

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
May 9, 2007

ITEM: 10

SUBJECT: Status Report on Provision of Secondary Treatment for effluent from the International Wastewater Treatment Plant.
(Art Coe)

PURPOSE: Receive information on the International Boundary and Water Commission, United States Section efforts to meet the court mandated September 30, 2008 deadline for provision of secondary treatment for the effluent from the International Wastewater Treatment Plant.

PUBLIC NOTICE: The Regional Board's normal agenda notice distribution is sufficient for this item.

DISCUSSION: The International Boundary and Water Commission, United States Section (IBWC) operates the International Wastewater Treatment Plant (IWTP). Effluent from the IWTP (25 million gallons per day) is discharged to the Pacific Ocean offshore of the mouth of the Tijuana River, via the South Bay Ocean Outfall. Currently the IWTP does not achieve the secondary level of treatment mandated by state and federal law and the discharge permit issued by the Regional Board.

In February 2000, as a result of continual failure of IBWC to comply with secondary treatment requirements, the Regional Board filed suit in federal court seeking to force IBWC to complete the secondary treatment facilities. The Regional Board prevailed in that action and obtained a court order that established a schedule requiring various deadlines ending with a mandate for IBWC to implement secondary treatment no later than September 30, 2008. IBWC has missed the recent interim deadlines in the court order, and the only significant remaining one is the September 30, 2008 date.

Pursuant to federal law enacted in 2000, IBWC has been pursuing a contract with a private entity for a project known as the Bajagua Project to provide secondary treatment facilities in Mexico. IBWC has entered into a Development

Agreement with the proponents of the Bajagua Project (Bajagua) that includes a number of obligations and deadlines including a May 2, 2007 deadline for execution of a Design Build Operate Contract with the contractor that would ultimately be responsible for designing, building and operating the secondary treatment facilities in Mexico. Bajagua and IBWC have issued a Request for Qualifications (RFQ) from prospective contractors and are in the process of developing a Request for Proposals (RFP) to be provided to those prospective contractors determined to be qualified bidders. The RFP is currently being reviewed by a Technical Advisory Committee set up by IBWC. The Regional Board attends meetings of the Technical Advisory Committee in an observer role. Bart Christensen of the State Water Resources Control Board is a participating member of the Technical Advisory Committee.

There are now concerns that the May 2, 2007 deadline in the Development Agreement and the September 30, 2008 final deadline in the court order will not be met. The Regional Board has received three requests for an agenda item to provide an update on the Bajagua Project. During the April 11, 2007 meeting the Regional Board requested an agenda item to receive information on the current status of the project.

IBWC has been requested to send a representative to attend today's meeting and provide the Regional Board with information on the current status of the project.

KEY ISSUES:

None. This is a status report only.

LEGAL CONCERNS:

None.

SUPPORTING DOCUMENTS:

1. Letter dated March 29, 2007 from Assemblywoman Lori Saldña requesting an item on the Regional Board's agenda.
2. Letter dated April 2, 2007 from Serge Dedina, Executive Director of Wildcoast, requesting an item on the Regional Board's agenda.
3. E-mail dated April 2, 2007 from Ben McCue, coastal Conservation Program Manager of Wildcoast, requesting an item on the Regional Board's agenda.

4. Letter dated April 19, 2007 from James Janney, Mayor of City of Imperial Beach, expressing concern about a possible extension of time for provision of secondary treatment facilities.

5. Letter dated April 19, 2007 containing State Water Resources Control Board comments on the Draft RFP.

6. Letter dated April 20, 2007 containing City of Imperial Beach comments on the Draft RFP.

RECOMMENDATION(S): This is a status report. Regional Board action is not anticipated or appropriate.

