To provide for the water quality restoration of the Tijuana River and the New River, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on ____________

A BILL

To provide for the water quality restoration of the Tijuana River and the New River, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Border Water Quality Restoration and Protection Act of 2020”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—TIJUANA RIVER PUBLIC HEALTH AND WATER QUALITY RESTORATION
SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) COMMISSIONER.—The term “Commissioner” means the Commissioner of the United States Section of the International Boundary and Water Commission.

(3) MEXICAN.—The term “Mexican” means, as applicable, the Federal, State, and local governments of Mexico.
(4) New River.—The term “New River” means the river that starts in Mexicali, Mexico, flows north into the United States through Calexico, passes through the Imperial Valley, and drains into the Salton Sea.

(5) Secretary.—The term “Secretary” means the Secretary of State.

(6) Tijuana River.—The term “Tijuana River” means the river that rises in the Sierra de Juarez in Mexico, flows through the City of Tijuana and then north into the United States, passes through the Tijuana River estuary, and drains into the Pacific Ocean.

(7) Water Reuse.—The term “water reuse” has the meaning given the term in the document of the Environmental Protection Agency entitled “National Water Reuse Action Plan Collaborative Implementation (Version 1)” and dated February 2020.

TITLE I—TIJUANA RIVER PUBLIC HEALTH AND WATER QUALITY RESTORATION

SEC. 101. FINDINGS; PURPOSE.

(a) Findings.—Congress finds that—
(1) the Tijuana River flows across the United States-Mexico border, through the southern United States, and into the Pacific Ocean;

(2) ¾ of the 1,750 square mile watershed of the Tijuana River lies in Mexico, and the remaining ¼ includes the Tijuana River National Estuarine Research Reserve in the United States;

(3) the Tijuana River National Estuarine Research Reserve is a partnership of Federal and State agencies, including the National Oceanic and Atmospheric Administration, California State Parks, and the United States Fish and Wildlife Service;

(4) the Tijuana River is a significant estuary and watershed, providing—

(A) economic and health benefits to the citizens of the United States and Mexico; and

(B) environmental benefits as critical habitat to shore birds;

(5) the economy of communities in southern California, including smaller communities, such as the City of Imperial Beach, and larger municipalities, such as the City of San Diego, may be significantly affected if the natural beauty and recreational opportunities of the Tijuana River are degraded;
(6) the Tijuana River watershed is in the midst of an environmental crisis, as stormwater flows from the upper watershed, originating in Tijuana, Mexico, carrying pollutants such as bacteria, trash, and sediment that severely affect water quality;

(7) coastal communities in and near the Tijuana River watershed are also affected, during certain tidal events, by a combination of treated wastewater and chlorinated-only wastewater discharged from the San Antonio de los Buenos wastewater treatment plant located 5 miles south of the United States-Mexico border in Tijuana;

(8) as reported by the Government Accountability Office in February 2020, transboundary flows of untreated sewage, combined with unmanaged stormwater, bring bacteria and other contaminants into the Tijuana River Valley watershed and beaches in the United States;

(9) sediment flows into the Tijuana River National Wildlife Refuge and blocks the flow of ocean water and creating an imbalance in water salinity, necessary for marsh plants, fish, and birds;

(10) the City of Imperial Beach has closed beach access ⅓ of each year for several years before
the date of enactment of this Act due to risk to human health;

(11) flows of untreated sewage, chemicals, and pollution from Mexico jeopardize the health of Border Patrol agents and limiting the ability of those agents to operate in areas affected by these flows;

(12) in the 2 years before the date of enactment of this Act, local Border Patrol union officials have reported that over 100 officers have suffered from contamination, rashes, infections, chemical burns, and lung irritation due to toxic cross-border flows;

(13) a March 2020 report of the Environmental Financial Advisory Board of the Environmental Protection Agency—

(A) found that—

(i) “stormwater knows no jurisdictional boundaries . . . and is a principal cause of water quality issues nationwide”; and

