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Should the Tijuana River Valley Be Designated as an EPA Superfund Site and Listed on the NPL?

If you have ever been to a southern San Diego coastal beach town, specifically Imperial Beach, you may have observed the closed beaches and warnings about the water quality, and of course, the unmistakable odor. These are not temporary inconveniences but recurring symptoms of a deeper, decades-old crisis caused by the polluted Tijuana River.[1]

The Tijuana River flows from Tijuana, Mexico into San Diego, carrying untreated sewage, industrial waste, trash and stormwater. The river empties into the Tijuana River Estuary and ultimately the Pacific Ocean. The river is a toxic legacy of structural under-investment, transboundary neglect, and environmental injustice. The pollution impacts public health, welfare, and especially the sensitive ecosystems.

For generations, the pollution from the river has impacted public health, devastated local coastal communities, and degraded sensitive ecosystems. While there have been efforts to treat or divert the flow of the river, they have not fully resolved the problem. Local residents, local government and conservationists are frustrated by the federal government's response. For years, the community has repeatedly requested the federal Environmental Protection Agency (EPA) to designate the Tijuana River Valley (TRV) as a Superfund site under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)[2] and add it to the National Priorities List (NPL).[3] A dual designation would prioritize it for long-term federal cleanup funding and enforcement.

However, the EPA has consistently denied this request, most recently in March of this year.[4] The EPA stated that existing remediation efforts were sufficient and that there was no immediate threat to public health.[5] Given the long-term damage and the sheer scale of the pollution, many experts disagree.

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[1] San Diego Coastkeeper, Tijuana River Sewage Crisis, San Diego Coastkeeper (July 18, 2025), https://www.sdcoastkeeper.org/tijuana-river-sewage/.
[2] *Comprehensive Environmental Response, Compensation, and Liability Act of 1980*, 42 U.S.C. §§ 9601–9675 (2024).
[3] U.S. Environmental Protection Agency, Basic NPL Information (last updated Sept. 22, 2025), https://www.epa.gov/superfund/basic-npl-information.
[4] Mueller, Pat, *Imperial Beach Mayor pens letter to new EPA head seeking Superfund status for sewage crisis*, ABC 10News (Mar. 3, 2025), https://www.10news.com/news/local-news/south-bay-news/imperial-beach-mayor-pens-letter-to-new-epa-head-seeking-superfund-status-for-sewage-crisis.
[5] *Id*.

EPA is Abdicating Its CERCLA Responsibilities

The EPA's continued refusal to designate the TRV as a Superfund site is not simply a policy decision, this is an abdication of the agency's statutory responsibilities under CERCLA. Superfund exists to ensure that the nation's most hazardous sites receive federal intervention when contamination threatens public health or the environment.[6] If a river system depositing millions of gallons of untreated sewage, industrial waste, and toxic effluent into U.S. communities does not qualify for a Superfund designation, then the integrity of the program itself comes into question.

The TRV meets the criteria for listing it as a Superfund and NPL listing. Residents are facing chronic exposure to pathogens and hazardous substances,[7] lifeguards[8] and Navy SEAL trainees report regular infections,[9],[10] beaches remain closed for months at a time,[11] and the Tijuana River Estuary continues to suffer ecological damage.[12] EPA's claims that existing remediation efforts are sufficient is simply not enough. Partial and underfunded solutions have not stopped the increasing pollution, and the agency knows this.

EPA is effectively accepting a status quo in which a predominantly working-class, border community bears the brunt of a transboundary environmental disaster with no access to the full federal resources they deserve. CERCLA would not allow the EPA to ignore a hazardous site because it is politically complicated or diplomatically inconvenient. Its legal mandate is clear, to protect human health and the environment. EPA's refusal to list the Tijuana River Valley is a failure to meet that mandate.

