

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

**REVISED TENTATIVE**

**TIME SCHEDULE ORDER NO. R9-2023-0189**

**UNITED STATES SECTION OF THE INTERNATIONAL BOUNDARY AND WATER  
COMMISSION SOUTH BAY INTERNATIONAL WASTEWATER TREATMENT PLANT  
DISCHARGE TO THE PACIFIC OCEAN THROUGH THE SOUTH BAY OCEAN  
OUTFALL**

**WHEREAS** the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) finds the following:

**Background**

1. The International Boundary and Water Commission, United States Section (USIBWC) owns and operates the South Bay International Wastewater Treatment Plant (SBIWTP) and the associated infrastructure in the United States (U.S.).<sup>1</sup> Together, these facilities comprise a federally-owned treatment works. These facilities are collectively referred to as the Facility or Facilities in this Time Schedule Order (TSO).
2. The SBIWTP discharges secondary-treated wastewater to the Pacific Ocean through the South Bay Ocean Outfall. Attachment A provides collection system flow schematics of the Facility and infrastructure in Mexico.
3. USIBWC was previously regulated by National Pollutant Discharge Elimination System (NPDES) Permit No. CA0108928 issued by the San Diego Water Board as Order No. R9-2014-0009, as amended by Order Nos. R9-2014-0094, R9-2017-0024, and R9-2019-0002, *Waste Discharge Requirements for the United States Section of the International Boundary and Water Commission, South Bay International Discharge to the Pacific Ocean Via the South Bay Ocean Outfall* (2014 Permit). The 2014 Permit expired on July 31, 2018, but remained in effect until it was superseded by a reissued NPDES permit.
4. On May 12, 2021, the San Diego Water Board reissued NPDES Permit No. CA0108928 as Order No. R9-2021-0001, *Waste Discharge Requirements for the United States Section of the International Boundary and Water Commission*

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<sup>1</sup> Infrastructure in the U.S. includes, but is not limited to, SBIWTP; five canyon collector systems located at Stewart's Drain, Canyon del Sol, Silva's Drain, Smugglers Gulch, and Goat Canyon; Hollister Street Pump Station and Goat Canyon Pump Station; Junction Box 1 and 2; South Bay Land Outfall; South Bay Ocean Outfall; and other associated infrastructure such as pipes and conveyances between the diversion structures, pump stations, and the SBIWTP (see Attachment F, section 1.1, of the 2021 NPDES Permit).

South Bay International Discharger to the Pacific Ocean Through the South Bay Ocean Outfall (2021 Permit).

5. That same day, the San Diego Water Board also issued a corresponding Cease and Desist Order (CDO) to USIBWC, Order No. R9-2021-0107. Based on effluent monitoring data at the South Bay Ocean Outfall, the San Diego Water Board determined that USIBWC's discharge of effluent threatened to violate the effluent limitations established in the 2021 Permit.<sup>2</sup> At the time, USIBWC attributed those effluent limitation exceedances to excess influent flow beyond the design capacity of the SBIWTP's secondary treatment system. The San Diego Water Board found that, among other actions, repairs to the sluice gates in Junction Box 1 would be necessary to reduce flows to the SBIWTP to its design capacity of 25 million gallons per day (mgd). The CDO required USIBWC to identify all shortcomings, inadequacies, and maintenance issues with regard to control measures that need to be addressed to attain consistent compliance with the effluent limitations contained in the 2021 Permit. The CDO also established a time schedule for USIBWC to conduct and perform necessary maintenance, repairs, and other deliverables to return the Facility to compliance with the 2021 Permit requirements, including conventional pollutant effluent limitations for total suspended solids, settleable solids, biological oxygen demand, and turbidity, and the Facility's average monthly flow effluent limit of 25 million gallons per day.
6. On December 8, 2021, the San Diego Water Board adopted Order No. R9-2021-0220, amending the CDO (Amended CDO). In October 2021, USIBWC submitted a revised Compliance Assurance Report which identified anticipated completion dates for various actions to the Facilities. Some of the completion dates identified in the Compliance Assurance Report exceeded the time schedule contained in the CDO due to design and funding issues and impacted supply chains. USIBWC requested that the CDO time schedule be amended to be consistent with its anticipated completion dates. The Amended CDO, among other things, modified the time schedule for the repair of Junction Box 1 and other repair and maintenance activities at the Facility, added tasks to the time schedule (including replacement of diffusers in aeration tanks), and required USIBWC to submit quarterly Compliance Assurance Reports.
7. In September of 2018, the San Diego Water Board and California Department of Justice initiated a citizen suit against USIBWC alleging violations of the federal Clean Water Act and the 2014 Permit due to, among other things, ongoing discharges of waste, including untreated sewage and trash, from its Facilities to