(ii) adequate funding to manage stormwater pollution lags behind the investments made in wastewater management and the delivery of safe drinking water by decades; and
(B) concluded that Federal investment will be required to address—

(i) the lack of State and local funding; and

(ii) multi-jurisdictional stormwater management needs;

(14) during the 10-year period before the date of enactment of this Act, Federal, State, and local governments and others have identified the benefits of using natural and green infrastructure to control and manage stormwater runoff, including wetlands, coastal dunes, and retention structures;

(15) during the 20-year period before the date of enactment of this Act, the United States and Mexico, through the International Boundary and Water Commission, have agreed to resolve the pollution problems in the Tijuana River;

(16) the International Boundary and Water Commission has negotiated 8 minutes to resolve water quality problems in the Tijuana River, among other subjects;

(17) 1 of the most recent minutes authorized the construction of the South Bay International Wastewater Treatment Plant in San Ysidro to treat, on average, 25,000,000 gallons of sewage from Ti-
juana per day, which has reduced the sewage coming into the United States;

(18) the sewer system of Tijuana is—

(A) aging and deteriorating; and

(B) insufficient to meet the needs of a quickly growing population;

(19) in February 2017, 1 of the main sewer collectors of Tijuana broke, sending an estimated 143,000,000 gallons of raw sewage into the United States, which was not the only time such a break occurred;

(20) from February to July of 2019, an estimated 4,500,000,000 gallons of wastewater, treated water, and stormwater flowed from Mexico to the United States;

(21) in June and July 2019, there were 3 sewer collector breaks, resulting in a total discharge of raw sewage of almost 2,000,000 gallons;

(22) a 2019 study entitled “Tijuana River Diversion Study: Flow Estimates, Infrastructure Diagnostic, and Alternatives Development” estimated that from 2009 through 2016, transboundary flows occurred on average 138 days each year;

(23) those transboundary flows contain treated wastewater, raw sewage, and urban runoff, with
most of those flows associated with wet weather and
stormwater;

(24) the study described in paragraph (22)—
(A) found that improving the operational
reliability of the existing diversion system of the
South Bay could reduce the number of days
that transboundary flows occurred; but
(B) estimated that there would still be on
average 90 days of transboundary flows each
year;

(25) the Federal Water Pollution Control Act
(33 U.S.C. 1251 et seq.) has established a
stormwater permit program under the National Pol-
lutant Discharge Elimination System, under which
municipalities have the responsibility to manage and
treat stormwater;

(26) because of the international border and
different treatment systems and standards, dis-
charges in Mexico to the Tijuana River are not
treated to the same standards as the standards to
which discharges would be treated in the United
States;

(27) the International Boundary and Water
Commission negotiated Minute 320 to find solutions
for water quality, trash, and sediment in the Tijuana River;

(28) the United States has—

(A) invested at least $250,000,000 for secondary wastewater treatment in the Tijuana River Valley by the International Boundary and Water Commission; and

(B) paid $18,000,000 to operate and maintain the plant in fiscal year 2018;

(29) the United States has also helped fund water and wastewater infrastructure along the border through the Border Water Infrastructure Program and the North American Development Bank;

(30) however, as the Government Accountability Office found in the report described in paragraph (8), the long-standing environmental and health problems associated with transboundary stormwater flows continue, while the International Boundary and Water Commission has not taken actions to resolve existing problems by proposing and analyzing alternatives, analyzing costs, identifying solutions, or establishing time frames; and

(31) significant additional investment from Federal, State, local, and Mexican resources is need-
ed to improve the water quality of the Tijuana River watershed.

(b) PURPOSES.—The purposes of this title are—

(1) to establish a program to plan and implement water quality restoration and protection activities;

(2) to ensure the coordination of restoration and protection activities among Mexican, Federal, State, local, and regional entities and conservation partners relating to water quality and stormwater management in the Mexican Tijuana River watershed and the American Tijuana River watershed; and

(3) to provide funding for water quality restoration and protection activities in the Mexican Tijuana River watershed and the American Tijuana River watershed.

SEC. 102. DEFINITIONS.

