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APPROVED
SEP 28 1976

89/28/76

THE WHITE HOUSE
WASHINGTON
September 28, 1976

ACTION
Last Day: October 4

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON *J. Cannon*

SUBJECT:

H.R. 14973 - International Tijuana River Flood Control Project

Attached for your consideration is H.R. 14973, sponsored by Representatives Fascell and Winn.

The enrolled bill would amend existing law to reduce the appropriation authorization and modify certain conditions with respect to the construction of the International Tijuana Flood Control Project, Tijuana River Basin.

A detailed discussion of the provisions of the enrolled bill is provided in OMB's bill report at Tab A.

OMB, NSC, Max Friedersdorf, Counsel's Office (Kilberg) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 14973 at Tab B.

Posted
9/29/76

archives
9/29/76





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 23 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 14973 - International Tijuana
River Flood Control Project
Sponsors - Rep. Fascell (D) Florida and Rep. Winn
(R) Kansas

Last Day for Action

October 4, 1976 - Monday

Purpose

Amends existing law to reduce the appropriation authoriza-
tion and modify certain conditions with respect to the
construction of the International Tijuana Flood Control
Project, Tijuana River Basin.

Agency Recommendations

Office of Management and Budget	Approval
Department of State	Approval

Discussion

In 1944, the United States and Mexico signed a treaty for
the utilization of waters of the Colorado and Tijuana
Rivers and the Rio Grande. Ten years ago, in accordance
with the provisions of this treaty, Congress authorized
the International Tijuana Flood Control Project which
called for joint U.S. - Mexico construction, operation and
maintenance of an international flood control project for
the Tijuana River. This project was to be a concrete
lined channel through the city of Tijuana into the U.S.
for a distance of about 6 miles to the Pacific Ocean.

The 1966 Act authorized the Secretary of State, acting through the International Boundary and Water Commission (IBWC), to conclude an agreement with appropriate Mexican officials for the project, and it authorized appropriations of \$12.6 million for the U.S. portion of the project. Consistent with conditions imposed on Federal flood control projects, the 1966 Act required that all lands necessary for the project were to be donated by the local governments.

In the late 1960's, the IBWC obtained agreement from San Diego to donate the necessary land as well as pay for part of the construction costs. However, in 1971 the city requested that the concrete channel be eliminated and that a modified plan be adopted that would be more environmentally and less urban development oriented. In 1973, the IBWC approved this modified plan which would leave the Tijuana River Valley on the U.S. side as open space.

During this period, Mexico continued construction of its portion of the project, and as of now, it is essentially complete. Construction of the U.S. portion of the project has been held up pending the outcome of negotiations between the IBWC, San Diego and the State of California on the non-Federal contribution for the acquisition of rights-of-way in light of the modified project. San Diego argues that the flood control and land enhancement benefits have been substantially reduced by the modified project, and therefore the city is not going to participate to the extent earlier agreed to under the 1966 authorization.

The IBWC has negotiated with San Diego and the State of California for the last three years in an attempt to get them to pay for the full costs of project lands. These efforts have been unsuccessful. Meanwhile, Mexico has been expressing concern about the unfinished project, pointing out that should a flood occur on the Tijuana River, waters will not only rush into the U.S. unabated, but there will be serious back flooding in Tijuana.



The cost to the Federal Government of the original project would currently amount to approximately \$28 million, excluding costs of land and land enhancement which were to be borne by San Diego. The modified project is estimated to cost \$10.8 million for construction and \$3.8 million for the land. It is anticipated that San Diego and California would contribute \$2.2 million for land acquisition, leaving a balance of \$1.6 million that must be provided for land acquisition by another party if the project is to proceed.

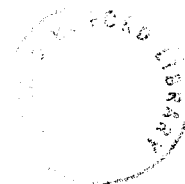
In order to break the deadlock described above, and thus enable the U.S. to meet its obligations to Mexico, the Department of State, with clearance from this Office, submitted legislation to the Congress this summer that would resolve the issue. Specifically, the draft bill was in the form of an amendment to the 1966 Act that would:

- reduce the appropriation authorization to the sum of \$10.8 million based on June 1976 prices; and,
- authorize the Secretary of State to participate financially with non-Federal interests in the acquisition of lands necessary for the project, contingent upon San Diego furnishing its share of the funds for land acquisition.

H.R. 14973 is identical to the Administration proposal except for a stipulation that prohibits the appropriation of any funds for fiscal year 1977.

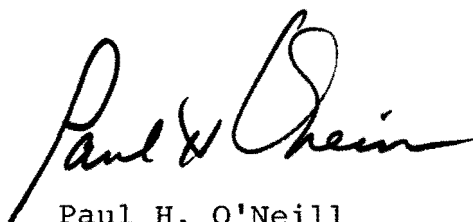
In reporting on this legislation, the Senate Committee on Foreign Relations noted that the prohibition on appropriating fiscal year 1977 funds was necessary "...in order to stay within the Congressional budget ceiling."

However, as a practical matter, the prohibition would have no effect upon the immediate resumption of this project if H.R. 14973 is approved, since \$4.8 million previously appropriated for this project remains available.



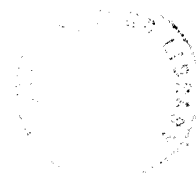
In its attached enrolled bill letter, State strongly recommends approval as it makes the observation that:

"The reason for the urgency is the delay of ten years already experienced in the initiation of construction in the U.S. part of the project and hence the delay in fulfillment of the international obligation, and the concern in Mexico that if construction is not completed shortly, both the United States and Mexico may suffer damage as a consequence of the delay."



Paul H. O'Neill
Acting Director

Enclosures





DEPARTMENT OF STATE

Washington, D.C. 20520

SEP 23 1976

Dear Mr. Lynn:

I have received James Frey's enrolled bill request dated September 21 for the views and recommendations of this Department on H.R. 14973, entitled "An Act To provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes."

The Department recommends approval of this legislation. The Department submitted an earlier draft of this bill to the Congress on June 28, 1976, urging the Congress to act on it during the current session. When the Congress responded by expediting hearings, the Department testified in favor of the legislation and again pressed for enactment. Now that the Congress has passed the legislation in accordance with recommendations of the Executive Branch, the Department strongly advises the President to approve it.

The reason for the bill is a formal obligation of the United States to join with Mexico in the construction of a flood control project for the Tijuana River. The bill would amend an existing authorization in order to enable the Federal Government to participate in the acquisition of rights of way needed for the project, and would approve a modification of the U.S. part of the project to conform to the current wishes of the sponsoring community, the City of San Diego. With these changes the U.S. Section of the International Boundary and Water Commission can proceed with construction.

