

**California Regional Water Quality Control Board
San Diego Region**

Response to Comments Report

**Tentative Order No. R9 2019-0012
Amending
Order No. R9-2014-0009 as amended by
Order Nos. R9-2014-0094 and R9-2017-0024
NPDES No. CA0108928**

***Waste Discharge Requirements
for the United States Section of the
International Boundary and Water Commission,
South Bay International Wastewater Treatment Plant,
Discharge to the Pacific Ocean via the
South Bay Ocean Outfall***

February 13, 2019

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

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**California Regional Water Quality Control Board
San Diego Region
(San Diego Water Board)**

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Introduction

This report contains the San Diego Water Board responses to written comments received on Tentative Order No. R9 2019-0012, *Amending Order No. R9-2014-0009, as Amended by Order Nos. R9-2014-0094 and R9-2017-0024, NPDES No. CA0108928, Waste Discharge Requirements for the United States Section of the International Boundary and Water Commission, South Bay International Wastewater Treatment Plant, Discharge to the Pacific Ocean via the South Bay Ocean Outfall* (Tentative Order).

The San Diego Water Board provided public notice of the release of the Tentative Order on November 20, 2018 and provided a period of 30 days for public review and comment. The public comment period ended on December 20, 2018.

Comments received by December 20, 2018 from:

United States Section of the International Boundary and Water Commission (USIBWC)

Page No.

2

Comments and Responses

The written comments and staff responses are set forth in the table that follows. The table includes the San Diego Water Board's response to the comment, and any actions taken to revise the Tentative Order in response to the comment. The table displays USIBWC's proposed revisions to Order No. R9-2014-0009 in red-underline for added text and ~~red-strikeout~~ for deleted text.

No.	Comment	Response	Action Taken
Jose A. Nuñez, P.E., Principal Engineer, United States Section of the International Boundary and Water Commission (USIBWC) written comments received December 19, 2018			
1	<p>The USIBWC asserts that the Tentative Order is creating a basis for potential violations of influent limitations and that violations of influent limitations are unrelated to the intent of Order No. R9-2014-0009 to limit and prevent contaminants in the effluent from being discharged into the waters of the United States.</p>	<p>The Tentative Order does not create any new basis for potential violations of influent limitations. The Tentative Order only replaces the interim influent limitations in Order No. R9-2014-0009¹ with the influent limitations contained in the report, <i>U.S. IBWC South Bay International Wastewater Treatment Plant Maximum Allowable Headworks Allocations</i>, dated Revised February 13, 2018 and submitted to the San Diego Water Board on June 18, 2018 (MAHA Report).</p> <p>Influent limitations are intended to prevent the South Bay International Wastewater Treatment Plant (SBIWTP) from exceeding effluent limitations. Influent limitations are important for preventing the introduction of pollutants into the SBIWTP that may interfere with the operation of the SBIWTP, pass through the treatment works at the SBIWTP, or otherwise be incompatible with such works. This in turns helps ensure the SBIWTP effluent remains in compliance with effluent limitations.</p> <p>The USIBWC asserted this same point when the San Diego Water Board adopted Order No. R9-2014-0009 on June 26, 2014, and the San Diego Water Board responded at that time that an influent limitation exceedance is a violation of Order No. R9-2014-0009 and that Order No. R9-2014-0009, section VI.C.5.a.iii requires USIBWC to take all actions available to achieve compliance with those</p>	None necessary

¹ Order No. R9-2014-0009, as Amended by Order Nos. R9-2014-0094 and R9-2017-0024, NPDES No. CA0108928, *Waste Discharge Requirements for the United States Section of the International Boundary and Water Commission, South Bay International Wastewater Treatment Plant, Discharge to the Pacific Ocean via the South Bay Ocean Outfall*, on the San Diego Water Board website as of January 16, 2019 at https://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2014/R9-2014-0009_Amended.pdf

No.	Comment	Response	Action Taken
		<p>limitations. See Comment No. 23 of the 2014 Response to Comments Report²:</p> <p><u>USIBWC's Comment No. 23</u></p> <p><i>Order section VI.C.5.a.iii, Influent Limitations. USIBWC requests the following edits (in strikeout/underline) page 34, section VI.C.5.a.iii, first sentence: "Any exceedance of an interim or final influent limitation, as applicable, is a violation of this Order and is inconsistent with IBWC Minute No. 283 of July 2, 1990."</i></p> <p><u>San Diego Water Board's Response to Comment No. 23</u></p> <p><i>The San Diego Water Board staff agrees to delete "is a violation of this Order," since provisions are already included in section VI.C.5.a.iii to formally address and resolve influent limitation exceedances.</i></p> <p><i>Nonetheless, an influent limitation exceedance would still be considered a violation.</i></p> <p><i>The text 'as applicable' remains to clarify which influent limitations apply.</i></p>	
2	<p>The USIBWC asserts that the proposed changes in the Tentative Order vests the USIBWC with the duty to take steps to create and implement an adequate pretreatment program in Tijuana, Mexico to comply with the influent limitations proposed in its MAHA Report.</p>	<p>The Tentative Order does not create any new duty for USIBWC to work with Tijuana, Mexico to comply with influent limitations, and neither Order No. R9-2014-0009 nor the Tentative Order requires USIBWC to create or implement a pretreatment program in Tijuana, Mexico. Rather, Order No. R9-2014-0009 requires the USIBWC to work in a cooperative effort with the Government of Mexico through its section of the IBWC to ensure an adequate pretreatment program is implemented in Tijuana based on</p>	None necessary