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<sup>2</sup> Between November 2020 and January 2021, USIBWC reported 46 exceedances of effluent limitations contained in the 2014 Permit.

the Tijuana River and the Pacific Ocean. The San Diego Water Board and the USIBWC executed a settlement agreement to resolve the citizen suit litigation in April of 2022.

8. On October 8, 2021, the United States filed lawsuits against the San Diego Water Board challenging certain provisions of the 2021 Permit. In September 2022, the San Diego Water Board and the United States executed a settlement agreement in which USIBWC would submit a revised Spill and Transboundary Wastewater Flow Event Prevention and Response Plan (Revised Spill Plan) and the San Diego Water Board would consider certain amendments to the 2021 Permit. On April 14, 2023, USIBWC submitted its Revised Spill Plan. On April 26, 2023, the San Diego Water Board approved the Revised Spill Plan.
9. On March 8, 2023, the San Diego Water Board adopted Order No. R9-2023-0009, amending the 2021 Permit (2023 Amended Permit). Subsequently, the United States dismissed its lawsuits against the San Diego Water Board regarding the 2021 Permit.

**Cease and Desist Order Requirements, CDO Non-Compliance, and Continuing 2021 Permit Violations**

10. As stated above, the San Diego Water Board issued a CDO and Amended CDO based on its findings of USIBWC's self-reported effluent limit exceedances in violation of its 2014 Permit and findings that the self-reported data also threatened to violate effluent limitations in the 2021 Permit.
11. Table 1, below, provides a summary of the time schedule and prescribed actions in the Amended CDO and when USIBWC completed or anticipates completing the tasks:

**Table 1: Summary of CDO or Amended CDO Deadlines and Completion Dates**

| Task   | Deadline from Amended CDO                                | Completion or Anticipated Completion Date <sup>3</sup> |
|--|--|--|
| A) Submit a Compliance Assurance Report (CAR)<br>i. Identifies all shortcomings, inadequacies, and maintenance issues with regard to control measures that need to be addressed to ensure compliance with permit effluent limits;<br>ii. Include a schedule for retaining contractors and design, installation, and operation of new or modified control measures; and<br>iii. Estimated project costs | June 30, 2021  | June 30, 2021;<br>October 7, 2021 (revised)            |
| B) Submit a revised CAR updating information on scheduling and project costs, and any additional Facility deficiencies not originally included in the CAR  | Quarterly<br>January 1<br>April 1<br>July 1<br>October 1 | Ongoing  |
| C) Complete supervisory control and data acquisition (SCADA) upgrades  | December 31, 2021  | December 31, 2021                                      |
| D) Replace two influent pumps  | October 1, 2021  | May 28, 2021   |
| E) Complete design for Junction Box 1 repairs  | January 31, 2022   | June 30, 2022  |
| F) Repair Junction Box 1<br>i. Repair 72-inch sluice gate<br>ii. Repair 96-inch sluice gate  | Comply forthwith   | (February 10, 2025)                                    |

<sup>3</sup> Anticipated, future completion dates are denoted within parentheses. Anticipated completion dates in Table 1 are taken from USIBWC's quarterly Compliance Assurance Report submitted on October 3, 2023.