The reason for the urgency is the delay of ten years already experienced in the initiation of construction in the U.S. part of the project and hence the delay in fulfillment of the international obligation, and the concern in Mexico that if construction is not completed shortly,

The Honorable

James T. Lynn, Director,
Office of Management and Budget.

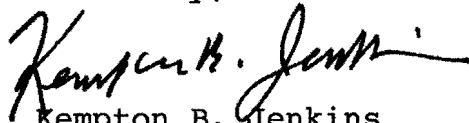
both the United States and Mexico may suffer damage as a consequence of the delay.

The House Committee on International Relations amended the Department's draft bill to except from the authorization the appropriation of funds for the fiscal year ending on September 30, 1977. The Department has no objection to this amendment. The Congress has already appropriated \$5.861 million for the project, of which an estimated \$4.714 million remain for expenditure. These available funds will suffice until Fiscal Year 1978, for which an additional appropriation is being requested.

The project as modified will cost an estimated \$14.6 million at mid-1976 price levels. Of this cost the State of California and the City of San Diego will bear an estimated \$2.2 million. The remaining estimated Federal cost of \$12.4 million would be less than the Federal cost of the original larger project as estimated in 1966 at \$12.6 million. The estimated O&M is \$45,000, which would be a Federal charge.

I appreciate this opportunity to present the Department's views and recommendations.

Sincerely,



Kempton B. Jenkins
Acting Assistant Secretary
for Congressional Relations



ACTION MEMORANDUM

Date: September 25

Time: 1100am

FOR ACTION:

NSCXS *oh*
Max Friedersdorf *an*
Bobbie Kilberg *ca*

cc (for information):

Jack Marsh
Jim Connor
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: September 28

Time: noon

SUBJECT:

H.R. 14973-International Tijuana River Flood Control Project

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to Judy Johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



THE WHITE HOUSE

WASHINGTON

September 27, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M.L.*
SUBJECT: HR 14973 - International Tijuana River
Flood Control Project

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments

Date:

Time:

1100am

FOR ACTION:

C/S
Max Friedersdorf
Bobbie Kilberg

cc (for information):

Jack Marsh
Jim Connor
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: September 28

Time: noon

SUBJECT:

H.R. 14973-International Tijuana River Flood Control Project

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

no objection Kilberg 9/27/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

MEMORANDUM

NATIONAL SECURITY COUNCIL

5370

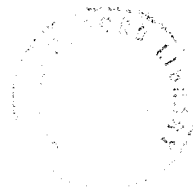
September 27, 1976

MEMORANDUM FOR: JAMES M. CANNON

FROM: Jeanne W. Davis *JWD*

SUBJECT: *fn* H. R. 14973 - International
Tijuana River Flood Control
Project

The NSC Staff concurs in H. R. 14973 - International Tijuana River Flood Control Project.





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 23 1976

To-
J. Johnston
9-24-76
8:30 p.m.

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 14973 - International Tijuana
River Flood Control Project
Sponsors - Rep. Fascell (D) Florida and Rep. Winn
(R) Kansas

Last Day for Action

October 4, 1976 - Monday

Purpose

Amends existing law to reduce the appropriation authoriza-
tion and modify certain conditions with respect to the
construction of the International Tijuana Flood Control
Project, Tijuana River Basin.

Agency Recommendations

Office of Management and Budget	Approval
Department of State	Approval

Discussion

In 1944, the United States and Mexico signed a treaty for
the utilization of waters of the Colorado and Tijuana
Rivers and the Rio Grande. Ten years ago, in accordance
with the provisions of this treaty, Congress authorized
the International Tijuana Flood Control Project which
called for joint U.S. - Mexico construction, operation and
maintenance of an international flood control project for
the Tijuana River. This project was to be a concrete
lined channel through the city of Tijuana into the U.S.
for a distance of about 6 miles to the Pacific Ocean.





Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of Public Law 89-640 (80 Stat. 884) is amended by striking out section 2 in its entirety and substituting in lieu thereof the following new section:

"SEC. 2. Pursuant to the agreement concluded under the authority of section 1 of this Act, the United States Commissioner is authorized to construct, operate, and maintain the portion of the 'International Flood Control Project, Tijuana River Basin,' assigned to the United States, and there is hereby authorized to be appropriated to the Department of State for use of the United States section the sum of \$10,800,000 for construction costs of such project, as modified, based on estimated June 1976 prices, plus or minus such amounts as may be justified by reason of price index fluctuations in costs involved therein, and such sums as may be necessary for its maintenance and operation, except that no funds may be appropriated under this Act for the fiscal year ending on September 30, 1977. Contingent upon the furnishing by the city of San Diego of its appropriate share of the funds for the acquisition of the land and interests therein needed to carry out the agreement between the United States and Mexico to construct such project, the Secretary of State, acting through the United States Commissioner, is further authorized to participate financially with non-Federal interests in the acquisition of said lands and interest therein, to the extent that funds provided by the city of San Diego are insufficient for this purpose."

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

TIJUANA RIVER FLOOD CONTROL PROJECT

AUGUST 9, 1976.—Ordered to be printed

Mr. FASCELL, from the Committee on International Relations,
submitted the following

REPORT

[To accompany H.R. 14973 which on June 30, 1976, was referred jointly to the Committee on International Relations and the Committee on Public Works and Transportation]

The Committee on International Relations, to whom was referred the bill (H.R. 14973) to provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 14973 is to amend Public Law 89-640, implementing an agreement between the United States and Mexico for the joint construction of an international flood control project for the Tijuana River, by: (1) authorizing the appropriations necessary to construct, operate, and maintain the U.S. portion of the project, as modified; and (2) authorizing the acquisition of lands in connection with the project.

BACKGROUND

The Tijuana River is located in the far southwest corner of the United States and in the far northwest corner of Mexico. It is an international river located partly in the United States and partly in Mexico. It flows northwestward 5 miles through the city of Tijuana, Baja California, to the international boundary and then continues westward into the United States through farm and grazing lands incorporated in the city of San Diego, Calif., a distance of about 5.4 miles and thence through marsh lands of the city of Imperial Beach, about 0.6 miles, to discharge into the Pacific Ocean.