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California Legislature



LORI SALDAÑA
ASSEMBLY MEMBER, SEVENTY-SIXTH DISTRICT
CHAIR, HOUSING AND COMMUNITY DEVELOPMENT

COMMITTEES:
CHAIR, HOUSING AND
COMMUNITY DEVELOPMENT
ELECTIONS AND REDISTRICTING
LOCAL GOVERNMENT
NATURAL RESOURCES
VETERANS AFFAIRS
SUBCOMMITTEES:
CHAIR, BASE CLOSURE AND
REDEVELOPMENT

March 29, 2007

John Robertus, Executive Officer
California Regional Water Quality Control Board, San Diego Section
9174 Sky Park Court, Suite 100
San Diego, CA 92123

2007 MAR 30 P 11:02
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

Dear Mr. Robertus,

I am writing to formally request that an update on the Bajagua Project, from the USIBWG and Bajagua LLC., be placed on the agenda of the next San Diego Region California Regional Water Quality Control Board meeting.

As you know, a very important deadline of May 2, 2007 is fast approaching. I believe it is imperative that the public receive, prior to this deadline, an update on the present status, including the schedule, cost, and the most current assessment on the completion dates of the Bajagua project.

We have reached a very crucial timeline for this issue. President Bush has proposed \$66 million dollars in this year's budget proposal to be set aside should Bajagua fail to meet the court-mandated deadlines.

Please consider this request carefully. If you would like to discuss this further, please feel free to give me a call at (619) 645-3090.

Sincerely,

Lori Saldaña

Lori Saldaña
Assembly Member, 76th District

LS; em

Cc: Assembly Member Denise Moreno Ducheny; City of Imperial Beach; Wild Coast



April 2, 2007

John Robertus, Executive Officer
California Regional Water Quality Control Board, San Diego Section
9174 Sky Park Court, Suite 100
San Diego, CA 92123

2007 APR - 5 A 11:05

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

Dear Mr. Robertus,

WILDCOAST would like to formally request that an update on the Bajagua Project from the USIBWC and Bajagua LLC. be placed on the agenda of the next San Diego Region California Regional Water Quality Control Board meeting. As an environmental non-profit representing south San Diego County ocean users, we feel it is imperative that the public be notified of any progress or delays in the plan to implement secondary sewage treatment at the International Wastewater Treatment Plant (IWTP).

The health of many ocean users in South San Diego County is directly affected by cross-border sewage from the Tijuana River and the canyons of western Tijuana. It is our view that the pending lawsuit regarding the lack of secondary treatment at the IWTP has delayed the development of a comprehensive clean water plan to halt this cross-border sewage.

The sooner we can ensure that the IWTP meets secondary treatment standards, the sooner we can move on to developing a real solution to our ocean water quality problems.

If you have any questions, or would like to discuss this further, please give me a call at (619) 423-8665 x202.

Sincerely,

Serge Dedina, Ph.D.
Executive Director

Cc: Assembly Member Denise Moreno Ducheny; Assembly Member Lori Saldaña; City of Imperial Beach

From: Ben McCue <benjamin@wildcoast.net>
To: John Robertus <jrobertus@waterboards.ca.gov>
Date: 4/2/2007 1:14:24 PM
Subject: Request for secondary treatment update

Dear Mr. Robertus,

Please accept this request to include an update on plans for secondary sewage at the IWTP in the San Diego Region California Regional Water Quality Control Board meeting's agenda.

Thank you.

Sincerely,

Ben

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Ben McCue
Coastal Conservation Program Manager
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Help Protect our Coast and Ocean by becoming a WILDCOAST member:
<http://www.wildcoast.net/donate>
<http://www.wildcoast.net/donaciones>

CC: "Jonathan M. hardy" <jonathan.hardy@se.ca.gov>, Mayda Winter <winter4ib@aol.com>,
Lori Saldana <lori.saldana@asm.ca.gov>, Serge Dedina <sdedina@wildcoast.net>



City of Imperial Beach, California

www.cityofib.com

OFFICE OF THE MAYOR

April 19, 2007

Mr. John Robertus
Executive Officer
SDRWQCB
9174 Sky Park Court, Suite 100
San Diego, CA 92123

RE: Provision of Secondary Treatment for Effluent from the International Wastewater Treatment Plant (IWTP)

Dear Mr. Robertus:

The "San Diego Union-Tribune" of March 18, 2007, reported that the IBWC has sent a letter expressing an interest in seeking an extension to the current compliance schedule for providing secondary treatment at the IWTP. Additionally we see on your May 9th agenda a discussion about the provision of secondary treatment for effluent from the IWTP. Therefore it is appropriate for us to comment that the additional time necessary to negotiate may be difficult to estimate, given the complexities of this bi-national contract negotiation process, and may further delay the long overdue completion and operation of a facility.

