as three feet.

On the Rio Grande in Texas, under the 1944 Water Treaty, Mexico is required to deliver water from the Rio Grande to the United States, meeting designated volumes for five-year cycles. For the water delivery cycle that ended in October 2020, USIBWC was instrumental in ensuring Mexico finished without a water debt. As part of the 2020 IBWC agreement stipulating

arrangements for Mexico's end-of-cycle water deliveries, the two countries agreed to negotiate another agreement by December 2023 to ensure more predictable and reliable water deliveries. The U.S.-Mexican negotiations on this latest Rio Grande agreement are well under way.

In the current treaty-designated five-year water delivery cycle, Mexico has delivered volumes near historical lows, providing only 45 percent of the volumes expected at this stage. The growing shortfalls could become unmanageable, making it difficult for Mexico to comply with treaty requirements. USIBWC is negotiating with Mexican officials to provide tools to make deliveries earlier in the five-year cycle.

### ***Sanitation - San Diego, California***

Another of the Commission's top priorities is addressing sanitation conditions along the U.S.-Mexico border. To that end, USIBWC operates and maintains two bi-national wastewater treatment facilities at San Diego, California (South Bay International Wastewater Treatment Plant) and Nogales, Arizona, and participates with Mexico in its operation of a facility in Mexico

that discharges into the Rio Grande River near Laredo, Texas. In the early 1990s when NAFTA was being drafted and implemented, Mexico made major investments in sanitation infrastructure with substantial U.S. cost-shares through entities like the Border Environment Cooperation Commission, the North American Development Bank, and U.S. Environmental Protection Agency (EPA). The San Diego wastewater treatment facility was also constructed during this time. However, rapid economic and demographic growth along Mexico's northern border with the United States did not bring proportionate Mexican investments in infrastructure or maintenance of the existing infrastructure, particularly in water and sanitation. As a result, much of that infrastructure is coming to the end of its useful life. This results in increased operations and maintenance costs at USIBWC's facilities and recurring sewage spills across the border into the United States.

For decades, nearby communities have had to cope with the transboundary wastewater flows between Tijuana and San Diego. Despite massive U.S. investment in the City of Tijuana's collection system, that system has aged, and the city's population has grown since the mid-1990s. During rainstorms or wet weather in Tijuana and when pipelines or pumps break, water flows to the



Tijuana River and canyons and mixes with unknown amounts of urban runoff, treated effluent from the Tijuana River, and wastewater in Mexico before flowing into the United States. During dry weather, the runoff is largely groundwater and some untreated flows from illegal connections in Mexico (dry-weather flows); during storms, this runoff mixes with large amounts of rainfall (wet-weather flows). Thus, transboundary flows that cross the U.S.-Mexico international border can transport pollutants generated in Mexico that impact downstream surface waters in the United States. A 2017 Scripps Institution of Oceanography study identified 34,000 illnesses per year in nearby communities that the contamination could cause.

Among the factors leading to transboundary flow incidents are aging and unmaintained Tijuana sewer lines and pumps, power outages, and wet weather flows from storms that overwhelm the capacity of pumps in Mexico that are diverting sewage flows away from the United States. USIBWC uses its relationships with Mexican officials to leverage larger solutions than one small agency can achieve on its own. We consult closely with U.S. stakeholders and encourage Mexican officials to access federal, state, local and private sources to fund repairs.

In the mid-1990s the IBWC constructed the South Bay plant to treat a limited amount of Mexican wastewater sent to the plant primarily from the City of Tijuana's collection system, before discharging the treated effluent offshore in the Pacific Ocean. The collection system in Mexico includes a small-capacity pump in the Tijuana River in Mexico to divert to the South Bay plant the dry-weather flows that occur in the river on a regular basis. However, there are two scenarios when the flows from Mexico overwhelm South Bay's capacity. First, when it rains, wastewater mixes with stormwater in the Tijuana River and canyons, exceeding Mexico's capacity to capture the river flows and exceeding the South Bay plant's treatment capacity. The river simply cannot be stopped from flowing into the United States and no single wastewater treatment plant could treat the entire river, which is part of the drainage of a watershed that is over 1,700 square miles in size.

Second, Mexico's wastewater system sometimes sends flows to the South Bay plant that exceed its limited capacity. Over the last several years, pump station failures and leaks in Tijuana's sewage pipelines have become particularly acute, leading to increased wastewater flow to the United States.

These excess flows have put tremendous strain on the South Bay plant's facilities, to include equipment failures and loss of primary treatment capability. Plant operators have not been able to perform the essential repairs and maintenance needed to keep the plant in proper operation. Because of the loss of primary treatment and other damaged equipment, plant effluent has exceeded the Clean Water Act standards in 15 of 36 categories on over 100 occasions since August 2022, resulting in impaired water quality discharges.

San Diego area communities have expressed growing frustration with the volumes of untreated wastewater in the Tijuana River, and with reported shortfalls in funding for the planned rehabilitation and expansion of the South Bay plant. In June, 18 municipalities in the San Diego area wrote the White House Council on Environmental Quality to request a federal emergency declaration for the Tijuana River Valley and the shoreline of Imperial Beach. The aim of the requested declaration is to coordinate a multi-agency response and obtain needed funding.