THE TREATY

In 1944 the United States and Mexico signed the Treaty for the Utilization of Waters of the Colorado and Tijuana Rivers and of the

Rio Grande. The provisions of the treaty relating to the Tijuana River directed the International Boundary and Water Commission to "study and investigate, and * * * submit to the two Governments for their approval * * * plans for storage and flood control to promote and develop domestic, irrigation, and other feasible uses of * * * this [river] system * * *." Storage works for flood control were not found feasible.

THE ORIGINAL PROJECT

In 1964 the city of San Diego asked the International Boundary and Water Commission to plan and construct an international flood control project for the Tijuana River in the United States and Mexico, to provide coordinated concrete-lined channel works and levees in each country. Those in the United States would provide flood protection for practically the entire Tijuana River Valley—approximately 4,800 acres—so that these lands could be developed for urban, commercial, and recreational uses. The city, assured of supporting California State funds, offered to pay the cost of acquiring all the necessary lands and of making the necessary relocations, estimated at \$1.9 million, and to assume 17.8 percent, or an estimated \$2.25 million, of the total U.S. construction cost of approximately \$12.6 million. Thus, San Diego and the State of California together proposed to contribute more than \$4 million to the project.

Introduced at the request of the City of San Diego, the existing authorization for the Tijuana Flood Control Project (Public Law 89-640), approved October 10, 1966, authorized the conclusion of an agreement with Mexico, in accordance with the provisions of the Treaty of 1944, for the joint construction, operation, and maintenance, by the United States and Mexico, of an international flood control project for the Tijuana River. The authorization in the original act further provided that if an agreement was concluded with Mexico, the U.S. Commissioner was authorized to construct, operate, and maintain the portion of the project in the United States, and it authorized an appropriation not to exceed \$12.6 million for the construction of such project and such sums as might be necessary for its maintenance and operation provided that no part of such appropriation be expended for construction on any land, site or easement, except such as had been acquired by donation. This latter provision is a condition imposed on domestic Federal flood control projects.

Under this authorization, an agreement was concluded with Mexico (Commission Minute No. 225, dated June 19, 1967) providing for a concrete-lined channel in Mexico, 2.7 miles in length, to be constructed at Mexico's expense; and a connecting concrete-lined channel in the United States, 5.5 miles in length, to be constructed at U.S. expense. Design and plans were to be coordinated, since protection of life and properties in each country requires the construction of adequate works in the other country.

Mexico began construction in August 1972, and has completed all work which can be completed prior to initiation of construction in the United States.

QUESTIONS RAISED ON LAND USE

The United States has not begun construction of the part of the project in the United States because, subsequent to the April 1971

issuance of a draft environmental impact statement prepared by the Corps of Engineers, serious concerns arose in State agencies and local authorities that park lands, natural wet lands and overflow areas of the Tijuana Valley should be preserved in their natural state. In December 1971 the city of San Diego asked that all work be suspended until it could review its land use plans for the Tijuana River Valley.

"MINIMUM PLAN" PROPOSAL

In October 1972 the city asked the United States Section of the International Boundary and Water Commission to provide alternative plans that would essentially eliminate the concrete-lined channel and satisfy its revised land use goals, the environmental concerns, and the international obligation to Mexico. The United States Section, with the assistance of the Corps of Engineers, presented alternatives, including a "Minimum Plan" which was selected by the city of San Diego. The "Minimum Plan" would be in accord with the city's more recent land planning to retain practically all of the Tijuana Valley in the United States as an open space area for agriculture, a natural preserve, and parks. It would provide the minimum works in the United States required to give Mexico the same degree of protection from floodwaters as would the original plan. The plan would further provide protection for about 400 acres in the suburban area of San Diego, known as San Ysidro. The channel structure in the United States would be less than 1 mile in length. It would be designed to gradually reduce the high velocities from the channel in Mexico to velocities which naturally obtain in the existing floodplain. The plan provides for a north levee extending northwestward from the end of the structural channel 1.2 miles to high ground and a south levee extending from the structure westward along the boundary about 0.5 mile to high ground.

ENVIRONMENTAL IMPACT STATEMENT

Environmental analyses were made by the Corps of Engineers for the United States Section, IBWC, and the draft environmental statement was circulated for comment to local, State, and Federal agencies, to conservation groups, and to the public. The draft statement described the various alternatives considered, the environmental impacts of each, and presented the minimum flood control facility as the proposed plan. The comments received were considered in the final environmental statement which was submitted to the Council on Environmental Quality on June 7, 1976.

ASSURANCES BY CITY OF SAN DIEGO

The city of San Diego, Calif., in resolutions passed by the city council, formalized the selection of the "Minimum Plan" and requested that the United States Section proceed toward its construction. These resolutions have been submitted to the Subcommittee on International Political and Military Affairs.

"MINIMUM PLAN" ACCEPTABLE TO MEXICO

The following correspondence of the United States and Mexican Commissioners of the International Boundary and Water Commission assures that the "three alternatives are satisfactory to Mexico." The alternatives were the same as the "minimum Plan" described above.

INTERNATIONAL BOUNDARY AND WATER COMMISSION,
UNITED STATES AND MEXICO,
El Paso, Tex., July 23, 1976.

HON. DANTE FASCELL,
Chairman, Subcommittee on International Political and Military Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed, to form a part of the record of the hearing on H.R. 14645, Tijuana Flood Control Project, is a copy of a letter from my counterpart, the Commissioner for Mexico, David Herrera Jordan, dated April 7, 1976, on the question raised in the hearing as to whether the "modified project" would be acceptable to Mexico.

You will note that the Mexican Commissioner advises that the three alternatives furnished to him "are satisfactory to Mexico". The three alternatives furnished were the same as the "modified project" described in the hearing, except for slight differences in the alignment of the channel structures.

In my response to the Mexican Commissioner's concerns I assured him that alternatives of the "modified project" would not change the subgrade elevation nor the water level of the design flood, and that adequate works will be provided for the discharge of waters of the Arroyo at Calle "N" in the City of Tijuana.

With appreciation of the opportunity to again appear before you, and all good personal wishes,

Sincerely,

JOSEPH F. FRIEDKIN,
Commissioner.

Enclosure: Letter, April 7, 1976.

[Translation]¹

INTERNATIONAL BOUNDARY AND WATER COMMISSION
MEXICO AND UNITED STATES

MEXICAN SECTION

No. 792/76—File: 2-X-226.3/10

Cd. JUAREZ, CHIH., April 7, 1976.

MR. JOSEPH F. FRIEDKIN,
United States Commissioner, International Boundary and Water Commission, El Paso, Texas 79998.