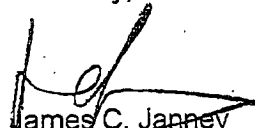
As the California community most directly affected by cross border contamination from Tijuana and partially treated sewage discharged off our own shore at the SBOO, we are very concerned that any further delays be allowed. It's been eight-and-a-half years since we received assurances that secondary treatment would occur soon.

We believe the time has come to either adhere to established timeframes or seek alternative solutions such as those recommended in President Bush's budget proposal. The President's proposal is prescient in seeing the potential need for improvements at the International Wastewater Treatment Plant in San Ysidro if a project in Mexico doesn't meet mandated performance benchmarks.

We realize that you face a tough decision when deliberating the request for an extension of time. We ask you to carefully consider the effects of more delays compared to requiring timely performance that may lead to construction or demonstrate the need for alternative approaches.

I wish you good luck and wisdom for your decision.

Sincerely,



James C. Janney
Mayor

cc: Carlos Marin, Commissioner of IBWC

City Council
825 Imperial Beach Blvd., Imperial Beach, CA 91932 Tel: (619) 423-8303 fax: (619) 628-1395



State Water Resources Control Board



Division of Water Quality

Linda S. Adams
Secretary for
Environmental Protection

Darrin Polhemus, Deputy Director
1001 I Street, Sacramento, California 95814 ♦ (916) 341-5645
Mailing Address: P.O. Box 2231, Sacramento, California 95812
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Arnold Schwarzenegger
Governor

April 19, 2007

Mr. Carlos Pena
International Boundary and Water Commission,
United States Section
4171 North Mesa Street, C-310
El Paso, TX 79902

2007 APR 23 P 3:24
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

Dear Mr. Pena:

CONTRACT FOR DESIGN, CONSTRUCTION, OPERATION & MAINTENANCE OF THE MINUTE 311 SANITATION PROJECT

We reviewed the three volume draft Request for Proposal package as requested, and have the following comments for discussion at the April 18, 2007 Technical Advisory Committee meeting in San Ysidro. As Volume III was not received until April 12, our review time has been short and is possibly incomplete.

We noted many blanks left in the documents. We assume these will be filled in before the documents are released to prospective bidders, and would like an opportunity to review any new information once it is available.

Our comments on Volume I, dated February 6, 2007 include:

Section 2.1 The Base Proposal definition should clearly indicate the meaning of "extended aeration" if it varies from the extended aeration process selected for use at the International Wastewater Treatment Plant.

Section 2.1 The technologies that could be acceptable for an Alternative Proposal should be listed somewhere in the document, to avoid "black-box" proposals.

Section 3.3 What additional NEPA assessments will be needed before the DBO Contract is issued, and how long will this take?

General Comment. New (Scripps) ocean current monitoring and plume tracking work should be evaluated and may require a new NEPA evaluation of the impacts of discharging more than 25 MGD from the South Bay Ocean Outfall.

General Comment Confirm that all existing NEPA commitments are included in the RFP and DBO Contract.

Section 3.3 Is it wise to not prepare a Mexican Environmental Assessment until after the DBO Contract is issued? Is this a typical process for projects in Mexico? How long will it take to get Mexican environmental approvals? How would changes resulting from the Mexican environmental approval process be incorporated into the DBO Contract? There are several references in the RFP Documents to "Figure X" showing the location of project elements. We could not find it in the documents provided to us. Is this a public document? Exactly where is the Minute 311 site?

Section 3.3 Please provide us with a copy of the IBWC opinion that changing the Minute 311 treatment plant site or treatment processes will require "minimal" environmental review. What impacts are covered by the opinion?

Section 3.3.4 What are the terms and conditions in the CONAGUA Concession that will be included in the RFP? Is the CONAGUA Concession a public document that is available to the Technical Advisory Committee?