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[6] U.S. EPA, *Superfund: CERCLA Overview* (Sept. 22, 2025), https://www.epa.gov/superfund/superfund-cercla-overview.
[7] Singleton Schreiber, *Toxic Pollution and the Health Crisis Facing Navy SEALs and Locals in Imperial Beach* (Apr. 22, 2025), https://www.singletonschreiber.com/theblog/toxic-pollution-and-the-health-crisis-facing-navy-seals-and-locals-in-imperial-beach.
[8] San Diego Union Tribune, *Systematic Issues, Sewage Crisis Make Lifeguarding in Imperial Beach Rough - But Change is Underway* (July 6, 2025), https://www.sandiegouniontribune.com/2025/07/06/systemic-issues-sewage-crisis-make-lifeguarding-in-imperial-beach-rough-but-change-is-underway/.
[9] Singleton Schreiber, *Toxic Pollution*, supra note 5.
[10] U.S. News, *Report Finds Illnesses Amount Navy SEALs Training in Polluted Water in San Diego* (Feb. 16, 2025), NBC San Diego, https://www.nbcsandiego.com/news/local/report-finds-illnesses-among-navy-seals-training-in-polluted-water-in-san-diego/3756281/.
[11] *Surfline, Imperial Beach: Over 1,000 Days of Beach Closures* (Jan. 2, 2024), https://www.surfline.com/surf-news/imperial-beach-1000-days-beach-closures/210284.
[12] California State Land Commission, *Tijuana River Valley Transboundary Pollution Crisis* (last updated 2025), https://www.slc.ca.gov/environmental-justice/trv-transboundary-pollution-crisis/.

The bottom line is simple: without a Superfund designation and NPL listing, the TRV will remain trapped in a cycle of pollution and federal inaction. The community deserves better.

The Ongoing Pollution Crisis of the Tijuana River

The scale of the pollution in this transboundary watershed is staggering. In 2023 alone, the International Boundary and Water Commission (IBWC) recorded over 40.5 billion gallons of polluted water through the Tijuana River.[13],[14] This was a mixture of sewage, groundwater, stormwater, and potable water leakage. This was the highest total in the last two decades.[15] This massive volume of polluted water is creating a chronic systematic issue.

It is important to understand the reasons for this large scale pollution. The pollution in the Tijuana River originates primarily in Tijuana, Mexico, where outdated and overburdened wastewater treatment plants frequently fail to process the city's rapidly growing sewage output.[16] Untreated or partially treated sewage, as well as industrial wastewater and stormwater runoff, enters the Tijuana River and flows north across the U.S.-Mexico border. Along the way, the river picks up additional contaminants from local sewer overflow, industrial discharges, and polluted groundwater.[17] Once it enters the U.S. the river carries a toxic mix, ending in the Tijuana River Valley, the Tijuana River Estuary, and the coastal waters of San Diego County.[18]

The pollution crisis is worsened by the overwhelmed South Bay International Wastewater Treatment Plant (SBIWTP), located in San Diego.[19],[20] SBIWTP was designated to treat wastewater flows from Tijuana.[21] Despite its upgrades, the plant is overwhelmed and operating beyond its capacity, especially during heavy rains and

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[13] Surfrider Foundation, *2023 Year-End Reflections on the Struggle for Clean Border Water* (Jan. 10, 2024), https://www.surfrider.org/news/2023-year-end-reflections-on-the-struggle-for-clean-border-water.
[14] Tammy Murga, *Tijuana River Sewage Flows Last Year Broke All Records Since 2000: It's on Track to Do It Again*, (July 21, 2024), https://phys.org/news/2024-07-tijuana-river-sewage-year-broke.html.
[15] *Id*.
[16] Phillip Musegaas, *Understanding the Tijuana River Sewage Crisis - An Overview of the Causes and Consequences* (May 2, 2024), https://www.sdcoastkeeper.org/blog/tijuana-river-sewage-crisis-causes-consequences/.
[17] *Id*.
[18] *Id*.
[19] International Boundary and Water Commission, U.S. Section, *South Bay International Wastewater Treatment Plant Overview* (2025), https://www.ibwc.gov/wp-content/uploads/2024/10/USIBWC-Partners-Celebrate-Launch-of-South-Bay-Plant-Rehabilitation-and-Expansion.pdf.
[20] *Wastewater Treatment Plants*, Int'l Boundary and Water Comm'n, United States and Mexico, https://www.ibwc.gov/wastewater-treatment-plants/ (last visited Nov. 8, 2025).
[21] International Boundary and Water Commission, supra note 18.

when maintenance issues arise.[22] This pressure is more burdened by the failing infrastructure in Tijuana, including outdated and broken sewer lines, illegal connections, and limited stormwater management.[23]

Why This Matters

The pollution issue of the Tijuana River directly impacts the environment, public health and local economy.

The Tijuana River Estuary is home to endangered species like the light-footed Ridgway's rail, California Least tern, California Gnatcatcher, Western Snowy Plover, and the San Diego fairy shrimp, just to name just a few. The estuary provides habitat for 370 bird species, serving as a critical stopover for migratory birds.[24],[25] Pollution from sewage and industrial runoff threatens these fragile ecosystems.