MY DEAR MR. COMMISSIONER: I am pleased to refer to the three alternative projects for channelization of the Tijuana River in U.S. territory, presented by Principal Engineer Delbert D. McNealy to Principal Engineer Norberto Sanchez Gomez in January 1973.

¹ Translated, WHM:ec; 4/14/76.

Based on information furnished by the U.S. Section that the three alternative projects do not change the subgrade elevation nor the water level of the design flood in the international boundary, I confirm what I have told you verbally, that the three alternatives are satisfactory to Mexico.

I also confirm that whichever alternative is used, it should provide adequate works for the discharge of waters of the Arroyo at Calle "N" in the city of Tijuana, which is affluent to the Tijuana River.

I remain, my dear Mr. Friedkin,

Very truly yours,

(Signed) DAVID HERRERA J.,
Commissioner.

COSTS OF THE "MINIMUM PLAN"

Before the U.S. Commissioner could proceed with construction, a further delay was encountered when the city of San Diego advised that, with the "Minimum Plan", the benefits to the city were so reduced from the original plan that it could not justify the total costs of lands needed, as required by the Public Law 89-140, estimated to amount to about \$3.8 million. The city's position is that major benefits of the "Minimum Plan" accrue to the Federal Government in fulfillment of the international agreement and only a small part of the benefits accrue to flood protection for the city of San Diego. The city further points out that construction of the "Minimum Plan" works in lieu of the original plan of works will save the Federal Government an estimated \$15.4 million at current prices. The Federal cost of the original project would currently amount to an estimated \$27.8 million, excluding costs of lands and land enhancement costs which were to be borne by the city.

The city of San Diego states that even with financial assistance from the State of California, it can and should only participate in the cost of the lands required, including related works, to the extent of about \$2.2 million. This amount consists of \$0.6 million pledged by the city, an additional \$0.2 million for relocation costs, and approximately \$1.4 million recommended by the Governor in his budget for the State of California for the year beginning July 1, 1976. There thus remains an additional estimated \$1.6 million needed to cover the cost of lands which must be acquired to complete the project.

COMMITTEE ACTION

On June 28, 1976, the Executive sent to the Speaker of the House Executive Communication 3570, together with a draft bill "to provide for acquisition of lands in connection with the international Tijuana River Flood Control Project, and for other purposes," which was referred jointly to the Committee on International Relations and to the Committee on Public Works and Transportation. The Executive Communication together with the draft bill was referred to the Subcommittee on International Political and Military Affairs on June 30, 1976. The draft bill was introduced by request on July 1, 1976, by Hon. Dante B. Fascell, chairman of the subcommittee, and designated as H.R. 14645.

The subcommittee held a public hearing on the bill on July 21, 1976. Testimony was received from Hon. Lionel Van Deerlin, a Representative in Congress from the State of California, whose district includes the area where the project is to be built; Hon. Barry Goldwater, Jr., a Representative in Congress from the State of California; Hon. Joseph F. Friedkin, U.S. Commissioner, United States Section, International Boundary and Water Commission (IBWC); Col. Hugh G. Robinson, District Engineer, U.S. Army Corps of Engineers, Los Angeles; Mr. George Falk, Acting Country Director for Mexico, Department of State; Mr. Jess Haro, a city councilman from the city of San Diego, Calif.; Mr. Timothy Dillon, the Washington representative for the Department of Water Resources, State of California, all supporting the bill; and Hon. Leebert Stites, Mayor, city of Imperial Beach, Calif., who opposed the proposed modification; and Mr. Juan Orendain, a private citizen from San Ysidro, Calif., representing private citizens who oppose the construction of the flood control project as modified, and urging completion of the original project.

On July 27, 1976, the subcommittee held an open markup session and ordered reported to the full committee the bill H.R. 14645 with an amendment designed to comply with the Congressional Budget Act of 1974. On July 30, 1976, a clean bill, H.R. 14973, containing the subcommittee's amendment was introduced by Representatives Fascell and Winn and jointly referred to the Committee on International Relations and to the Committee on Public Works and Transportation. On August 4, 1976, the full committee met in open session and by voice vote ordered H.R. 14973 favorably reported without amendment.

PROVISIONS OF THE BILL

The principal purpose of the bill is to permit the United States to fulfill an international agreement with Mexico. It would accomplish this by amending section 2 of Public Law 89-640. The bill would reduce the original authorization contained in Public Law 89-640 for Federal participation in the construction costs of the Tijuana River flood control project in southern California from \$12.6 million to \$10.8 million plus or minus such amounts as may be justified by reason of price index fluctuations in costs involved therein. The funds would be used by the United States Section of the International Boundary and Water Commission for construction costs of a flood control project on the Tijuana River, based on estimated June 1976 prices. The bill recognizes that the project's design is modified from that originally proposed to Congress. The bill restates the existing authorization of such sums as may be necessary for the maintenance and operation of the project.

H.R. 14973 also authorizes Federal financial participation in the acquisition of the required lands with the State of California and the city of San Diego. It further specifies that no funds may be appropriated under the act during fiscal year 1977. This last provision was added to the original bill, H.R. 14645, by the subcommittee in order to comply with section 402(a) of the Congressional Budget Act of 1974.

COMMITTEE COMMENTS

The Committee on International Relations recognizes that the United States has an obligation to the Government of Mexico to conclude an agreement for the joint construction by the United States and Mexico of an international flood control project for the Tijuana River in accordance with the provisions of the treaty of February 3, 1944, with Mexico.

Although the U.S. Government does not usually acquire land for the construction of domestic flood control projects, the committee believes it is warranted in this instance because the major part of the project costs is to fulfill an international obligation and because the recommended project's allocation of costs reasonably represents the allocation of benefits among the Federal, State, and local governments.

The committee has received assurances from the Government of Mexico that the modified project described earlier provides adequate protection to Mexico. The committee has also received assurances from the city of San Diego that the modified project meets with its requirements. Accordingly, the committee is satisfied that the principal parties to the agreement are in accord and recommends construction of the Tijuana River flood control project in order to meet the U.S. international obligation to Mexico.

The bill does not increase the amount of funds originally authorized for this project. Rather it decreases the original amount authorized for construction. Furthermore, it authorizes the use of appropriated funds for the acquisition of lands required for the project at an estimated Federal cost of \$1.6 million. The bill would bring the Federal cost \$200,000 below the originally estimated Federal share of the project, and considerably below the \$27.8 million estimated Federal cost of the original project at current prices. The bill specifically provides that no funds may be appropriated for fiscal year 1977 and fully meets the requirements of the Congressional Budget Act of 1974.