In this title:

(1) AMERICAN TIJUANA RIVER WATERSHED.—The term “American Tijuana River watershed” means the portion of the Tijuana River watershed that lies in the United States.

(2) MEXICAN TIJUANA RIVER WATERSHED.—The term “Mexican Tijuana River watershed”
means the portion of the Tijuana River watershed that lies in Mexico.

(3) PROGRAM.—The term “program” means the Tijuana River Public Health and Water Quality Restoration Program established under section 103(a).

(4) WATER QUALITY RESTORATION AND PROTECTION.—The term “water quality restoration and protection”, with respect to the Tijuana River watershed, means—

(A) the enhancement of water quality and stormwater management; and

(B) the use of natural and green infrastructure to enhance the ability of the watershed to capture pollutants and reduce runoff to prevent flooding.

SEC. 103. TIJUANA RIVER PUBLIC HEALTH AND WATER QUALITY RESTORATION PROGRAM.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall establish a program, to be known as the “Tijuana River Public Health and Water Quality Restoration Program”.

(b) DUTIES.—In carrying out the program, the Administrator shall—
(1) carry out projects, plans, and initiatives for the Tijuana River and work in consultation with applicable management entities, including representatives of the Federal Government, State and local governments, and regional and nonprofit organizations, to carry out public health and water quality restoration and protection activities relating to the Tijuana River;

(2) carry out activities that—

(A) develop, using monitoring, data collection, and assessment, a shared set of science-based water quality restoration and protection activities identified in accordance with paragraph (1);

(B) support the implementation of a shared set of science-based water quality restoration and protection activities identified in accordance with paragraph (1), including water reuse projects, water recycling projects, and natural and green infrastructure projects;

(C) target cost-effective projects with measurable results; and

(D) maximize public health and water quality conservation outcomes;
coordinate the development of consistent Federal policies, strategies, projects, and priorities for addressing the public health and water quality restoration and protection of the Tijuana River;

(4) coordinate a funding strategy among available funding sources in the region; and

(5) provide grants, agreements, and technical assistance in accordance with section 105.

(e) COORDINATION.—In establishing the program, the Administrator shall consult, as appropriate, with—

(1) the heads of Federal agencies, including—

(A) the Secretary;

(B) the Commissioner;

(C) the Secretary of Agriculture;

(D) the Secretary of Homeland Security;

(E) the Administrator of General Services;

(F) the Commissioner of U.S. Customs and Border Protection;

(G) the Secretary of the Interior;

(H) the Secretary of the Army, acting through the Chief of Engineers;

(I) the Administrator of the National Oce- anic and Atmospheric Administration;

(J) the Director of the United States Fish and Wildlife Service; and
(K) the head of any other applicable agency, as determined by the Administrator;

(2) the heads of State agencies, including—

(A) the Governor of California;

(B) the California Environmental Protection Agency;

(C) the California State Water Resources Control Board;

(D) the California Department of Water Resources; and

(E) the San Diego Regional Water Quality Control Board;

(3) 2 representatives of affected units of local government in the State, chosen on a rotating 3-year cycle by the Governor of California, including representatives from the City of Imperial Beach, the City of San Diego, the City of Chula Vista, the City of Coronado, the Port of San Diego, and the County of San Diego;

(4) 2 representatives of relevant nonprofit groups, chosen on a rotating 3-year cycle by the Governor of California;

(5) other public agencies and organizations with authority for the planning and implementation of conservation strategies relating to the Tijuana River
in the United States and Mexico, as determined by
the Administrator; and

(6) representatives of the North American De-
velopment Bank.

(d) COOPERATIVE AGREEMENTS AND MEMORANDA
OF UNDERSTANDING.—

(1) IN GENERAL.—To achieve the purposes of
this title and to ensure effective coordination of Fed-
eral and non-Federal water quality restoration and
protection activities, the Administrator shall use
amounts made available for the border water infra-
structure program under section 301 and payments
received pursuant to paragraph (4)(A) to enter into
cooperative agreements and memoranda of under-
standing with, and provide technical assistance to—

(A) the heads of other Federal agencies,
States, State agencies, units of local govern-
ment, regional governmental bodies, and private
entities; and

(B) in cooperation with the Secretary, the
Government of Mexico.