Public health is equally at risk as over 175 toxic chemicals have been reported in water samples.[26] Imperial Beach residents are experiencing multifaceted threats from exposure to bacteria, chemicals, and other pollutants to increased risk of gastrointestinal illness, skin infections and other health risks.[27] Residents' quality of life is severely affected, as constant public advisories prevent them from safely accessing the water and beaches, a resource for public enjoyment.[28] Shockingly, Imperial Beach remained closed for over 1,000 consecutive days due to unsafe water quality.[29]

The economic consequences are important to note as well. A 2024 survey of businesses found that about 74% of respondents said the sewage crisis hurt them, and many reported steep losses.[30] One beachfront business states a loss of nearly $30,000

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[22] *Transboundary Flows Continue in Tijuana River* - The Coronado News (July 18, 2024), https://thecoronadonews.com/2024/07/transboundary-flows-continue-in-tijuana-river/.
[23] Phillip Musegaas, *Understanding the Tijuana River Sewage Crisis*, supra note 14.
[24] U.S. Fish & Wildlife Service, *Tijuana Slough National Wildlife Refuge*, U.S. Fish & Wildlife Service (accessed Sept. 24, 2025), https://www.fws.gov/refuge/tijuana-slough.
[25] Ramsar Convention Secretariat, *Tijuan River National Estuarine Research Reserve (Site No. 1452)*, Ramsar Sites Information Service (Feb. 2, 2005), https://rsis.ramsar.org/ris/1452.
[26] Christine Van Tuyl, *It's More than Just Sewage: 175 Toxic Chemicals Found in Water Samples, Scientist Says* (Apr. 26, 2025), The Coronado Times, https://coronadotimes.com/news/2025/04/26/its-more-than-just-sewage-175-toxic-chemicals-found-in-water-samples-scientist-says/.
[27] Urgent Care Doctors Sound the Alarm Over Imperial Beach Water Quality (Nov. 17, 2023) CBS 8, https://www.cbs8.com/article/news/local/cross-border-contamination/imperial-beach-water-quality/509-0a82a773-65bb-4620-b4e3-51a7807e1daa.
[28] *Surfline*, Supra note 9.
[29] San Diego Coastkeeper, Supra note 1.
[30] Megan Kitt, *Business Say They're Losing Money Due to Sewage Crisis* (May 6, 2024), The Coronado Times, https://coronadotimes.com/news/2024/05/06/businesses-say-theyre-losing-money-due-to-sewage-crisis/.

over a period of eight months, while roughly half the 63 businesses surveyed said they lost $100,000 or more in revenue over the prior year.[31] Additionally, the number of visitors to Imperial Beach reportedly fell from 2.1 million in 2018 to under 700,000 in 2023.[32] The combination of lost tourism and declining foot traffic has impacted the town's dependence on beachgoers.

How Superfund Designation and adding it to the National Priorities List Could Help

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), a site may qualify for the Superfund program if it involves hazardous substances that may endanger public health or the environment and involves significant and chronic contamination.[33] The reach of the pollution is also a factor. The National Priorities List (NPL) further identifies the most serious sites that require long-term federal cleanup and enforcement.[34]

Given these criteria, the TRV meets the eligibility:

1. **Hazardous substances and pollution is present**: The river carries untreated sewage, industrial waste, and toxic chemicals that contaminate waterways, beaches, and estuarine ecosystems in the U.S., directly implicating public health.[35]
2. **Significant and chronic contamination**: Decades of untreated or partially treated sewage have led to persistent pollution, exceeding safe water quality thresholds and repeatedly triggering beach closures.[36] This is a chronic contamination demonstrating the type of long-term environmental hazard that CERCLA is designed to address.
3. **Cross-boundary impacts on U.S. territory**: Pollution originating in Tijuana has clear effects on U.S. beaches, wetlands, and coastal habitats, showing that the site's hazard extends beyond local jurisdiction and demands federal action.[37]

Designation would unlock federal resources for cleanup efforts, create enforceable cleanup obligations, and establish long-term accountability:

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[31] *Id*.
[32] Ruben Vives, *Governor helps secure $250 million to help fix the Tijuana River sewage crisis* (Dec. 23, 2024), Los Angeles Times, https://www.latimes.com/california/story/2024-12-23/governor-helps-secure-250-million-to-address-tijuana-river-sewage-crisis.
[33] 42 U.S.C. § 9601(14) (2024).
[34] CERCLA, supra note 2.
[35] *Id*.
[36] Phillip Musegaas, *Understanding the Tijuana River Sewage Crisis*, supra note 14.
[37] *Transboundary Flows Continue in Tijuana River* - The Coronado News, supra note 19.