The committee is aware of disputes among local interests over the relative desirability of the modified "Minimum Plan" over the project as originally approved by Congress. The committee does not intend to pass judgment on the relative merits of the differing local positions or to preclude possible construction of further local flood control projects in the Tijuana River area so long as they are consistent with U.S. obligations to Mexico. The committee does believe that further delay in fulfilling our international obligations to Mexico is unwarranted and that the "Minimum Plan" should be implemented as rapidly as possible.

STATEMENT OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

As indicated in the following letter, the Committee on Public Works and Transportation, to whom the bill H.R. 14973 was jointly referred, has no objection to the consideration by the full House of the bill as reported by the Committee on International Relations.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C., August 5, 1976.

HON. THOMAS E. MORGAN,
Chairman, Committee on International Relations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter with regard to H.R. 14973, to provide for the acquisition of lands in connection with the International Tijuana River flood control project, which was jointly referred to the Committee on International Relations and the Committee on Public Works and Transportation.

Because of our very busy schedule between now and the scheduled adjournment, it would be most difficult for us to schedule hearings and markup on this legislation. In view of this and of the need for early enactment of the bill, we would have no objection to the bill being considered on the floor as reported by your Committee. However, in order to make the jurisdiction of the Committee on Public Works and Transportation a part of the legislative history of the bill, I request that this letter be included in the report filed with the House by your Committee.

With warm personal regards, I am
Sincerely,

BOB JONES, *Chairman.*

COST ESTIMATES

Pursuant to clause 7 of Rule XIII of the Rules of the House, the committee has examined the request submitted by the Executive and has determined that an authorization of \$10,800,000 is sufficient to construct the proposed modified flood control channel. The committee estimates, based on its hearing, that the total Federal cost of the project will be \$12,400,000. Of this total, an estimated \$1,600,000 in Federal funds will be used for land acquisition and \$10,800,000 will be used for construction. The project is estimated to require \$45,000 annually, at 1976 prices, for operation and maintenance. These estimates coincide with those submitted by the executive branch.

STATEMENT REQUIRED BY CLAUSE 2(1)(3) OF RULE XI OF THE RULES
OF THE HOUSE

Pursuant to requirements of clause 2(1)(3) of the Rules of the House the following statements are made:

(A) OVERSIGHT FINDINGS AND RECOMMENDATIONS

The committee as a part of its jurisdiction annually reviews executive branch requests for funding of U.S. participation in the International Boundary and Water Commission. The committee and its appropriate subcommittees also review international agreements with foreign governments such as the agreement between the United States and Mexico to construct a flood control project.

(B) BUDGET AUTHORITY

This bill does not create any additional budget authority.

(C) CONGRESSIONAL BUDGET OFFICE ESTIMATE AND COMPARISON

No estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 has been received by the committee.

(D) COMMITTEE ON GOVERNMENT OPERATIONS SUMMARY

No oversight findings and recommendations have been received which relate to this measure from the Committee on Government Operations under clause 2(b)(2) of Rule X.

INFLATIONARY IMPACT STATEMENT

This bill would not have any identifiable inflationary impact and, in fact, would reduce an existing authorization. The total estimated Federal share of the modified project authorized through this bill is \$15.4 million below the present estimated cost of \$27.8 million to construct the project as originally approved by Congress.

Moreover, the construction of the flood control project, for which the funds are intended, will prevent natural disasters which could have a negative economic impact on lives, property, and crops of those in the affected area. Thus the legislation could be characterized as counterinflationary.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 89-640

(Approved October 10, 1966)

AN ACT To authorize the conclusion of an agreement for the joint construction by the United States and Mexico of an international flood control project for the Tijuana River in accordance with the provisions of the treaty of February 3, 1944, with Mexico, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is hereby authorized to conclude with the appropriate official or officials of the Government of Mexico an agreement for the joint construction, operation, and maintenance by the United States and Mexico, in accordance with the provisions of the treaty of February 3, 1944, with Mexico, of an international flood control project for the Tijuana

River, which shall be located and have substantially the characteristics described in "Report on an International Flood Control Project, Tijuana River Basin", prepared by the United States Section, International Boundary and Water Commission, United States and Mexico.

SEC. 2. If agreement is concluded pursuant to section 1 of this Act, the said United States Commissioner is authorized to construct, operate, and maintain the portion of such project assigned to the United States, and there is hereby authorized to be appropriated to the Department of State for use of the United States Section, not to exceed \$12,600,000 for the construction of such project and such sums as may be necessary for its maintenance and operation. No part of any appropriation under this Act shall be expended for construction on any land, site, or easement, except such as has been acquired by donation and the title thereto has been approved by the Attorney General of the United States.】

Sec. 2. Pursuant to the agreement concluded under the authority of section 1 of this Act, the United States Commissioner is authorized to construct, operate, and maintain the portion of the "International Flood Control Project, Tijuana River Basin," assigned to the United States, and there is hereby authorized to be appropriated to the Department of State for use of the United States section the sum of \$10,800,000 for construction costs of such project, as modified, based on estimated June 1976 prices, plus or minus such amounts as may be justified by reason of price index fluctuations in costs involved therein, and such sums as may be necessary for its maintenance and operation, except that no funds may be appropriated under this Act for the fiscal year ending on September 30, 1977. Contingent upon the furnishing by the city of San Diego of its appropriate share of the funds for the acquisition of the land and interests therein needed to carry out the agreement between the United States and Mexico to construct such project, the Secretary of State, acting through the United States Commissioner, is further authorized to participate financially with non-Federal interests in the acquisition of said lands and interest therein, to the extent that funds provided by the city of San Diego are insufficient for this purpose.

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TIJUANA RIVER FLOOD CONTROL PROJECT

 SEPTEMBER 14, 1976.—Ordered to be printed

Mr. SPARKMAN, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany H.R. 14973]

The Committee on Foreign Relations, to which was referred the bill (H.R. 14973) to provide for acquisition of lands in connection with the international Tijuana River flood control project and for other purposes, having considered the same reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

H.R. 14973 amends Public Law 89-640 (Tijuana River Flood Control) to authorize the expenditure of Federal funds for the acquisition of lands and the construction and maintenance of a modified flood control project for the Tijuana River.

BACKGROUND

At the request and urging of the City of San Diego, California, Congress, in 1966, approved legislation authorizing (1) the negotiation of an agreement with Mexico to enter into a joint flood control project for the Tijuana River, and (2) the implementation of the U.S. portion of the project estimated to cost \$12.6 million. The City of San Diego, with the backing of the State of California, initiated the project with the idea in mind that it would provide not only flood control protection, but expanded business and recreational opportunities as well.