Section 3.4 Assumptions regarding a future NPDES Permit and what it may contain should be verified with the Regional Water Quality Control Board, San Diego Region. Will the new NPDES Permit be obtained before the DBO Contract is issued? How long is it estimated to take before a new 59 MGD Permit is available, and how will any changes in discharge standards or volume be incorporated into the DBO Contract?

Section 4.1 What exceptions to the minimum testing requirements in Appendix 18 would be approved?

General Comment Please provide us with a copy of the Tijuana flow study that is the basis for the initial flow estimates

Section 4.2.1 Where will the initial 15 to 25 MGD of Minute 311 Tijuana influent come from? What reductions in flow to San Antonio de los Buenos of the Japanese Credit Projects are assumed? How is this consistent with the Tijuana Water and Wastewater Master Plan or assumptions in the last SEIS?

Section 4.2.1 What is the rationale for allocating all fixed operations and maintenance costs to the 25 MGD of SBIWTP influent, regardless of how much influent is directed to

the Minute 311 facility? This appears to be a significant incentive to direct wastewater that is currently being treated elsewhere to the Minute 311 facility.

General Comment The RFP includes no project elements that would extend the Bajagua Land Outfall to the Japanese Credit Projects. How will effluent from these projects be disposed of?

Section 4.2.3 How will outcomes from any additional NEPA review resulting from selection of alternative treatment technologies be incorporated into the BDO Contract?

Section 5.2 Does the Public Law provide Bajagua with a 20 percent equity ownership of all Minute 311 project elements as stated? If Bajagua has a 20 percent equity in all Minute 311 infrastructure, will Bajagua agree to surrender their equity to Mexico at the end of the 20 year contract period, or will Mexico have to buy out Bajagua?

Section 5.2 When will Bajagua finalize the debt financing agreement with Citigroup Global Markets? How would provisions of this agreement be incorporated into the DBO Contract after the DBO Contract is executed?

Section 6.5 What outreach activities have been conducted with residents in the vicinity of Project Facilities, and why are Proposers to refrain from contacting them? How can proposers develop cost estimates and constructions schedules if they are not able to discuss potential permit conditions with Federal, State and local governmental organizations.

Section 6.10.1 What responsibilities will Proposers have for obtaining permits and conducting supplemental NEPA reviews?

Section 6.10.2 Will plant operators be Certified California Wastewater Treatment Plant Operators?

Section 6.10.3 Why will cost effectiveness of the various proposals be based only on treatment of the 25 MGD of advance primary effluent from the SBIWTP, since previously in the document it is stated that an additional 15 to 25 MGD of raw wastewater from the Tijuana service area will be treated initially. Also, the quality of SBIWTP effluent should improved significantly with completion of TSS Optimization work which we understand is under way. This information should be provided to the DBO bidders.

Section 7.3 Descriptions of the wastewater treatment plant and conveyance systems beginning on page 41 of 44 include numerous references to bypass provisions. Contract language should be modified to clearly prohibit inclusion of bypass capability.

Section 7.3 The description of sludge processing includes lime stabilization. The preferred secondary treatment process at the SBIWTP did not include lime stabilization. The Minute 311 project description appears to be different from the project selected in the preferred alternative for secondary treatment at the SBIWTP. Has Mexico accepted lime stabilization for use at the Minute 311 wastewater treatment plant? Will any changes to treatment technology be disclosed in a NEPA document?

Our comments on Volume II, dated March 5, 2007 include:

Page 2 There should be no term for "acceptable influent" The DBO contractor should be held responsible for treating all influent. We have many years of data on what is contained in Tijuana wastewater. Limiting contractor responsibility to treating only "acceptable influent" is a huge loophole, and will make it very difficult or impossible to determine responsibility for any effluent quality violations.

Page 3 Clear definitions should also be included for the peak influent flows the DBO Contractor is responsible for treating.

Page 4 The "Change of Law" definition blurs the responsibility for compliance with treatment standards. The DBO Contractor must remain responsible for treatment of all influent wastewater, up to the design capacity of the project, regardless of what governmental action takes place or doesn't take place. The DBO contract should make provisions for DBO cost reimbursement, if reasonable.