² California Regional Water Quality Control Board San Diego Region, Response to Comments Report, Tentative Order No. R9-2014-0009, NPDES No. CA0108928, *Waste Discharge Requirements for the United States Section of the International Boundary and Water Commission, South Bay International Wastewater Treatment Plant, Discharge to the Pacific Ocean via the South Bay Ocean Outfall*, June 26, 2014, available on the San Diego Water Board website as of January 16, 2019 at: https://www.waterboards.ca.gov/sandiego/board_info/agendas/2014/Jun/item7/Item_No._7_Supp_Doc_15.pdf

No.	Comment	Response	Action Taken
		<p>Mexican standards necessary to comply with the influent limitations and thereby prevent the introduction of pollutants into the SBIWTP that will interfere with the operation of the treatment works, pass through the treatment works, or otherwise be incompatible with such works.</p> <p>The Tentative Order does not change any requirements in Order No. R9-2014-0009 addressing how USIBWC consults and coordinates with the Government of Mexico to comply with the influent limitations. The Tentative Order only replaces the interim influent limitations with the influent limitation proposed in USIBWC's MAHA Report.</p>	
3	<p>The USIBWC request that the San Diego Water Board modify Order No. R9-2014-0009 as follows:</p> <p>First sentence of section VI.C.5.a.i: In consultation with CILA the Discharger shall develop and comply with mass emission rates and concentration limitations for the influent to the Facility (influent limitations), or Maximum Allowable Headworks Allocations (MAHA), for pollutants that may cause or contribute to interference, pass through, or the other problems described at 40 CFR section 403.5.</p>	<p>The Tentative Order that was released for public comment on November 20, 2018 only proposed to replace the interim influent limitations in Order No. R9-2014-0009 with the influent limitations contained in USIBWC's MAHA Report, as the San Diego Water Board intended when it adopted Order No. R9-2014-0009. The request made by USIBWC is beyond the scope of the amendments proposed in the Tentative Order, and the San Diego Water Board declines to revisit the requirement for USIBWC to comply with influent limitations in Order No. R9-2014-0009 at this time.</p>	None necessary
4	<p>The USIBWC request that the San Diego Water Board modify Order No. R9-2014-0009 as follows:</p> <p>First sentence of section VI.C.5.a.i: Consistent with the Treaty for the <i>Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande</i> (Treaty of 1944) and IBWC Minute No. 283, the Discharger shall work with CILA to take all appropriate actions, <u>subject to the discretion and authority of the Discharger</u>, to prevent the discharge of untreated industrial wastewater into the Tijuana sewage collection system which would in turn discharge into the Facility.</p>	<p>The Tentative Order that was released for public comment on November 20, 2018 only proposed to replace the interim influent limitations in Order No. R9-2014-0009 with the influent limitations contained in USIBWC's MAHA Report, as the San Diego Water Board intended when it adopted Order No. R9-2014-0009. The request made by USIBWC is beyond the scope of the amendments proposed in the Tentative Order, and the San Diego Water Board declines to revisit the requirement for USIBWC to comply with influent limitations in Order No. R9-2014-0009 at this time.</p> <p>Moreover, working with CILA, the Mexican section of the IBWC, to address any exceedances of the influent</p>	None necessary

No.	Comment	Response	Action Taken
		limitations is critical to protecting the treatment works at the SBIWTP and ensuring the effluent from the SBIWTP meets the effluent limitations and doing so is consistent with the Treaty of 1944 and IBWC Minute No. 283 ³ and Minute No. 296. ⁴	
5	<p>The USIBWC request that the San Diego Water Board modify Order No. R9-2014-0009 as follows:</p> <p>Add subsection vii to section VI.C.5.a:</p> <p><u>Influent exceedances of the MAHA, failure by Mexico to take remedial steps to prevent MAHA exceedances, failure by Mexico to implement a pretreatment program in Tijuana, or actions that occur outside of the United States that cause non-compliance with MAHA limitations shall not be construed as violations of this permit.</u></p>	<p>The Tentative Order that was released for public comment on November 20, 2018 only proposed to replace the interim influent limitations in Order No. R9-2014-0009 with the influent limitations contained in USIBWC's MAHA Report, as the San Diego Water Board intended when it adopted Order No. R9-2014-0009. The request made by USIBWC is beyond the scope of the amendments proposed in the Tentative Order, and the San Diego Water Board declines to revisit the requirement for USIBWC to comply with influent limitations in Order No. R9-2014-0009 at this time.</p>	None necessary

³ See Resolution 12 of IBWC Minute No.283 , Conceptual Plan for the International Solution to the Border Sanitation Problem in San Diego, California/Tijuana Baja California, July 2, 1990, available on the USIBWC website at <https://www.ibwc.gov/Files/Minutes/Minute283.pdf> as of January 16, 2019.

⁴ See Resolution 10 of IBWC Minute No.296, Distribution of Construction, Operation and Maintenance Costs for the International Wastewater Treatment Plant Constructed Under the Agreements in Commission Minute No. 283 for the solution of the Border Sanitation Problem at San Diego, California/Tijuana, Baja California, April 16, 1997, available on the USIBWC website at <https://www.ibwc.gov/Files/Minutes/Min296.pdf> as of January 16, 2019.