

106TH CONGRESS
1ST SESSION

H. R. 3310

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 10, 1999

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 “United States-Mexico Bor-
5 der 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, to authorize the
11 Commission to provide for secondary treatment of
12 effluent of the IWTP in Mexico.

13 (2) Subject to the negotiation and approval of
14 a new or modified Treaty Minute, to authorize the
15 Commission to provide for the development of a pri-
16 vately-funded Mexican Facility, through the execu-
17 tion of a fee-for-services contract with the owner of
18 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 million gallons
24 per day of sewage in order to fully address the
25 trans-border sanitation 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 million gallons per day) for the treatment
8 of additional sewage emanating from the Tijuana
9 area, and to address other matters necessary for
10 compliance with 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. ACTIONS TO BE TAKEN BY COMMISSION.**

16 (a) AUTHORITY TO PROVIDE FOR SECONDARY
17 TREATMENT.—Subject to the negotiation and conclusion
18 of a new Treaty Minute or the amendment of Treaty
19 Minute 283, and notwithstanding section 510(b)(2) of the
20 Water Quality Amendments Act of 1987, the Commission
21 is authorized to provide for the secondary treatment of
22 effluent from the IWTP in Mexico.

23 (b) AUTHORITY TO ENTER INTO CONTRACT WITH
24 MEXICAN FACILITY.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law, to provide for sewage treatment in
3 Mexico, the Commission is authorized to enter into
4 a fee-for-services contract with the owner of the
5 Mexican Facility.

6 (2) REQUIREMENTS FOR CONTRACT.—The fee-
7 for-services contract referred to in paragraph (1)
8 shall 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 of up to 50 million gallons per day of additional
14 sewage from the Tijuana area so as to ensure
15 to the extent possible that untreated sewage will
16 not flow into the United States through the Ti-
17 juana River.

18 (C) Transportation of the advance primary
19 effluent from the IWTP to the Mexican Facility
20 for secondary treatment.

21 (D) Treatment of effluent from the IWTP
22 to the secondary level in a manner that is in
23 compliance with applicable water quality laws of
24 the United States, California, and Mexico.

1 (E) Return conveyance of any such treated
2 effluent that cannot be reused in either Mexico
3 or the United States to the South Bay Ocean
4 Outfall for disposition into the Pacific Ocean.

5 (F) Sewage treatment capacity which pro-
6 vides for primary and secondary treatment of
7 up to 50 million gallons per day of sewage in
8 addition to the capacity required to treat the
9 advanced primary effluent from the IWTP.

10 (G) A contract term of 30 years.

11 (H) Appropriate arrangements for the
12 monitoring and verification of compliance with
13 applicable United States, California, and Mexi-
14 can water quality standards.

15 (I) Arrangements for the appropriate dis-
16 position at a location or locations in Mexico of
17 sludge produced from the IWTP and the Mexi-
18 can Facility.

19 (J) Payment of appropriate fees by the
20 Commission to the owner of the Mexican Facil-
21 ity for sewage treatment services with the an-
22 nual amount payable to reflect all costs associ-
23 ated with the development, construction, oper-
24 ation, and financing of the Mexican Facility.

1 (K) Provision for transfer of ownership of
2 the Mexican Facility to the United States if the
3 Commission fails to perform its obligations
4 under the fee-for-services contract, and provi-
5 sion for a cancellation fee by the United States
6 to the owner of the Mexican Facility, which
7 shall be established in amounts declining over
8 the term of the contract anticipated to be suffi-
9 cient to repay construction debt and other
10 amounts due to the owner that remain
11 unamortized due to early termination of the
12 contract.

13 **SEC. 5. NEGOTIATION OF NEW TREATY MINUTE.**

14 (a) CONGRESSIONAL STATEMENT.—In light of the
15 existing threat to the environment and to public health
16 and safety within the United States as a result of the river
17 and ocean pollution in the San Diego United States-Mex-
18 ico border region, the Secretary is requested to give the
19 highest priority to the negotiation and execution of a new
20 Treaty Minute, or a modification of Treaty Minute 283,
21 consistent with the provisions of this Act, in order that
22 the other provisions of this Act to address such pollution
23 may be implemented as soon as possible.

24 (b) NEGOTIATION.—The Secretary is requested to
25 initiate, not later than 60 days after the date of the enact-

1 ment of this Act, negotiations with Mexico for a new Trea-
2 ty Minute or a modification of Treaty Minute 283 con-
3 sistent with the provisions of this Act.

4 (c) TERMS OF TREATY MINUTE.—A new Treaty
5 Minute or a modification of Treaty Minute 283 under this
6 section shall address the following:

7 (1) A requirement that such new or modified
8 Treaty Minute be subject to the provisions of the
9 National Environmental Policy Act of 1969
10 (NEPA).

11 (2) The ability to site treatment facilities in
12 Mexico and in the United States.

13 (3) The ability to carry out at the Mexican Fa-
14 cility the secondary treatment of effluent from the
15 IWTP, if such treatment is not provided for at a fa-
16 cility in the United States.

17 (4) The ability to carry out at the Mexican Fa-
18 cility the primary and secondary treatment of sew-
19 age at a capacity up to 50 million gallons per day,
20 in addition to the capacity for the advanced primary
21 effluent from the IWTP, to be funded by the United
22 States.

23 (5) The ability to obtain such approvals from
24 the Government of Mexico as are needed to verify

1 and enforce water quality standards at the Mexican
2 Facility.

3 (6) The ability to allow for the use in the
4 United States, in a manner consistent with applica-
5 ble Federal and State law, of treated effluent from
6 the Mexican Facility, if there is reclaimed water that
7 is surplus to the needs of users in Mexico.

8 (7) Any other terms and conditions considered
9 necessary by the Secretary in order to fully imple-
10 ment the provisions of this Act.

11 **SEC. 6. LIMITATION ON USE OF FUNDS.**

12 (a) LIMITATION.—Except as provided in subsection
13 (b), none of the funds appropriated for any fiscal year to
14 the Environmental Protection Agency may be used for
15 making grants authorized under section 510 of the Water
16 Quality Act of 1987 that exceed a total of \$239,400,000,
17 and the Administrator of the Environmental Protection
18 Agency shall take no action to obligate any funds under
19 such section if the impact on the total program cost to
20 the Environmental Protection Agency of such action would
21 exceed \$239,400,000.

22 (b) EXCEPTION.—The limitations under subsection
23 (a) do not apply if the Governments of the United States
24 and Mexico enter into a new Treaty Minute or a renegoti-

1 ation of Treaty Minute 283 that gives effect to the provi-
2 sions specified in section 5(c).

3 **SEC. 7. DEFINITIONS.**

4 In this Act:

5 (1) COMMISSION.—The term “Commission”
6 means the United States section of the International
7 Boundary and Water Commission, United States
8 and Mexico.

9 (2) IWTP.—The term “IWTP” means the Ad-
10 vanced Primary Wastewater Treatment Facility con-
11 structed under the provisions of the Federal Water
12 Pollution Control Act of 1987, section 510 of the
13 Water Quality Amendments Act of 1987, and Treaty
14 Minutes 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.

17 (3) SECRETARY.—The term “Secretary” means
18 the Secretary of State.

19 (4) MEXICAN FACILITY.—The term “Mexican
20 Facility” means the proposed public/private waste-
21 water treatment facility to be constructed within
22 Mexico for the purpose of treating sewage flows gen-
23 erated within Mexico, which flows impact the surface
24 waters, health, and safety of the United States and
25 Mexico.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

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

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