| Task  | Deadline from Amended CDO | Completion or Anticipated Completion Date <sup>3</sup> |
|---|---------------------------|--|
| G) Replace influent meter<br>i. Replace the temporarily repaired influent pipe<br>ii. Replace the two valves on the replaced influent pipes | February 13, 2023         | (September 30, 2024)                                   |
| H) Other needed/planned repairs   | Comply forthwith          | Outstanding  |
| I) Other needed/planned preventative maintenance  | Comply forthwith          | Outstanding  |
| J) Achieve consistent compliance with 2021 Permit effluent limitations for flow, settleable solids, TSS, turbidity, and CBOD5               | January 3, 2022           | Outstanding  |

12. On September 5, 2023, the San Diego Water Board issued Notice of Violation No. R9-2023-0162 to USIBWC for ongoing violations of the 2021 Permit that occurred during the period between September 30, 2021, and June 30, 2023. Violations listed in NOV R9-2023-0162 include approximately 208 self-reported exceedances of effluent limitations in the 2021 Permit, required reports submitted after deadlines listed in the 2021 Permit, missing reports, such as the Tijuana River Valley Monitoring Plan Work Plan (Work Plan), and approximately 214 other violations of the 2021 Permit's Standard Provisions. Compliance with the 2023 Amended Permit Monitoring and Reporting Program requirement to submit a Tijuana River Valley Monitoring Work Plan will be achieved through binational cooperation in the Minute 320 process. The Work Plan is currently under development.
13. Since July 1, 2023, until August 30, 2023, prior to and following the onset of Tropical Storm Hilary, USIBWC self-reported 27 additional exceedances of effluent limitations in the 2023 Amended Permit including flow, total suspended solids, biological oxygen demand, and turbidity. USIBWC reported that most of these exceedances were caused by the inflow of sewage from Mexico exceeding the design capacity of the SBIWTP.

**Tropical Storm Hilary, Exacerbated Infrastructure Problems, and Continuing 2023 Amended Permit Violations**

14. Between August 19 and August 22, 2023, Tropical Storm Hilary brought record rainfall to San Diego County and Baja California. During the storm, the SBIWTP received flows that exceeded its design capacity of 25 mgd by 100% (50 mgd) for

- 6 hours and 320% (80 mgd) for 6 hours. The SBIWTP's flow equalization basins were filled within the first hour of the storm. The high inflow and infiltration rates in the collection system in Tijuana exacerbated infrastructure and system vulnerabilities of the Facility. These events resulted in damage throughout the SBIWTP and at the Hollister Avenue Pump Station due to the excessive flows, sedimentation, and influx of debris in the wastewater that overwhelmed the screening in the treatment plant and canyon collectors. At the height of the storm, USIBWC bypassed secondary treatment and discharged approximately 30 million gallons directly to the South Bay Ocean Outfall as an emergency measure to prevent further damage and overflow of the SBIWTP to the Tijuana River.
15. Flows in the Tijuana River flood control channel exceeded 10,000 cubic feet per second (cfs) during the storm on August 20, 2023, and more than 2.6 billion gallons flowed through the main channel of the Tijuana River between August 19, 2023, and September 1, 2023. Due to excessive inflows during the storm event, USIBWC bypassed its secondary treatment system for a period of 10 hours resulting in a discharge of 30 million gallons of untreated sewage and wastewater to the Pacific Ocean from South Bay Ocean Outfall.
  16. On September 13, 2023, USIBWC Commissioner Dr. Maria-Elena Giner appeared before the San Diego Water Board to provide an update on pre- and post-Hilary storm conditions at the Facility, including planned maintenance and repair of the Facility. During the informational item, Dr. Giner provided an overview of wastewater treatment infrastructure challenges including: Junction Box 1, a critical point in USIBWC's collection system that routes sewage and waste from the International Collector to SBIWTP; clogged bar screens; inoperable influent pumps; and overloaded primary sedimentation tanks. These infrastructure challenges have been exacerbated by a lack of investment in critical infrastructure maintenance and upgrades coupled with excess transboundary flows and storm events. Dr. Giner conveyed USIBWC's commitment to prioritizing infrastructure repairs, compliance with the 2023 Amended Permit, and post-Hilary recovery efforts.
  17. To that end, in federal Fiscal Year 2023, USIBWC awarded ten million dollars (\$10,000,000) to capital improvement projects designed to bring SBIWTP in compliance with its 2023 Amended Permit. These projects include replacing Junction Box 1, rehabilitation and clean-out of all primary sedimentation tanks, and replacement of two influent pumps (pumps #1 and #5). Additionally, USIBWC redirected eight million dollars (\$8,000,000) in its existing budget toward post-Hilary recovery repairs including emergency pump and electrical repairs at the headworks of SBIWTP and replacement of additional pumps throughout the treatment and collection system including Hollister Avenue pump station.