General Comment. Somewhere, it should clearly state that the SBOO is the only acceptable discharge point for (non-reclaimed/reused) treated effluent, even if Mexican law would permit discharge to the Tijuana River.

Page 8 Who is the "Guarantor"?

Page 12 The "Scheduled Acceptance Dates" are not consistent with the date established in the Federal Court Order.

Page 13 Please explain the purpose for the various Uncontrollable Circumstances inclusions. Why are these reasonable?

Page 20 The NPDES Permit language should be reviewed and approved by the Regional Water Quality Control Board, San Diego Region.

Page 23 What environmental notification forms and impact reports are contractor responsibilities?

Page 41 Provision for access to the site, and review of project documents by staff from the Regional Water Quality Control Board, San Diego Region, should be included.

Page 54 Why is the Service Fee Adjustment Factor based on Southern California costs, not Mexican costs?

Page 59 What are the terms of the "Wastewater Treatment Plant Site Ground Lease"? What portion of the wastewater treatment plant site is included in this lease? At the end of the lease period, how will continued wastewater treatment service for Minute 311 project flows be assured. At what price and terms would the landlord (Piedras SRL) allow continued use of the site for wastewater treatment?

Page 60 Has Mexico agreed to allow the traffic impacts associated with construction of various pipelines in the Tijuana River Flood control levees? How much of the pipeline right of way is on private property, and have all private property owners agreed to allow construction?

Page 63. The effluent guarantee should be written to clearly require compliance with effluent standards at all daily or seasonal flow variations associated with treatment of up to 59 MGD average daily flow.

Our comments on Volume III, dated February 28, 2007 include:

Appendix 5-6 the plant should meet performance requirements for all influent, not just "acceptable" influent.

Appendix 5-10 Grit removal is not typically included in a pond design, if that is what is proposed.

Appendix 5-13 Does this section include an AIPS/CMA design as proposed for secondary treatment at the SBIWTP?

Appendix 5-14 Define "maximum daily oxygen requirements".

~~Appendix 5-17 If chlorine disinfection is included, will dechlorination also be provided before discharge? If not, why?~~

General Comment What will be the sampling point used to determine compliance with effluent standards?

Appendix 5-28 (Conveyance Pipelines) Please provide the pipeline sizing calculations and assumptions for the influent forcemains and effluent pipelines for review and comment.

Appendix 7-2 Why are the monitoring reports for 2006 not included?

Appendix 9-3 The DBO Contractor should not be permitted to bypass untreated or partially treated sewage due to "risk of damage to equipment or to the biological treatment processes" Contract language should require the DBO Contractor to provide infrastructure capable of handling all wastewater scenarios, and to develop operations and maintenance procedures as needed to provide reliable wastewater treatment for all influent up to the design capacity of the plant.

Appendix 10-3 Have right-of -ways on all private property been obtained?

Appendix 10-6 Please provide the calculations related to the 8 MW electrical supply assumptions. This capacity could limit design options and could limit treatment capability and reliability.

If you have any questions or comments regarding this letter, please contact me at (916) 341-5655.

Sincerely



Bart Christensen
Senior WRC Engineer

cc: Mr. Arthur L. Coe
Assistant Executive Officer
California Regional Water Quality Control Board,
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

~~cc: Continued next page~~

cc: Continuation Page

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April 20, 2007

Carlos Pena
U.S. International Boundary & Water Commission
4171 North Mesa Street, C-310
El Paso, TX 79902

RE: Comments on Draft RFP for Bajagua LLC, Bajagua Project Facilities, Design-Build-Operate Project

Dear Mr. Pena,

After careful review of the draft volumes provided in the RFP package and subsequent discussion at the Bi-National Technical Committee Meeting held April 18, 2007, we are submitting the following questions and comments. Many of our comments and questions were discussed and covered in the letter of April 19th, submitted by the State Water Resources Control Board; therefore we have not included them below.

Recognizing that these were draft documents, there were still many areas that lacked figures and details that were crucial for proper evaluation. Additionally, the supporting studies - e.g. flow and geotechnical data for pipeline - were not available at the time of the review. We would like to receive these reports and any other additional information that was not provided in the draft documents before finalized documents are provided to the contractors. Further discussion may be required by the committee and additional comments may be submitted for consideration based on new information. We trust we will be afforded that opportunity.