(2) USE OF AGREEMENTS.—The Administrator
shall enter into the cooperative agreements and
memoranda of understanding described in paragraph
(1)—
(A) to carry out the activities described in this section, including studies, plans, construction, and completion of projects to improve the water quality of, environment of, and public health around the Tijuana River; and

(B) to carry out a pilot project under which the Administrator shall, for projects selected by the Administrator that would otherwise not be successful in improving the water quality of, environment of, and public health of people residing in areas surrounding the Tijuana River—

(i) identify the parties responsible for the projects; and

(ii) provide funds to those parties for the operations and maintenance of the projects.

(3) TERM.—The cooperative agreements and memoranda of understanding described in paragraph (1) shall be limited to a specified period of time, as determined by the Administrator.

(4) FINANCIAL ARRANGEMENTS.—

(A) IN GENERAL.—If the Administrator enters into a cooperative agreement or memorandum of understanding described in para-
graph (1), the Administrator may require the other party to the agreement or memorandum to provide payment to the Administrator.

(B) DEPOSIT.—Any amounts received as a payment under subparagraph (A) shall be deposited into the State and Tribal Assistance Grants account of the Environmental Protection Agency and shall remain available, without further appropriation, to carry out the purposes of this title.

(5) PERSONNEL; SERVICES; TECHNICAL ASSISTANCE.—The Administrator may provide or accept personnel, services, and technical assistance pursuant to a cooperative agreement or memorandum of understanding described in paragraph (1), with or without reimbursement, for the purposes of carrying out the agreement or memorandum.

SEC. 104. WATER QUALITY PLAN.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Administrator, in consultation with the entities described in section 103(c), shall develop a plan for the purpose of improving and protecting the water quality of the Tijuana River watershed.
(2) REQUIREMENTS.—The plan under paragraph (1) shall—

(A) build on and incorporate any existing efforts and plans to improve and protect the water quality of the Tijuana River watershed, including ongoing and completed efforts and plans; and

(B) include—

(i) such features as are needed to improve and protect the quality of wastewater, stormwater runoff, and other untreated flows;

(ii) criteria for selecting—

(1) water quality restoration and protection projects; and

(2) projects on the priority list under subsection (c)(1);

(iii) the amounts necessary for the operations and maintenance of infrastructure existing on and constructed after the date of enactment of this Act; and

(iv) potential sources of funding to help pay the costs described in clause (iii).

(3) OPERATIONS AND MAINTENANCE FUNDING.—
(A) IN GENERAL.—The Administrator, working with the entities described in section 103(c), shall assess and identify potential alternative sources and approaches for financing infrastructure projects, including financing the operations and maintenance of those infrastructure projects.

(B) REQUIREMENT.—In carrying out subparagraph (A), the Administrator shall assess the approaches identified in the report of the Environmental Financial Advisory Board entitled “Evaluating Stormwater Infrastructure Funding and Financing” and dated March 2020.

(b) ISSUANCE; UPDATES.—The Administrator shall—

(1) not later than 1 year after the date of enactment of this Act, issue the plan under subsection (a)(1); and

(2) every 5 years after the date on which the plan is issued under paragraph (1), update the plan.

(c) PRIORITY LIST.—

(1) IN GENERAL.—The plan under subsection (a)(1) shall include a priority list of potential or pro-
posed water quality restoration and protection projects for the Tijuana River watershed that—

(A) provides for the management of wastewater or stormwater or the removal of debris, sediment, chemicals, bacteria, and other contaminants from the water flowing north into the United States;

(B) estimates the costs and identifies the entities that will fund the construction, operation, and maintenance of each project on the priority list;

(C) is developed in coordination with the entities described in section 103(c);

(D) assists agencies to coordinate funding; and

(E) identifies projects—

(i) in the Mexican Tijuana River watershed;

(ii) in the American Tijuana River watershed; and

(iii) that address transboundary flows that affect coastal communities in and near the Tijuana River watershed.