The Senate report which accompanied the 1966 legislation described the need for the project in this way:

The Tijuana River, which is only 8 or 9 miles long, is formed in Mexico by the confluence of two tributaries, one of which originates in the United States, the other in Mexico



It flows generally north and west through the city of Tijuana, across the international boundary and through the cities of Imperial Beach and San Diego to the Pacific Ocean. Its wide, shallow, meandering course is subject to flooding, and this is inhibiting further urban development on both sides of the border.

After the legislation was approved and the initial plans for the project were drawn, there was a change of administration in San Diego. The new administration asked that the project be reviewed, and following the review, it asked that the original plan be scrapped in favor of a modified project that would be more environmentally sound and less urban-development oriented. This project would involve construction of a less-than-mile-long concrete channel with north and south levees adjoining it, rather than the 5.5-mile long channel emptying into the Pacific Ocean, as proposed in the original project.

With the change in the scope of the project, local and State officials argue that they should not be required to bear the financial burden of paying all the rights-of-way costs, as they committed themselves to do with respect to the initial, larger project. For the modified project, these costs are estimated at \$3.6 million, of which local and State officials say they will pay no more than 60 percent or \$2.2 million. This level of funding has already been approved by the City of San Diego and the California State Legislature and is available for land acquisition.

Because of these changes, the 1966 authorizing legislation must be amended if the project is to go forward. Hence, the State Department proposed draft legislation to authorize funding (1) for the modified project, and (2) for land acquisition. The Department states it has no choice at this point because of the agreement with Mexico, which has already completed its portion of the project.

There is opposition to H.R. 14973 from some of the smaller communities surrounding San Diego. These communities, led by Imperial Beach, want the original project implemented. This project would provide greater flood control benefits for them, plus additional economic benefits by expanding their potential commercial and recreational areas. The cost of the original project to the Federal government is now estimated at \$27.8 million vs. \$12.4 million, including a federal expenditure of \$1.6 million for land acquisition.

The original authorization of \$12.6 million was followed by a \$5.8 million appropriation, of which \$4.8 remains available.

In order to stay within the Congressional budget ceiling, the House amended the draft legislation to prohibit the appropriation of funds authorized by the bill until fiscal 1978. The Administration has no objection to the amendment.

The House passed H.R. 14973 on August 24, 1976, by voice vote.

COST ESTIMATE

The Department of State estimates that the total Federal outlay for the Tijuana Flood Control Project will be \$12.4 million at 1976 prices. Of this amount, \$10.8 will be used for construction and \$1.6 for land acquisition.

To date, the U.S. Section of the International Boundary and Water Commission has obligated funds totalling \$1,038,000 for this project. These funds were spent on designing both the original project and the subsequent modified project, plus the environmental impact statement for each. These funds were drawn from earlier appropriations.

In fiscal year 1977, the Commission plans an expenditure of \$3,850,000 (which will be drawn from prior appropriations). For fiscal 1978, when the project is to be completed, the Department anticipates a total outlay of \$7,403,000. Thereafter, the Department estimates an annual outlay of \$45,000 for operation and maintenance.

COMMITTEE ACTION

On September 14, the Committee received testimony on H.R. 14973 in open session from J. F. Friedkin, U.S. Commissioner, International Boundary and Water Commission, United States and Mexico. In addition, Senators Cranston and Tunney individually wrote to the Committee supporting H.R. 14973 and urging quick approval of it. Commissioner Friedkin's prepared statement is appended to this report, as are the letters received from the two California Senators.

Following Commissioner Friedkin's testimony, the Committee, by voice vote without objection, ordered H.R. 14973 to be reported favorably to the Senate.

COMMITTEE COMMENTS

The Committee gives its full support to passage of this legislation because of the long-standing commitment to Mexico to undertake a joint flood control project for the Tijuana River. Mexico has fulfilled its commitment, while the United States has done virtually nothing, despite passage of legislation for such a project a decade ago.

Because Mexico has lived up to its part of the bargain, it now runs the potential risk of greater flood damage because of the inaction on the U.S. side of the border.

Passage of H.R. 14973 will rectify the situation.

* * * * *

STATEMENT OF J. F. FRIEDKIN, U.S. COMMISSIONER, INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Mr. Chairman: I appreciate this opportunity to appear before you in support of H.R. 14973, passed by the House of Representatives on August 24, 1976. Also, Mr. Chairman, permit me to express the Department's appreciation for the expeditious scheduling of hearings on H.R. 14973.

This bill would amend the Authorization Act (P.L. 89-640, 80 Stat. 884) for the International Flood Control Project, Tijuana River, United States and Mexico, on which this Committee reported favorably in 1966. This amendment is needed to enable the U.S. Section of the International Boundary and Water Commission to construct the United States part of the project, and thereby fulfill an obligation of the United States to Mexico.

The amendment would modify the existing authorization: (1) to enable Federal participation in the cost of the rights-of-way to the

extent of an estimated \$1.6 million—about 40% of total right-of-way costs, which is believed to be justified because the major benefit of the reduced project would be fulfillment of an obligation of the United States to Mexico; and (2) to approve a reduction in the size of the original project.

With your permission, I will undertake here to review briefly the background of the existing authorization, and the events leading to and the reasons for the proposed amendment, for the Committee's consideration.

The Tijuana River is situated in the far southwest corner of the United States, and in the far northwest corner of Mexico. It is an international river because it originates in Baja California, and flows northwestward five miles through the City of Tijuana to cross the international boundary. Thence, it continues westward in San Diego, California, about six miles through farm and grazing lands, and then through estuary and marsh lands in the City of Imperial Beach, to discharge into the Pacific Ocean.

Years ago, in the negotiation of the 1944 Water Treaty with Mexico, the negotiators anticipated that works would be necessary to control floods on the Tijuana River, but studies were not then sufficiently advanced to permit them to provide in the treaty for specific works, as they did on other international rivers. The Water Treaty, therefore, in Article 16, provides in part:

In order to improve existing uses and to assure any feasible further development, the (International Boundary and Water) Commission shall study and investigate, and shall submit to the two Governments for their approval:

(2) Plans for storage and flood control to promote and develop domestic, irrigation and other feasible uses of the waters of this system;

(3) An estimate of the cost of the proposed works and the manner in which the construction of such works or the cost thereof should be divided between the two Governments:

The two Governments through their respective Sections of the Commission shall construct such of the proposed works as are approved by both Governments [and] divide the work to be done or the cost thereof * * *

In performance of this responsibility, the Commission concluded that construction of a dam for storage of water was not feasible, and, at the solicitation of the City of San Diego, turned its attention to other means of flood control.