18. On September 19, 2023, USIBWC installed a replacement pump for one of the four pumps at Hollister Avenue. Installation and operation of the replacement pump together with the second operational pump allowed USIBWC to bring the Hollister Avenue pump station back online on September 29, 2023, as part of its post-Hiliary recovery work. A third pump will be installed to provide redundancy at the pump station.

### **Time Schedule Order Authority**

19. Water Code section 13300 authorizes the San Diego Water Board to issue a TSO when it finds that a discharge of waste is taking place that violates requirements prescribed by the San Diego Water Board or that waste collection, treatment, or disposal facilities are approaching capacity. The San Diego Water Board is authorized to require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule of specific actions that the discharger will take in order to correct the violation of requirements.
20. Water Code section 13167.5, subdivision (a)(4), requires the San Diego Water Board to provide a 30-day public comment period prior to the adoption of a time schedule order pursuant to section 13300 that sets forth a compliance schedule and required actions relating to waste discharge requirements prescribed in a discharger's permit. The 30-day public comment period began on October 31, 2023, and closed on November 30, 2023.
21. Under Water Code sections 7 and 13223, and San Diego Water Board Resolution No. R9-2005-0271, the Executive Officer is authorized by delegation of the San Diego Water Board to issue this TSO. The Executive Officer is authorized to amend this TSO and any deadlines, as appropriate.
22. All technical and monitoring reports required under this TSO are required pursuant to Water Code section 13383. The San Diego Water Board needs the required information to determine compliance with this TSO, the Amended CDO, and the 2021 and 2023 Amended Permits for the protection of the environment, human health, and beneficial uses.
23. As an action to enforce USIBWC's underlying 2021 and 2023 Amended Permits, this TSO is exempt from the provisions of the California Environmental Quality Act (Public Resource Code § 21000 et seq.) in accordance with Title 14 of the California Code of Regulations, section 15321.

**IT IS HEREBY DIRECTED** that, pursuant to Water Code sections 13300 and 13383, USIBWC shall take the following actions, consistent with the time schedule set forth herein, to correct and prevent further violations of the permit requirements issued by the San Diego Water Board:

1. By August 15, 2024, comply with secondary effluent limitations, as required, in R9-2021-0001 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 Through the South Bay Ocean Outfall* as amended by R9-2023-0009.
2. The table below outlines tasks (Tasks) and corresponding interim goals to assist USIBWC in achieving secondary effluent limitation compliance by the deadline in Directive No. 1 (Interim Goals). These Interim Goals are based on task completion approximations self-reported by USIBWC in its quarterly Compliance Assurance Reports or through other written correspondence to the San Diego Water Board. Some Interim Goals occur after the secondary effluent limitation compliance deadline, however, implementation of temporary controls in advance of the Interim Goal target date will assist USIBWC in achieving timely compliance with secondary effluent limitations. Task completion and construction of permanent controls by a date certain will be necessary for continued long-term compliance with secondary effluent limitations.