The USIBWC has worked closely with EPA to coordinate planning for a major expansion of the South Bay plant. In January 2020, Congress

appropriated \$300 million for border area infrastructure, as part of the United States-Mexico-Canada Agreement (USMCA) implementing legislation. The funds were appropriated to EPA to design and construct new infrastructure in coordination with eligible public entities. EPA's environmental review of its priority project, the planned South Bay plant expansion, concluded successfully with the June 12, 2023 Record of Decision. The decision moved the project to the design and construction phase, and the USIBWC began the pre-solicitation process the same day with a "Sources Sought" announcement to produce market research and promote bidder interest in a contract to perform the rehabilitation and expansion of the plant. Last year, Congress provided USIBWC with the authority to receive EPA funds for the design and construction of the project. Once expanded, the plant will reduce cross-border wastewater flows by as much as 80%, and reduce the number of norovirus-related illnesses by up to two thirds. In addition, the President's budget requests additional authorities for the USIBWC to receive funds from federal and non-federal entities all along the U.S.-Mexico border. The new authorities would match the contributed funds authorities already enjoyed by other U.S. infrastructure agencies, and any contributed funds could be used in connection with the South Bay plant expansion or a wide range of activities along the

2,000-mile border with Mexico.

Under an August 2022 IBWC Minute, Mexico's federal government committed to \$144 million in short-term projects to improve wastewater management in the Tijuana area. These projects, the counterpart to promised U.S. projects such as the South Bay plant expansion, include repairs to wastewater collectors, pump station upgrades, and projects to re-use treated wastewater. Mexico's largest planned project is the construction of a new wastewater treatment plant at San Antonio de los Buenos on the Pacific coast, which will curb pollutants carried to San Diego area beaches when ocean currents drift northward. The solicitation for the construction is slated to go out this Autumn. In May, EPA and the Mexican National Water Commission announced the near-completion of the Oriente Collector rehabilitation (it was subsequently completed), and plans to replace the International Collector and provide a rehabilitation and flood protection for Pump Station 1, with each country providing roughly half of the nearly \$30 million cost.

*Sanitation - Nogales, Arizona*

Southeastern Arizona has been impacted by deteriorating international wastewater pipelines in Santa Cruz County known as the Nogales Main Collector Line (Trunkline) and the International Outfall Interceptor (IOI). Wastewater from Nogales, Sonora, Mexico as well as Nogales and Rio Rico, Arizona, travels through the wastewater pipelines to the Nogales International Wastewater Treatment Plant (NIWTP), which is operated and maintained by the USIBWC. The condition of the IOI deteriorated over the years due to inadequate maintenance by local authorities. Through multiple-year appropriations, USIBWC has received \$34 million in funding to completely rehabilitate the pipeline by installing a new liner inside it. The Arizona Department of Environmental Quality obtained state and non-governmental funds for a cost share with the federal government. The multi-year rehabilitation of the Nogales IOI is needed to avoid adverse environmental impacts and to ensure reliable operation of the wastewater collection and treatment system.

With federal investment in the IOI amounting to tens of millions of

dollars, the USIBWC seeks to ensure proper maintenance of the rehabilitated pipeline. The USIBWC supports congressional efforts to provide authorization and funding to transfer ownership of the IOI to the USIBWC. The USIBWC has the expertise to ensure proper maintenance of the IOI, and unique international factors make it appropriate for the federal government to take a lead role. Almost 90% of the wastewater carried through the IOI for treatment at NIWTP originates in Mexico. In addition, Transnational Criminal Organizations regularly break into the IOI to insert drug bundles in Mexico that they retrieve downstream in the United States. These intentional punctures greatly complicate maintenance of the pipeline. By ensuring proper maintenance of the IOI, USIBWC will avoid the periodic ruptures that have caused raw sewage to flow within the Nogales, Arizona community.

The amount of Mexican sewage treated at the NIWTP has often exceeded agreed limits. In addition, the transboundary flows sometimes include heavy metals primarily from industries in Mexico -- the treatment plant cannot remove these contaminants. The metal components, as well as high levels of nitrates in the wastewater, have on a number of occasions caused the plant's non-compliance with Clean Water Act standards. The City of Nogales, Sonora has

also accumulated large unpaid balances for the treatment of its wastewater at NIWTP. In coordination with the U.S. Department of State, USIBWC has repeatedly pressed Mexico's federal government to pay the ballooning debt on behalf of the local utility, which currently amounts to almost \$5million.