(2) DEVELOPMENT.—In developing the priority list under paragraph (1), the Administrator shall—
(A) use the best available science, including any relevant findings and recommendations of a watershed assessment conducted by Federal, State, and local agencies;

(B) carry out and fund science development, monitoring, or modeling as needed to inform project development and assessment; and

(C) include, in order of priority, potential or proposed water quality or stormwater projects for the restoration and protection of the Tijuana River that—

(i) would help—

(I) to achieve and maintain the water quality standards for—

(aa) public health;

(bb) recreational opportunities;

(cc) scenic resources; and

(dd) wildlife and habitat;

and

(II) to address water needs in the Tijuana River watershed, including through water reuse and water recycling; and
(ii) would identify responsible agencies and funding sources through coordinated efforts by the entities described in section 103(c).

SEC. 105. GRANTS, AGREEMENTS, AND ASSISTANCE.

(a) IN GENERAL.—In order to carry out the purposes of the program as described in section 101(b), the Administrator may—

(1) provide grants and technical assistance to the Commissioner, State and local governments, nonprofit organizations, and institutions of higher education, in both the United States and Mexico; and

(2) enter into interagency agreements with other Federal agencies.

(b) CRITERIA.—The Administrator, in consultation with the entities described in section 103(c), shall develop criteria for providing grants and technical assistance and entering into interagency agreements under subsection (a) to ensure that activities carried out under an interagency agreement or using those grants or technical assistance—

(1) accomplish 1 or more of the purposes identified in section 101(b); and

(2) advance the implementation of priority projects identified under section 104(c).
(c) Cost Sharing.—The Administrator may establish a Federal share requirement for any project carried out using any assistance proved under this section on an individual project basis.

(d) Administration.—

(1) In General.—The Administrator may enter into an agreement to manage the implementation of this section with the North American Development Bank or a similar organization that offers grant management services.

(2) Funding.—If the Administrator enters into an agreement under paragraph (1), the organization selected shall—

(A) for each fiscal year, receive amounts to carry out this section in an advance payment of the entire amount on the date of enactment of an appropriations Act making appropriations to the Administrator for a fiscal year, or as soon as practicable thereafter; and

(B) otherwise administer the implementation of this section to support partnerships between the public and private sectors in accordance with this title.

(e) Construction, Operation, and Maintenance.—The Commissioner may construct, operate, and
maintain any project carried out using funds made available to carry out this section.

SEC. 106. ANNUAL BUDGET PLAN.

The President, as part of the annual budget submission of the President to Congress under section 1105(a) of title 31, United States Code, shall submit estimated expenditures and proposed appropriations for projects under this title for the current year, the budget year, and 5 out-years (as those terms are defined in section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)), including for projects included in the priority list under section 104(c), for each Federal agency described in section 103(c)(1).

SEC. 107. REPORTS.

Not later than 180 days after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall submit to Congress a report on the implementation of this title, including—

(1) a description of—

(A) each project that has received funding pursuant to this title; and

(B) the status of all projects that have received funding pursuant to this title that are in progress on the date of submission of the report; and
(2) an assessment of the effectiveness of the operation and maintenance of each project that has been carried out pursuant to this title.

TITLE II—NEW RIVER PUBLIC HEALTH AND WATER QUALITY RESTORATION

SEC. 201. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the New River was born out of—

(A) occasional flows of the Colorado River into the Salton Sink; and

(B) the erosion of the New River channel, which formed the deep river canyon between 1905 and 1907;

(2) the New River—

(A) starts in Mexicali, Mexico;

(B) flows north into the United States through Calexico;

(C) passes through the Imperial Valley; and

(D) drains into the Salton Sea approximately 66 miles north of the international boundary;
(3) the sub-watershed of the New River covers approximately 750 square miles, of which 63 percent is in Mexico and 37 percent is in the United States;