1. *Federal Funding*: Federal funds can be used by the Superfund Trust Fund to undertake investigations, remediation, cleanup, monitoring and enforcement.[38]
2. *Enforcement of Cleanup Obligations*: Designation would allow the EPA to identify the Potentially Responsible Parties and compel them to clean up or pay for the clean up.[39] Yes, much of the pollution originates in Mexico, but there is precedent for the U.S. to pursue action for that (more below).
3. *Long-term Monitoring and Accountability*: Designation opens up the rigorous, long-term monitoring plans, institutional controls, community involvement, and public disclosure information requirements.[40],[41] This would mean much more formal oversight, rather than the irregular interventions that have been happening.

The chronic flow of the pollution, the repeated mitigation failures and the extensive environmental and public health risks truly make the case for a Superfund designation and NPL listing. Even though past requests to the EPA have been denied, the crisis has only worsened. Each day the Tijuana River continues carrying its toxic mix across the border. Both human health and the fragile estuarine ecosystem remain at immediate and ongoing risk. The persistent deterioration makes clear that federal inaction is no longer defensible.

Legal Tools and Binational Mechanisms

As noted above, a complicating factor is that most of the pollution originates outside of the U.S., flowing from Mexico. While the U.S. cannot regulate Mexico directly, there is a clear legal precedent for holding foreign polluters accountable when their contamination impacts U.S. territory. The leading case is *Pakootas v. Teck Cominco Metals, Ltd*.[42] in which the Ninth Circuit held a Canadian company liable under CERCLA when its waste contaminated the Columbia River in the U.S. The court made it clear that CERCLA applies to foreign conduct when the resulting contamination occurs inside the U.S. borders.

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[38] U.S. Environmental Protection Agency, *Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Federal Facilities* (last updated July 7, 2025), https://www.epa.gov/enforcement/comprehensive-environmental-response-compensation-and-liability-act-cercla-and-federal#:~:text=Trust%20Fund,Remedial%20action.

[39] *Id*.

[40] U.S. Environmental Protection Agency, *Superfund (CERCLA) Compliance Monitoring* (Aug. 5, 2025), https://www.epa.gov/compliance/superfund-cercla-compliance-monitoring.

[41] U.S. Environmental Protection Agency, *Superfund: Institutional Controls,* (last updated Nov. 21, 2025) https://www.epa.gov/superfund/superfund-institutional-controls.

[42] *Pakootas v. Teck Cominco Metals, Ltd.*, 452 F.3d 1066 (9th Cir. 2006).

This precedent is especially powerful here because California is within the Ninth Circuit, making *Pakootas* directly applicable. The reasoning can be applied directly, as the discharge occurs in Mexico but the harmful effects are seen in U.S. waters, beaches, estuaries and communities. Thus Mexican sources of pollution could be addressed under U.S. law, at least in terms of their effects on U.S. territory. This legal support is here, the EPA only needs to use their authority to address the issue.

The International Boundary and Water Commission (IBWC) complements this legal framework. It is the binational institution responsible for applying the boundary and water treaties between the U.S. and Mexico.[43] The IBWC plays a significant role in conducting water quality monitoring, overseeing construction, operation and maintenance of major infrastructure projects like the South Bay International Wastewater Treatment Plant and the Tijuana River Flood Control Project. While the IBWC operates under diplomatic agreements and its enforcement capacity is limited, a Superfund designation would bring forward new legal tools, allowing it to identify and hold polluters responsible, allowing higher enforcement capacity.

By pairing legal precedent with binational mechanisms, a designation would not only address immediate cleanup needs but establish a sustainable, collaborative, and accountable system for long-term management of cross-border pollution.

Final Thoughts

The pollution crisis at the border is more than just a local beach closure story. The Tijuana River Valley is more than just a polluted river; it is a cross-border environmental and public health crisis. The continual ongoing flow of the untreated contaminants and pollutants are critically endangering species, wetlands, and people. This problem has been persistent despite mitigation efforts.

A Superfund designation and NPL listing may not be the end all solution, but it is a critical step toward cleanup, protecting species, restoring beach access, and holding parties accountable. Designation would provide legal, financial and institutional mechanisms to elevate the issue at the national and international level. A designation would not only be the practical approach but a symbolic stance by our government, confirming that the U.S. regards this as a national priority. The designation of a Superfund and NPL listing are the mechanisms to begin addressing this.

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[43] U.S. International Boundary and Water Commission, *About Us* (last updated 2025), https://www.ibwc.gov/about-us/.