

apply only to projects agreed upon by the two Governments in accordance with the treaty of February 3, 1944.

(Sept. 13, 1950, ch. 948, title I, §105, 64 Stat. 848.)

§ 277d-6. Douglas-Agua Prieta Sanitation Project; operation by Commission; division of costs; contribution by City of Douglas, Arizona

The Secretary of State is authorized, notwithstanding any other provision of law and subject to the conditions provided in this section and section 277d-7 of this title, to enter into an agreement with the appropriate official or officials of the United Mexican States for the operation and maintenance by the International Boundary and Water Commission, United States and Mexico, of the Douglas-Agua Prieta sanitation project, located at Douglas, Arizona, and Agua Prieta, Sonora, Mexico, heretofore constructed by the said Commission, which agreement shall contain such provisions relating to a division between the two Governments of the costs of such operation and maintenance, or of the work involved therein, as may be recommended by said Commission and approved by the Government of Mexico and by the Secretary of State on behalf of the Government of the United States: *Provided*, That no such agreement shall be entered into until the governing body of the city of Douglas, Arizona, has given assurances satisfactory to the Secretary of State that it will, so long as such agreement remains in force, contribute an equitable proportion, as determined by the United States Section of said Commission, subject to the approval of the Secretary of State, of the costs of such operation and maintenance allocated to the United States.

(Sept. 13, 1950, ch. 948, title II, §201, 64 Stat. 848.)

§ 277d-7. Authorization for appropriations; availability of prior appropriations; use of moneys received

There is authorized to be appropriated to the United States Section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the operation and maintenance of such project: *Provided*, That funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico", shall be available for expenditure for the purposes of this section and section 277d-6 of this title: *Provided further*, That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriations which may be available or which may be made for the purposes of said sections: *And provided further*, That moneys received from the city of Douglas, Arizona, pursuant to the provisions of said sections shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of said sections.

(Sept. 13, 1950, ch. 948, title II, §202, 64 Stat. 848.)

§ 277d-8. Calexico Mexicali Sanitation Project; operation by Commission; division of costs; contribution by City of Calexico, California

The Secretary of State is authorized, subject to the conditions provided in this section and section 277d-9 of this title, to enter into an agreement with the appropriate official or officials of the United Mexican States for the construction, operation, and maintenance by the International Boundary and Water Commission, United States and Mexico, of a sanitation project for the cities of Calexico, California, and Mexicali, Lower California, Mexico, which agreement shall contain such provisions relating to a division between the two Governments of the cost of such construction and operation and maintenance, or of the work involved therein, as may be recommended by the said Commission and approved by the Government of Mexico and by the Secretary of State on behalf of the Government of the United States: *Provided*, That no such agreement shall be entered into until the governing body of the city of Calexico, California, has given assurances satisfactory to the Secretary of State that, so long as such agreement remains in force, the city of Calexico will contribute an equitable proportion as determined by the United States Section of said Commission, subject to the approval of the Secretary of State, of the costs of such construction, operation, and maintenance allocated to the United States.

(Sept. 13, 1950, ch. 948, title III, §301, 64 Stat. 848.)

§ 277d-9. Authorization for appropriations; availability of prior appropriations; use of moneys received

There is authorized to be appropriated to the United States section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the construction, operation, and maintenance of such project: *Provided*, That funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico", shall be available for expenditure for the purposes of this section and section 277d-8 of this title: *Provided further*, That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriation which may be available or which may be made available for the purposes of said sections: *And provided further*, That moneys received from the city of Calexico, California, pursuant to the provisions of said sections, shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of said sections.

(Sept. 13, 1950, ch. 948, title III, §302, 64 Stat. 849.)

§ 277d-10. Nogales Sanitation Project; operation by Commission; division of costs; contribution by Nogales, Arizona

The Secretary of State is authorized, notwithstanding any other provision of law and subject

to the conditions provided in this section and section 277d-11 of this title, to enter into an agreement with the appropriate official or officials of the United Mexican States for the operation and maintenance by the International Boundary and Water Commission, United States and Mexico, of the Nogales sanitation project, located at Nogales, Arizona, and Nogales, Sonora, Mexico, heretofore constructed by the said Commission, which agreement shall contain such provisions relating to a division between the two Governments of the costs of such operation and maintenance, or of the work involved therein, as may be recommended by said Commission and approved by the Government of Mexico and by the Secretary of State on behalf of the Government of the United States: *Provided*, That no such agreement shall be entered into until the governing body of the city of Nogales, Arizona, has given assurances satisfactory to the Secretary of State that it will, so long as such agreement remains in force, contribute an equitable proportion, as determined by the United States section of said Commission, subject to the approval of the Secretary of State, of the costs of such operation and maintenance allocated to the United States: *Provided further*, That such equitable proportion shall consist only of the costs directly associated with the treatment and conveyance of the wastewater of the city and, to the extent practicable, shall not include any costs directly associated with the quality or quantity of wastewater originating in Mexico.