In 1964 the City of San Diego asked the International Boundary and Water Commission to plan and construct an international flood control project for the Tijuana River in the United States and Mexico, to provide coordinated concrete-lined channel works and levees in each country. Those in the United States would provide flood protection for practically the entire Tijuana River Valley—approximately 4,800 acres—so that these lands could be developed for urban, commercial and recreational uses. The City, assured of supporting California

State funds, offered to pay the cost of acquiring the necessary lands and of making the necessary relocations, estimated at \$1.9 million, and to assume 17.8 percent of the U.S. construction cost, then estimated at \$2.25 million. Thus San Diego and the State of California together proposed to contribute more than \$4 million to the project.

Introduced at the request of the City of San Diego, the existing authorization for the Tijuana Flood Control Project, approved October 10, 1966, authorized the conclusion of an agreement with Mexico in accordance with the provisions of the Treaty of 1944 for the joint construction, operation and maintenance, by the United States and Mexico, of an international flood control project for the Tijuana River. The existing authorization further provided that if an agreement was concluded with Mexico, the United States Commissioner was authorized to construct, operate and maintain the portion of the project in the United States, and it authorized an appropriation of not to exceed \$12,600,000 for the construction of such project and such sums as might be necessary for its maintenance and operation, provided that no part of such appropriation should be expended for construction on any land, site or easement, except such as had been acquired by donation. This is a condition imposed on domestic federal flood control projects.

Under this authorization, an agreement was concluded with Mexico (Commission Minute No. 225, dated June 19, 1967) which was approved by two Governments in the manner specified in the Treaty. This Government is, therefore, committed under the Treaty to construct the works as recommended, with such modification as the two Governments may agree upon. This agreement provided for a concrete-lined channel in Mexico, 2.7 miles in length, to be constructed at its expense; and a connecting concrete-lined channel in the United States, 5.5 miles in length, to be constructed at United States expense. Design and plans were to be coordinated, since protection of life and properties in each country requires the construction of adequate works in the other country.

Mexico began construction in August 1972, and has now completed all but a very small section of its part of the project, and now looks to the United States to fulfill its part of the agreement.

In the United States we have not begun construction of our part of the project for the reason that following the issuance in April, 1971, of the draft environmental impact statement, prepared by the Corps of Engineers, there arose serious concerns in State agencies and local authorities that State park lands, natural wet lands and overflow areas of the Tijuana Valley should be preserved in their natural state. In December, 1971, the City of San Diego asked that all work be suspended until it could review its land use plans for the Tijuana River Valley. About a year later, in October, 1972, the City asked the U.S. Section to provide alternative plans that would essentially eliminate the concrete-lined channel and satisfy its revised land use goals and the international obligation to Mexico. The U.S. Section, with the assistance of the Corps of Engineers, presented alternatives in February, 1973.

In October, 1973, after public hearings, the City asked the U.S. Section to proceed with the alternative described as the "Minimum

Plan," which was specifically designed to provide only the minimum works necessary to assure Mexico of the same protection as would obtain with the original plan. My colleague, the Mexican Commissioner, concurs that the plan would provide the same protection for Mexico as would the original plan. It was also designed to protect a small area of about 400 acres in the suburb of San Diego near the boundary, called San Ysidro. Thus, the "Minimum Plan," which H.R. 14973 would endorse, would in effect fulfill our obligation to Mexico, and would leave the major part of the Tijuana Valley in the United States in its natural condition, as desired by the City of San Diego and State of California.

Under this plan, the U.S. Section would construct a concrete channel structure extending north and westward from the international boundary a distance of less than one mile. This structure, referred to as a dissipating structure, would gradually reduce the high velocities of floodwater entering from the concrete-lined channel in Mexico to the velocities that would naturally be obtained in the floodplain, so as to minimize erosion of lands in the United States. A south levee would extend westward from the end of the structure about 0.5 miles to high ground to prevent floodwaters from backing up into Mexico. A north levee would extend northwestward from the end of the structure 1.2 miles to high ground to protect the San Ysidro area and also to prevent floodwaters from backing up into Mexico.

The estimated costs for the "Minimum Plan" at mid-1976 price levels are:

[In millions of dollars]	
Federal construction costs—engineering, supervision, and administration—	10.8
Lands and associated costs for rights-of-way and relocation—	3.8
Total -----	14.6

The above estimated costs of lands and associated costs, amounting to \$3.8 million, would under the existing authorization have to be assumed by the City and State Governments. However, the City of San Diego and the State of California find that the benefits accruing to them from the "Minimum Plan" would be so reduced from those of the original plan, that they could not justify the total costs of \$3.8 million.

The City and the State advise that they can only justify participation in the costs of the lands, including associated costs, to the extent of about \$2.2 million. This amount would consist of \$0.8 million pledged by the City, plus approximately \$1.4 million included in the California State budget enacted for the year beginning July 1, 1976.

The proposed amendment, H.R. 14973, would enable the Federal Government to participate in the land costs to the extent funds provided by the City of San Diego and the State of California are insufficient to cover the total land costs. This amount is tentatively estimated at \$1.6 million.

The resulting federal cost of the "minimum" project would be \$10.8 million for construction at current prices, plus an estimated \$1.6 million for land costs, making a total of \$12.4 million.

As to justification for federal participation in the land costs: There is no question that, as the City contends, the major part of the "Minimum Plan" costs, about 68 percent, would be incurred to fulfill the

international agreement, that is, the obligation to prevent river floodwaters from destructively backing up into Mexico and the obligation to construct the works necessary in the United States to guard against the Mexican construction causing extensive damage in the United States. It is also true, as the City contends, that construction of the "Minimum Plan" would save the Federal Government an estimated \$13.0 million, because the federal cost of the original project at current prices would amount to an estimated \$25.6 million.

Both California State and local authorities have worked with the State Department and the United States Section in the best of good faith in attempting to fulfill to the extent they could their obligations to the Congress and to permit the Federal Government to fulfill its obligations to Mexico. The only solution we have found is to ask the Congress to authorize federal assumption of a part of the cost of land acquisition, tentatively estimated at \$1.6 million, out of the total estimate of \$3.8 million for such costs. The estimate of the federal cost of \$1.6 million is labelled tentative because independent current appraisals have not yet been made of the lands to be acquired. For this reason, no specific amount for the federal participation can be stated in the proposed amendment.