**Table 2 – Directive No. 2 Tasks and Interim Goals**

| <u>Task</u>   | <u>Interim Goals</u>      |
|---|---------------------------|
| <u>A) Installation of third pump at Hollister Avenue Pump Station</u>   | <u>December 1, 2023</u>   |
| <u>B) Replacement of influent pumps #1 and #5</u>   | <u>February 28, 2024</u>  |
| <u>C) Primary sedimentation tanks:</u><br><u>i. Rehabilitation of all mechanical parts for primary sedimentation tanks</u><br><u>ii. Clean out of primary sedimentation tanks</u> | <u>September 30, 2024</u> |
| <u>D) Influent meter repairs</u><br><u>i. Replace the temporarily repaired influent pipe</u><br><u>ii. Replace the two valves on the replaced influent pipes</u>                  | <u>September 30, 2024</u> |
| <u>E) Replacing Junction Box 1</u>  | <u>February 10, 2025</u>  |



| Task  | Interim Goals                 |
|---|-------------------------------|
| A) <del>Primary sedimentation tanks:</del><br>i. <del>Rehabilitation of all mechanical parts for primary sedimentation tanks</del><br>ii. <del>Clean out of primary sedimentation tanks</del> | <del>September 30, 2024</del> |
| C) <del>Influent meter repairs</del><br>i. <del>Replace the temporarily repaired influent pipe</del><br>ii. <del>Replace the two valves on the replaced influent pipes</del>                  | <del>September 30, 2024</del> |
| C) <del>Replacement of influent pumps #1 and #5</del>   | <del>February 28, 2024</del>  |
| D) <del>Installation of third pump at Hollister Avenue Pump Station</del>   | <del>December 1, 2023</del>   |
| E) <del>Replacing Junction Box 1</del>  | <del>February 10, 2025</del>  |

3. USIBWC shall present an oral report to the San Diego Water Board at a board meeting within approximately 180 days of the adoption of this TSO, and no later than 240 days after the adoption of this TSO, as the board’s schedule and agenda reasonably permits. The report shall summarize USIBWC’s efforts to achieve compliance with the directives in this TSO.
4. Continue to submit quarterly Compliance Assurance Reports as required by Amended Cease and Desist Order R9-2021-0220 and include information specific to this TSO regarding Task progress, achievement of Interim Goals, Interim Goal delays, and changes to scheduling, projected timelines, and project costs.
5. Beginning with the January 1, 2024, Compliance Assurance Report, and continuing monthly thereafter by the first of the month, include a visual depiction (e.g., Gantt chart) of the Tasks, progress towards Interim Goal achievement, and the secondary effluent limitation compliance deadline to include in and inform the Executive Officer’s monthly report. USIBWC shall submit the monthly report to the San Diego Water Board via the State Water Board’s California Integrated Water Quality System (CIWQS) Program website.
6. Requests to amend the secondary effluent limitation compliance deadline in Directive No. 1 must be submitted in writing to the attention of the Executive Officer and include a justification for requesting the extension of time. Any

extension request shall be submitted as soon as a delay beyond the reasonable control of USIBWC is recognized and not later than 45 days prior to the compliance deadline in Directive No. 1. The San Diego Water Board acknowledges that there may be circumstances beyond the reasonable control of USIBWC leading to a delay in compliance with this TSO, for example, supply chain-related delays, and will take all relevant facts provided by USIBWC into consideration when determining whether to grant the extension request.

The San Diego Water Board reserves its right to take any subsequent enforcement action(s) as authorized by law if the Executive Officer determines that USIBWC has failed to comply with the requirements of this TSO.

Any person aggrieved by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050, et seq. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this TSO, except that if the thirtieth day following the date of this TSO falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Links to the laws and regulations applicable to filing petitions may be found at [Water Quality Petitions Page \(https://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality\)](https://www.waterboards.ca.gov/public_notices/petitions/water_quality) or may be provided upon request.