(4) the New River has been widely recognized for significant water pollution problems, primarily because of agricultural runoff, raw sewage, pesticides, and discharges of wastes from domestic, agricultural, and industrial sources in Mexico and the Imperial Valley;

(5) by the 1980s, the New River acquired the reputation of being 1 of the most polluted rivers in the United States, with many pollutants in the New River posing serious human health hazards to local populations, particularly in Calexico and Mexicali;

(6) in 1992, Minute 288 of the International Boundary and Water Commission—

(A) established a sanitation strategy for the water quality problems of the New River at the international border; and

(B) divided sanitation projects into 2 immediate repair projects, the Mexicali I and Mexicali II, that—

(i) totaled approximately $50,000,000; and
(ii) were funded by both the United States and Mexico through the North American Development Bank;

(7) in 1995, the Environmental Protection Agency provided funds to the California Regional Water Quality Control Board to monitor and document the water quality at the international boundary on a monthly basis;

(8) in the late 1990s—

(A) the United States and Mexico spent $100,000,000 (of which 45 percent was paid by Mexico and 55 percent was paid by the United States) to build the Las Arenitas and Zaragoza wastewater treatment plants; and

(B) after the construction of those plants, untreated water from the New River was passed through 4 microbial treatment cells at the Las Arenitas wastewater treatment plant, which was then chlorinated and fed into a reforestation project along the desiccated Río Hardy, which stretches to the Sea of Cortez;

(9) a 10-year effort by community groups, lawyers, regulatory agencies, and politicians addressed the problem of water quality in the New River at the source by—
(A) federally funding a new sewage treatment plant in Mexicali; and

(B) developing a site plan for the portion of the New River in the United States;

(10) in 2009, the State of California required the California-Mexico Border Relations Council—

(A) to create a water quality plan to study, monitor, remediate, and enhance the water quality of the New River to protect human health; and

(B) to develop a river parkway suitable for public use;

(11) in 2012, the California-Mexico Border Relations Council approved the strategic plan for the New River Improvement Project that was prepared by the New River Improvement Project Technical Advisory Committee;

(12) in 2016, the New River Improvement Project Technical Advisory Committee revised the recommended infrastructure of the New River Improvement Project, and the State of California appropriated $1,400,000 to provide grants or contracts to carry out the necessary planning, design, environmental review, and permitting work;
the revised New River Improvement Project includes the installation of a large trash screen, a conveyance system, aeration devices, a new pump station, and managed wetlands; and

(14) the existing and ongoing voluntary conservation efforts at the New River necessitate improved efficiency and cost effectiveness, increased private sector investments, and coordination of Federal and non-Federal resources.

(b) PURPOSES.—The purposes of this title include—

(1) coordinating water quality restoration and protection activities relating to the New River among Mexican, Federal, State, local, and regional entities and conservation partners; and

(2) carrying out coordinated restoration and protection activities relating to the New River and providing technical assistance for those activities—

(A) to sustain and enhance fish and wildlife habitat restoration and protection activities;

(B) to improve and maintain water quality to support fish and wildlife, as well as the habitats of fish and wildlife;

(C) to sustain and enhance water management for volume and flood damage mitigation
improvements to benefit fish and wildlife habitat;

(D) to improve opportunities for public access to, and recreation in and along, the New River consistent with the ecological needs of fish and wildlife habitat;

(E) to maximize the resilience of natural systems and habitats under changing watershed conditions;

(F) to engage the public through outreach, education, and citizen involvement to increase capacity and support for coordinated water quality restoration and protection activities relating to the New River;

(G) to increase scientific capacity to support the planning, monitoring, and research activities necessary to carry out coordinated water quality restoration and protection activities relating to the New River; and

(H) to provide technical assistance to carry out water quality restoration and protection activities relating to the New River.

SEC. 202. DEFINITIONS.

In this title:
(1) **Program.**—The term “program” means the California New River Public Health and Water Quality Restoration Program established under section 203(a).