Volume I (Note that sections cited are not consistent between copies reviewed)

pg. 2 - 1.2 - *2. Effective Treatment* - ... proposed treatment unit processes to be commercially proven... Proposal should cite at least 3 examples of where the proposed process is used successfully.

pg. 8 - 2.3 - *Environmental Review* - ... change in treatment plant site location will require minimal U.S. environmental reviews. Define "minimal" and time involved to complete and copy of opinion by IBWC stating this.

pg. 9 – 2.4 – *NPDES Permit* – It is anticipated that existing permit standards may be expanded to include additional Priority Pollutants. Shouldn't the permit discharge standards be established *before* the proposers develop their proposed treatment process?

Additionally, the original modeling for the SBOO discharge was based on the most current ocean data available *at the time*. Since then, Scripps (SIO) has established an ocean monitoring system and has collected over 4 years of data, specific to ocean currents in the south bay region. Recent plume tracking has shown that discharges from the SBOO are, in fact, reaching shore, perhaps skewing the accuracy of the original modeling and impacts of a proposed increase in discharge from 25 to 59. This should require additional review.

pg. 15 – 3.2.2 & 3.3 – *Treatment Facilities – Allow for integration with Reclaimed Water Facilities that are planned to be located at the Bajagua Treatment Plant site.* Reclamation facilities/processes are not part of the Public Law project, nor should *purchase* of the underlying land for those purposes. Language should be inserted in the RFP that specifies that any land set aside for future reclamation purposes must be identified in the proposal and if so, must be purchased by/conveyed to Bajagua LLC independently of the Public Law project.

pg. 25 – 5.2 *Bajagua Rights and Options -16. To award a contract based on initial proposals.* In light of the Sept. 2008 completion date and an aggressive schedule required to comply, this right invites a rush to decision. Associated change orders, additional costs and delays are inherent to such decisions. This provision should be removed.

pg. 26- 5.5 *No Contact with Elected Officials.... Why? Isn't that concomitant with a "fair and open procurement process"?*

Reiterate the comment made by the SWRCB re: "bypass provisions". Under *no* circumstances should this be allowed and language should be modified to prohibit.

Volume II

pg. 2 – Eliminate all language and references to "acceptable influent". Reiterate comments by SWRCB contractor should be responsible for treating *all* influent.

Volume III

5.6.3.4 *Laboratory-* All testing to determine compliance with NPDES permit standards should be performed by an off-site, independent, U.S. certified laboratory.

7.1 *Intent* – Does "granting relief" from influent that is not deemed "Acceptable" mean that effluent will be discharged through the SBOO that does not meet their NPDES permit standards? For how long and in what timeframe must remedy be sought? Will "granting relief" also grant the contractor immunity from penalties/fines or will permit *holder* be responsible for non-compliance?

8.3.2.3 *Municipality of Tijuana/Private Owners* – Has the City of Tijuana (and private landowners/businesses) been apprised of the magnitude of impacts that could be created by the construction of the pipeline? Have the terms of agreement or easements for construction of the pipeline on private land been obtained?

9.5.2 *Wastewater Flows or Water Quality Parameters Outside Acceptable Limits* – Reiterate comments by SWRCB that no flows should be permitted to “bypass” untreated or partially treated sewage for any reason whatsoever.

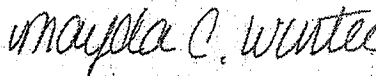
9.5.5 *Pipe Break or Sewage Spill* - If repairs necessitate the shutting down of the facility, the excess raw sewage not treated at the SBIWTP should be diverted back to Mexico for treatment through their system. Under no circumstances should raw sewage be diverted through the SBOO.

Table 17-1 : *Bajagua Project Permits* – Please identify status of all permits listed

Thank you for the opportunity to review these RFP documents. We are making every effort to provide comments in a timely manner and will continue to do so as additional information is available.

Should you have any questions, please feel free to contact me at 619-5-424-7303 or 619-575-0550.

Sincerely,



Mayda C. Winter
Mayor Pro Tempore