(July 27, 1953, ch. 242, § 1, 67 Stat. 195; Pub. L. 118-31, div. E, title LVI, § 5602(a), Dec. 22, 2023, 137 Stat. 956.)

Editorial Notes

AMENDMENTS

2023—Pub. L. 118-31 substituted “: *Provided further*, That such equitable proportion shall consist only of the costs directly associated with the treatment and conveyance of the wastewater of the city and, to the extent practicable, shall not include any costs directly associated with the quality or quantity of wastewater originating in Mexico.” for period at end.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2023 AMENDMENT

Pub. L. 118-31, div. E, title LVI, § 5602(e), Dec. 22, 2023, 137 Stat. 959, provided that: “Subsections (a) and (b) [amending this section and enacting provisions set out as a note under this section] (including the amendments made by such subsections) shall take effect on October 1, 2024.”

NOGALES WASTEWATER IMPROVEMENT

Pub. L. 118-31, div. E, title LVI, § 5602(b)–(d), Dec. 22, 2023, 137 Stat. 956–959, provided that:

“(b) NOGALES SANITATION PROJECT.—

“(1) DEFINITIONS.—In this subsection:

“(A) CITY.—The term ‘City’ means the City of Nogales, Arizona.

“(B) COMMISSION.—The term ‘Commission’ means the United States Section of the International Boundary and Water Commission.

“(C) INTERNATIONAL OUTFALL INTERCEPTOR.—The term ‘International Outfall Interceptor’ means the pipeline that conveys wastewater from the United States-Mexico border to the Nogales International Wastewater Treatment Plant.

“(D) NOGALES INTERNATIONAL WASTEWATER TREATMENT PLANT.—The term ‘Nogales International Wastewater Treatment Plant’ means the wastewater treatment plant that—

“(i) is operated by the Commission;

“(ii) is located in Rio Rico, Santa Cruz County, Arizona, after manhole 99; and

“(iii) treats wastewater originating from—

“(I) Nogales, Sonora, Mexico; and

“(II) Nogales, Arizona.

“(E) NOGALES SANITATION PROJECT.—The term ‘Nogales sanitation project’ means—

“(i) the International Outfall Interceptor; and

“(ii) the Nogales International Wastewater Treatment Plant.

“(2) OWNERSHIP AND CONTROL.—

“(A) IN GENERAL.—The Commission shall assume full ownership and control of the International Outfall Interceptor on the date on which—

“(i) the City has conveyed, without consideration, all right, title, and interest of the City in the International Outfall Interceptor to the Commission;

“(ii) all memoranda and agreements necessary for the Commission to operate and maintain the International Outfall Interceptor, as described in subparagraph (B), have been entered into; and

“(iii) a total of \$12,500,000 has been appropriated pursuant to paragraph (3) or otherwise secured by the Commission for use in carrying out such paragraph.

“(B) AGREEMENTS.—In accordance with the Act of July 27, 1953 (67 Stat. 195, chapter 242; 22 U.S.C. 277d-10 et seq.), as amended by this section, the Commission shall, with respect to each applicable governing body in the State of Arizona, including the City, seek to enter into—

“(i) a memorandum of understanding granting to the Commission access to existing easements for a right of entry to the International Outfall Interceptor for the life of the International Outfall Interceptor;

“(ii) an agreement with respect to the flows entering the International Outfall Interceptor that are controlled by the City; and

“(iii) an agreement to work in good faith to expeditiously enter into such other agreements as are necessary for the Commission to operate and maintain the International Outfall Interceptor.

“(3) OPERATION AND MAINTENANCE.—

“(A) IN GENERAL.—Beginning on the date on which the Commission assumes full ownership and control of the International Outfall Interceptor under paragraph (2), the Commission shall carry out the operation and maintenance of the International Outfall Interceptor.

“(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission to carry out this paragraph \$12,500,000 for the period of fiscal years 2025 through 2029, to remain available until expended.

“(4) DEBRIS SCREEN.—

“(A) DEBRIS SCREEN REQUIRED.—

“(i) IN GENERAL.—The Commission shall construct, operate, and maintain a debris screen, in coordination with other relevant Federal agencies, at manhole 1 of the International Outfall Interceptor for intercepting debris and drug bundles coming to the United States from Nogales, Sonora, Mexico.

“(ii) REQUIREMENT.—The Commission and the Commissioner of U.S. Customs and Border Protection shall coordinate the construction, operation, and maintenance of the debris screen under clause (i), including for purposes of the removal of drug bundles and other illicit goods caught in the debris screen.