### *Flood Control and Dam Safety - Texas*

Dam safety is another one of USIBWC's top priorities. While the Agency does not seek additional funds for its Safety of Dams Program this year, it will use unobligated carryover balances to develop and implement risk mitigation plans. USIBWC is working with the Mexican Section to determine the best option to reduce the risk of dam failure, which will require a cost share with Mexico. The most recent safety inspections have identified urgent or high priority deficiencies at five of the six Rio Grande dams operated by the U.S. Section or jointly with the Mexican Section. American, International, Retamal, and Falcon Dams received a Dam Safety Action Classification (DSAC) of "High Priority, Conditionally Unsafe," while Amistad Dam received a DSAC rating of "Urgent, Potentially Unsafe." The U.S. Army Corps of Engineers will



perform updated safety inspections starting in November.

A minimum of \$30 million in unobligated carryover funds will be used to implement mitigation measures at Amistad International Dam. The Mexican Section of the IBWC hopes later this year to solicit bids on a contract to install two grout curtains in the base of the dam, and at the same time do exploratory drilling to determine the required depth and cost of a composite cut-off wall. About 98 percent of the water used in the Lower Rio Grande Valley of Texas and Mexico is released from Amistad and Falcon Dams, providing potable water for 1.5 million U.S. and Mexican border residents. Failure of either of these dams would have catastrophic consequences in terms of potential loss of life and property, and damage to the economy in the Lower Rio Grande Valley.

### ***Components of Agency's Proposed 2024 Budget***

The President's FY 2024 budget request for the USIBWC Salaries and Expenses (S&E) Account is for \$64,800,000, an increase of \$6,865,000 above the FY 2023 Appropriation of \$57,935,000. The requested funds will allow the USIBWC to continue critical or urgent maintenance and repairs of its facilities and infrastructure for storage, diversion, and flood control of river waters, as

well as maintenance of USIBWC sanitation projects. The request funds 263 positions and administrative costs of the U.S. Section, as well as the funds needed for the continued operation and maintenance of the U.S. portion of bi-national infrastructure along the border. That infrastructure is required to ensure compliance with treaties and other international agreements between the United States and Mexico that are within the purview of the IBWC.

As mentioned earlier, the President's budget requests additional authorities for USIBWC – a contributed funds authority. The purpose of the new authority, which other U.S. infrastructure agencies possess, would be to accomplish the USIBWC mission of water supply, flood protection, eliminating cross-border wastewater flows, and boundary maintenance.

The USIBWC has eight field offices and four satellite offices that span the border from San Diego, California to Brownsville, Texas. Staff in these offices operate and maintain projects, including many operated jointly with Mexican Section personnel based in companion offices on the Mexican side of the border. Of the \$64.8 million request, \$43.4 million will support continued operation and maintenance (O&M) costs of existing infrastructure. This activity includes the measurement and determination of the national ownership

of boundary waters.

The S&E funding also covers the U.S. share of O&M for two international wastewater treatment plants, two major international storage dams with associated hydroelectric power plants, four diversion dams, river channel and levee projects, and boundary demarcation activities.

The remaining roughly \$21.5 million that is requested for the S&E Account includes \$13.9 million for administration, which covers negotiations and supervision of joint projects with Mexico to solve international boundary and water problems; overall management of the USIBWC; formulation of operating policies and procedures; and financial management, information technology (IT) infrastructure modernization and administrative services to carry out international obligations of the United States consistent with international agreements and other authorities.

In addition, \$7.5 million is requested to cover activities in USIBWC's Engineering Department, which support our projects and include technical and environmental planning, engineering design and hydraulic studies, construction

oversight of new projects, and engineering guidance. Other areas include environmental monitoring and compliance; surveys and mappings, and investigations to determine the need for and feasibility of future projects. Engineering funds also cover the design and management of projects, surveys, studies, and investigations to address international boundary and water problems with Mexico in accordance with IBWC treaties and agreements. The IBWC participates in multi-agency water quality programs in the Rio Grande, Colorado River, New River, and the Pacific Ocean.

The FY 2024 Construction Account request of roughly \$40 million is over \$13 million below the FY 2023 President's Budget of over \$53 million. Initially, USIBWC intended to use these requested funds for a variety of projects; however, virtually all of the funds will be realigned to pay unexpectedly high costs to rehabilitate the South Bay International Wastewater Treatment Plant (SBIWTP). Only \$600,000 of the \$40 million construction account will remain dedicated to the initially intended function: improvements at the Nogales International Wastewater Treatment Plant, where excess flows from Mexico have caused plant non-compliance with Clean Water Act standards. All other projects not related to the two U.S.-based wastewater

treatment plants will be deferred for one year.

At SBIWTP, the USIBWC hired a consulting firm as a project manager to help plan for the design and construction of the plant expansion, which will use USMCA funds to be transferred from EPA. When the project manager performed an assessment of the plant's current condition, they found a large number of essential repairs. The need for extensive repairs is due to the age of the plant, where many components were nearing the end of their life cycles, and low levels of capital repairs in the preceding 10-15 years. The project manager identified \$100-\$200 million in needed repairs, of which an estimated \$105 million worth of repairs are recommended as part of the plant's expansion. IBWC is consulting with EPA, the State Department, and other partners on how these recommendations could be addressed.

The USIBWC welcomes your support as we implement these important projects as part of our mission to address boundary and water issues along the U.S.-Mexico border. Thank you for the opportunity to testify.