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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

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March 21, 2013

Commissioner Edward Drusina
International Boundary and Water Commission
The Commons, Building C, Suite 310
4171 N. Mesa Street
El Paso, TX 79902

Dear Commissioner Drusina,

I am concerned that the International Boundary and Water Commission (IBWC) may not be adequately addressing dangers arising from the poor condition of the International Outfall Interceptor (IOI) sewage pipeline. As you know, the IOI has experienced severe flooding problems over the past several years, resulting in sewage overflowing into the streets of Nogales several times. The failure of the IOI could wreak havoc across southern Arizona.

I understand that the City of Nogales and the IBWC have exchanged several letters on how the costs for designing a replacement for the IOI pipeline should be shared. Nogales has repeatedly stated that it cannot pay the more than \$150,000 this project needs. The IBWC has responded that Nogales originally agreed to a 50/50 split worth around \$340,000; that a 50/50 split was originally required by Congress; and that a non-50/50 split might violate federal law.

Recently, the mayor of Nogales noted that IBWC now claims that the demand for a 50/50 split in funding is based on departmental policy, not a congressional requirement. While not confirming that such a policy exists, the IBWC has not disagreed with the mayor's claim in its most recent letters. Meanwhile, work on designing a replacement for the IOI pipeline has not gone forward.

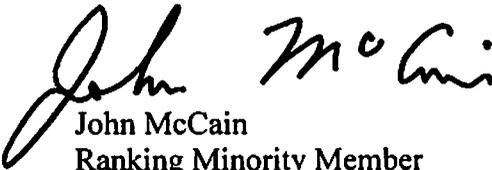
Against this backdrop, please answer the following:

1. Is there legislative or regulatory authority mandating a 50/50 cost-sharing arrangement between the IBWC and Nogales for the design or construction of a replacement for the IOI pipeline? If so, please provide a citation to this authority.
2. If there is no legislative or regulatory authority mandating a 50/50 cost-sharing arrangement, is there an internal IBWC policy requiring such an arrangement? Please provide a full explanation of such a policy, including documentation in the form of memoranda, reports, and internal rules.
3. What guidance, if any, has the IBWC received from the U.S. State Department in regard to the Nogales IOI replacement project?

4. When has the IBWC assessed that the IOI pipeline is at risk of failing? What is the basis for this assessment? Has the IBWC conducted any impact studies or other analyses to find out what the consequences of failure could be for the citizens of southern Arizona?
5. Does the IBWC believe that inability of the IOI pipeline to function properly stems from mismanagement by Nogales or from other problems in Mexico? If the IBWC thinks the source of the problem is in Mexico, why does the IBWC think Nogales should be held responsible for redesign costs?

Please provide your responses by April 4, 2013. If you or any of your staff have any questions, please contact Jack Thorlin or Henry Kerner of the Permanent Subcommittee on Investigations staff at 202/224-3721. Thank you for your cooperation and attention to this important matter.

Sincerely,

A handwritten signature in black ink that reads "John McCain". The signature is written in a cursive, flowing style.

John McCain
Ranking Minority Member
Permanent Subcommittee on Investigations

cc: The Honorable Jeff Flake
United States Senator