“(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission, to remain available until expended—

“(i) for fiscal year 2025—

“(I) \$8,000,000 for construction of the debris screen described in subparagraph (A)(i); and

“(II) not less than \$1,000,000 for the operation and maintenance of the debris screen described in subparagraph (A)(i); and

“(ii) not less than \$1,000,000 for each of fiscal years 2026 through 2029 for the operation and maintenance of the debris screen described in subparagraph (A)(i).

“(5) LIMITATION OF CLAIMS.—Chapter 171 and section 1346(b) of title 28, United States Code (commonly known as the ‘Federal Tort Claims Act’), shall not apply to any claim arising from the activities of the Commission in carrying out this subsection, including any claim arising from damages that result from overflow of the International Outfall Interceptor due to excess inflow to the International Outfall Interceptor originating from Nogales, Sonora, Mexico.

“(c) INTERNATIONAL TREATY.—Not later than six months after the date of enactment of this section [Dec. 22, 2023], the Commission shall seek to initiate negotiations with Mexico for a new Treaty Minute or a modification of Treaty Minute 227 to address, at a minimum, the following:

“(1) Joint operation and maintenance responsibilities of the International Outfall Interceptor.

“(2) Capacity usage of wastewater flows from the United States and Mexico through the International Outfall Interceptor.

“(3) Payment for excess wastewater flows through the International Outfall Interceptor emanating from the Nogales, Sonora, Mexico area.

“(4) Any terms and conditions considered necessary to support proportional use and maintenance of the International Outfall Interceptor.

“(d) REPORT.—Not later than one year after the date of enactment of this section [Dec. 22, 2023], and each year thereafter, the Commission shall submit to the Committee on Foreign Relations of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

“(1) an operation and maintenance plan, or a description of the status of such plan, developed by the Commission and other relevant agencies, for the debris screen required under subsection (b)(4)(A);

“(2) a description of any operation and maintenance issues of the Nogales sanitation project, including relating to transnational criminal activity;

“(3) an update on efforts by the Commission to renegotiate an existing Treaty Minute or develop a new Treaty Minute pursuant to subsection (c); and

“(4) an accounting of all outstanding or overdue payments from Mexico or the City for the processing and conveyance of wastewater through the Nogales sanitation project.”

§ 277d-11. Authorization of appropriations; availability of prior appropriations; use of moneys received

There is authorized to be appropriated to the United States section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the operation and maintenance of such project: *Provided*, That funds heretofore appropriated to the Department of State under the heading “International Boundary and Water Commission, United States and Mexico”, shall be available for expenditure for the purposes of this section and section 277d-10 of this title: *Provided further*, That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriations which may

be available or which may be made for the purposes of said sections: *And provided further*, That moneys received from the city of Nogales, Arizona, pursuant to the provisions of said sections shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of said sections.

(July 27, 1953, ch. 242, § 2, 67 Stat. 195.)

§ 277d-12. Expenditures for flood fighting, rescue operations, repairs or restoration of flood control or sanitation works threatened or destroyed by floodwaters of Rio Grande, Colorado, or Tijuana Rivers

On and after June 20, 1956, in addition to the funds available under the appropriation “Rio Grande emergency flood protection”, the United States Commissioner is authorized to expend from any appropriation available to the International Boundary and Water Commission, United States and Mexico, American Section, such sums as may be necessary for prosecution of emergency flood fighting and rescue operations, repairs or restoration of any flood control or sanitation works threatened or destroyed by floodwaters of the Rio Grande, the Colorado or Tijuana Rivers, or other streams running across or near the boundary, and for taking emergency actions, consistent with the emergency provisions of the Safe Drinking Water Act [42 U.S.C. 300f et seq.], to protect against health threatening surface and ground water pollution problems along the United States-Mexico boundary.

(June 20, 1956, ch. 414, title I, 70 Stat. 302; Pub. L. 101-246, title IV, § 412(a), Feb. 16, 1990, 104 Stat. 69; Pub. L. 103-236, title IV, § 423(b), Apr. 30, 1994, 108 Stat. 457.)

Editorial Notes

REFERENCES IN TEXT

The Safe Drinking Water Act, referred to in text, is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93-523, § 2(a), 88 Stat. 1660, which is classified generally to subchapter XII (§ 300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

1994—Pub. L. 103-236 substituted “Tijuana Rivers, or other streams running across or near the boundary, and for taking emergency actions, consistent with the emergency provisions of the Safe Drinking Water Act, to protect against health threatening surface and ground water pollution problems along the United States-Mexico boundary” for “Tijuana Rivers, and for taking emergency actions to protect against health threatening sanitation problems by repairing or replacing existing capital infrastructure along the United States-Mexico Boundary”.

1990—Pub. L. 101-246 inserted “or sanitation” after “flood control” and inserted before period at end “, the Colorado or Tijuana Rivers, and for taking emergency actions to protect against health threatening sanitation problems by repairing or replacing existing capital infrastructure along the United States-Mexico Boundary”.