I, David W. Gibson, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Diego Region, on December 18, 2023. ~~This Time Schedule Order is effective upon the date of signature.~~

TENTATIVE \_\_\_\_\_

David W. Gibson, Executive Officer

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Date

**Attachment A**

Figure 1. Collection System Flow Schematic

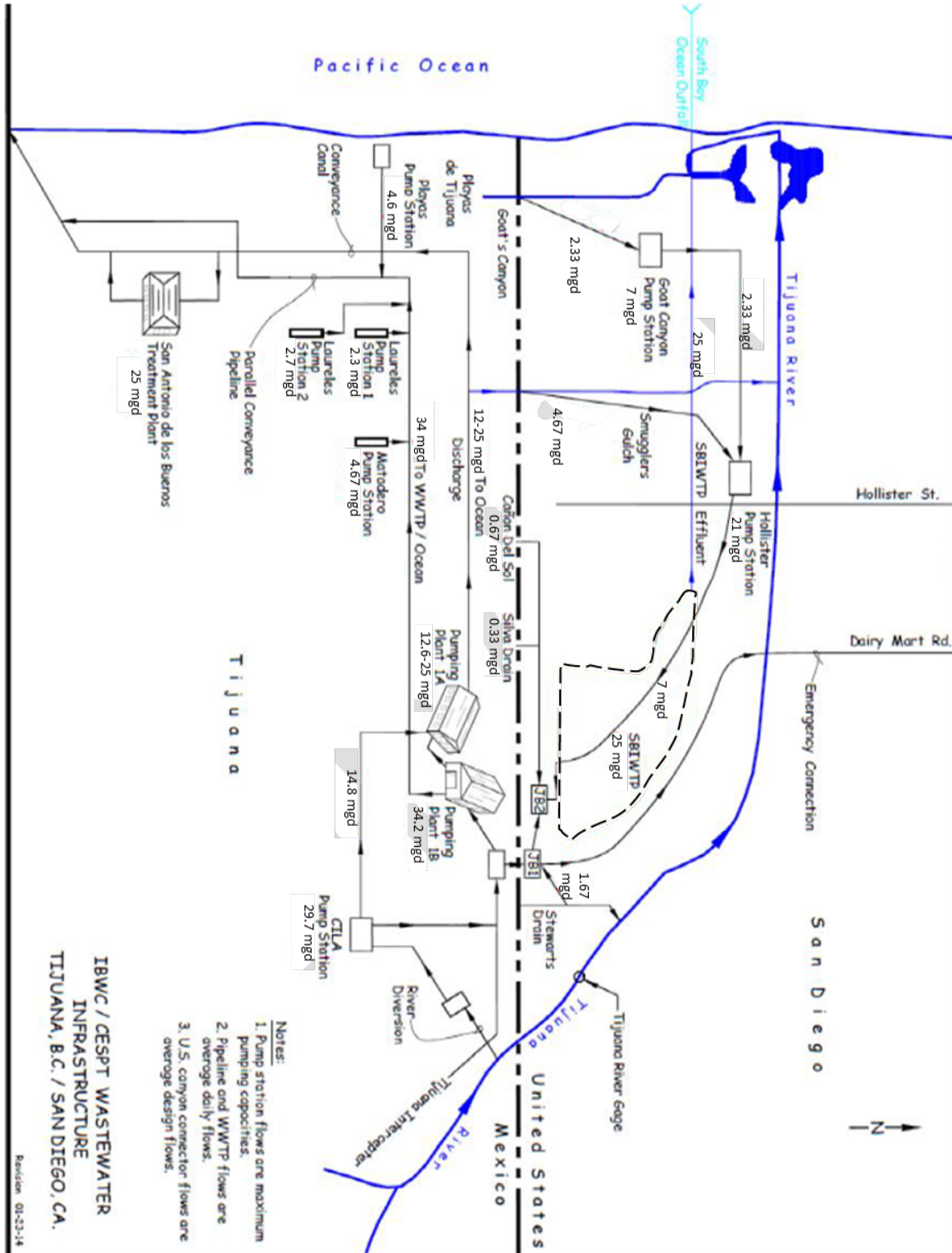
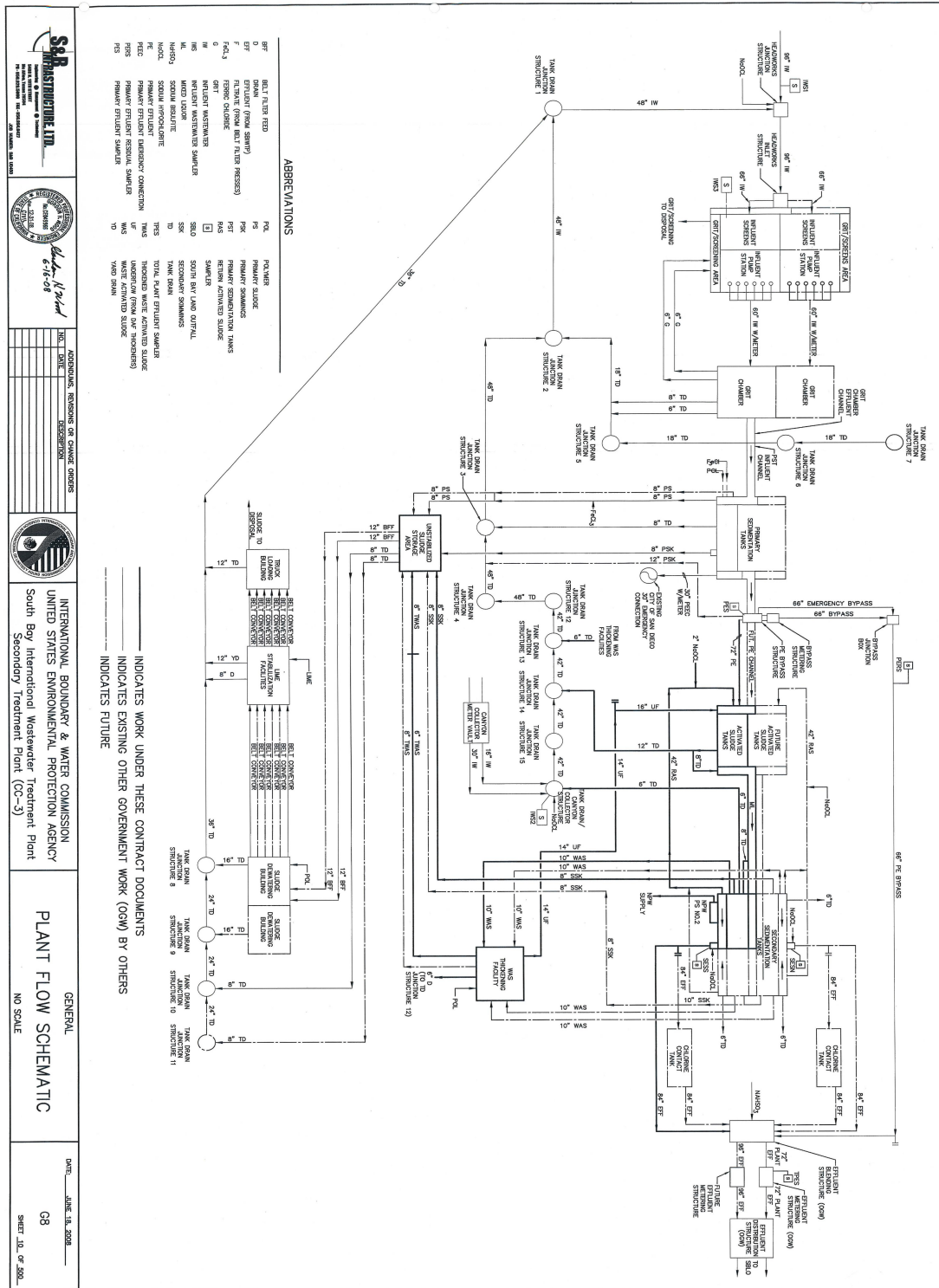


Figure 2. Treatment System Flow Schematic



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