As the Committee knows, the U.S. Section, as a part of an international body, must frequently engage in construction activity as a normal function. In doing so, it has tried to conform to domestic procedures and standards in the handling of domestic aspects of that construction activity. Accordingly, it did not hesitate to call upon the local beneficiaries of the Tijuana River Flood Control Project to pay the share of the total costs they would have been obliged to pay in a domestic project. In other instances and now, however, the U.S. Section, under the policy guidance of the Department of State, has not felt it could permit a domestic situation of the sort I have described to obstruct the performance of the international obligation. I have been striving to obtain for the Federal Government the most cost-effective arrangement that can be achieved. I believe that the proposed amendment to the enabling act represents the most effective solution for this international project.

Because people in both countries may suffer severely in the event of a major flood on the Tijuana River before the project is completed, the Department urges the Congress, now that a practical way has been found to satisfy all the parties concerned, and notably stay very close to the originally estimated Federal cost of the project, to enact as quickly as practicable the legislation proposed to amend the enabling act.

You are assured that the Section has conformed in all respects to the requirements of the National Environmental Policy Act. Copies of the Final Environmental Impact Statement have been furnished the Committee.

If the Congress should approve the recommended bill, H.R. 14973, the required land acquisition could be undertaken without delay, using local, State and federal funds, and construction could be started in 1977 with prior appropriated Federal funds that have been in reserve. The United States part of the project could be completed in Fiscal Year 1978, subject to the appropriation in that fiscal year of the additional funds needed.

Thank you, Mr. Chairman.

U.S. SENATE,
Washington, D.C., September 13, 1976.

HON. JOHN SPARKMAN,
Chairman, Foreign Relations Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I understand the Senate Foreign Relations Committee will hold a hearing tomorrow on H.R. 14973, a bill to amend the authorization of the Tijuana River Flood Control Project in San Diego County, California.

I wish to take this opportunity to let the Committee know my support of this measure.

As you know, the Tijuana River originates in Mexico, crosses the international boundary at Tijuana, and flows westward through San Diego County to the Pacific Ocean. The Tijuana River Flood Control Project authorized in 1966 would receive flood waters discharged into the river by Mexico. It also would provide flood protection for a portion of San Diego County.

Since the environmental impact statement on the project was issued, federal, state and local agencies have agreed that the project should be modified in order to lessen the environmental impact. The proposed smaller project would still meet the United States' obligation under the Water Treaty of 1944 to provide flood protection to Mexico. However, because of the reduction in benefits to the City of San Diego, the city and the State of California cannot justify donations of all the lands needed for the project.

H.R. 14973 amends the authorization of the Tijuana River Flood Control Project to allow for the reduction in the size of the project and to permit federal participation in the costs of the rights of way.

Since there is no question about the need for the project, I hope that the Committee can move quickly on H.R. 14973.

I understand funds have already been appropriated and work could begin immediately.

Sincerely,

ALAN CRANSTON.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., August 6, 1976.

HON. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations,
Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The House International Relations Committee has just approved H.R. 14645 and the bill will soon be coming to the Senate for consideration.

The bill would amend Public Law 89-640, and is needed to enable the construction of the United States part of the International Flood Control Project, Tijuana River, United States and Mexico. Mexico has essentially completed its part of the project and the United States has not started its part, and its delay jeopardizes the completed works in Mexico and subjects improvements in Mexico to serious threat of damage.

The amendment would modify the existing authorizations to approve a reduction in the size of the original project to enable federal participation in the cost of the rights-of-way. I have been assured by Commissioner Friedkin of the International Boundary and Water Commission that if approved, the required land acquisition could be undertaken without delay, using local, state and federal funds, and construction could be started in 1977 with prior appropriated funds that have been in reserve. The project could then be completed in fiscal 1978.

I am in full support of this legislation. This bill will meet our obligations to Mexico as well as preserving the natural resources of the Tijuana River Valley in the United States. I urge the Senate to enact, as quickly as possible, H.R. 14645. If my office can be of any assistance in supplying additional information, please let me know.

Sincerely,

JOHN V. TUNNEY,
U.S. Senator.

CHANGES IN EXISTING LAW

In compliance with paragraph 4 of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 89-640

(Approved October 10, 1966)

AN ACT To authorize the conclusion of an agreement for the joint construction by the United States and Mexico of an international flood control project for the Tijuana River in accordance with the provisions of the treaty of February 3, 1944, with Mexico, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is hereby authorized to conclude with the appropriate official or officials of the Government of Mexico an agreement for the joint construction, operation, and maintenance by the United States and Mexico, in accordance with the provisions of the treaty of February 3, 1944, with Mexico, of an international flood control project for the Tijuana River, which shall be located and have substantially the characteristics described in "Report on an International Flood Control Project, Tijuana River Basin", prepared by the United States Section, International Boundary and Water Commission, United States and Mexico.

§ 2. If agreement is concluded pursuant to section 1 of this Act, the said United States Commissioner is authorized to construct, operate, and maintain the portion of such project assigned to the United States, and there is hereby authorized to be appropriated to the Department of State for use of the United States Section, not

to exceed \$12,600,000 for the construction of such project and such sums as may be necessary for its maintenance and operation. No part of any appropriation under this Act shall be expended for construction on any land, site, or easement, except such as has been acquired by donation and the title thereto has been approved by the Attorney General of the United States.】

SEC. 2. Pursuant to the agreement concluded under the authority of section 1 of this Act, the United States Commissioner is authorized to construct, operate, and maintain the portion of the "International Flood Control Project, Tijuana River Basin," assigned to the United States, and there is hereby authorized to be appropriated to the Department of State for use of the United States section the sum of \$10,800,000 for construction costs of such project, as modified, based on estimated June 1976 prices, plus or minus such amounts as may be justified by reason of price index fluctuations in costs involved therein, and such sums as may be necessary for its maintenance and operation, except that no funds may be appropriated under this Act for the fiscal year ending on September 30, 1977. Contingent upon the furnishing by the city of San Diego of its appropriate share of the funds for the acquisition of the land and interests therein needed to carry out the agreement between the United States and Mexico to construct such project, the Secretary of State, acting through the United States Commissioner is further authorized to participate financially with non-Federal interests in the acquisition of said lands and interest therein, to the extent that funds provided by the city of San Diego are insufficient for this purpose.

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