(2) **Water quality restoration and protection.**—The term “water quality restoration and protection”, with respect to the New River watershed, means—

(A) the enhancement of water quality and stormwater management; and

(B) the use of natural and green infrastructure to enhance the ability of the watershed to capture pollutants and reduce runoff to prevent flooding.

**SEC. 203. CALIFORNIA NEW RIVER PUBLIC HEALTH AND WATER QUALITY RESTORATION PROGRAM.**

(a) **Establishment.**—Not later than 180 days after the date of enactment of this Act, the Administrator shall establish a program, to be known as the “California New River Public Health and Water Quality Restoration Program”.

(b) **Duties.**—In carrying out the program, the Administrator shall—

(1) carry out projects, plans, and initiatives for the New River that are supported by the California-
Mexico Border Relations Council, and work in consultation with applicable management entities, including representatives of the Calexico New River Committee, the California-Mexico Border Relations Council, the New River Improvement Project Technical Advisory Committee, the Federal Government, State and local governments, and regional and non-profit organizations, to carry out water quality restoration and protection activities relating to the New River;

(2) carry out activities that—

(A) develop, using monitoring, data collection, and assessment, a shared set of science-based water quality restoration and protection activities identified in accordance with paragraph (1);

(B) support the implementation of a shared set of science-based water quality restoration and protection activities identified in accordance with paragraph (1), including water reuse projects, water recycling projects, and natural and green infrastructure projects;

(C) target cost-effective projects with measurable results; and
(D) maximize public health and water quality conservation outcomes; and

(3) provide grants, agreements, and technical assistance in accordance with section 205.

(c) COORDINATION.—In establishing the program, the Administrator shall consult, as appropriate, with—

(1) the heads of Federal agencies, including—

(A) the Secretary of the Interior;

(B) the Secretary of Agriculture;

(C) the Secretary of Homeland Security;

(D) the Administrator of General Services;

(E) the Commissioner of U.S. Customs and Border Protection;

(F) the Commissioner;

(G) the Secretary of the Army, acting through the Chief of Engineers;

(H) the Administrator of the National Oceanic and Atmospheric Administration;

(I) the Director of the United States Fish and Wildlife Service; and

(J) the head of any other applicable agency, as determined by the Administrator;

(2) the Governor of California;

(3) the California Environmental Protection Agency;
(4) the California State Water Resources Control Board;

(5) the California Department of Water Resources;

(6) the Colorado River Basin Regional Water Quality Control Board;

(7) the Imperial Irrigation District;

(8) other public agencies and organizations with authority for the planning and implementation of conservation strategies relating to the New River in the United States and Mexico, as determined by the Administrator; and

(9) representatives of the North American Development Bank.

(d) COOPERATIVE AGREEMENTS AND MEMORANDA OF UNDERSTANDING.—

(1) IN GENERAL.—To achieve the purposes of this title and to ensure effective coordination of Federal and non-Federal water quality restoration and protection activities, the Administrator shall use amounts made available for the border water infrastructure program under section 301 and payments received pursuant to paragraph (4)(A) to enter into cooperative agreements and memoranda of understanding with, and provide technical assistance to—
(A) the heads of other Federal agencies, States, State agencies, units of local government, regional governmental bodies, and private entities; and

(B) in cooperation with the Secretary, the Government of Mexico.

(2) USE OF AGREEMENTS.—The Administrator shall enter into the cooperative agreements and memoranda of understanding described in paragraph (1)—

(A) to carry out the activities described in this section, including studies, plans, construction, and completion of projects to improve the water quality of, environment of, and public health around the New River; and

(B) to carry out a pilot project under which the Administrator shall, for projects selected by the Administrator that would otherwise not be successful in improving the water quality of, environment of, and public health of people residing in areas surrounding the New River—

(i) identify the parties responsible for the projects; and
(ii) provide funds to those parties for
the operations and maintenance of the
projects.

(3) TERM.—The cooperative agreements and
memoranda of understanding described in paragraph
(1) shall be limited to a specified period of time, as
determined by the Administrator.

(4) FINANCIAL ARRANGEMENTS.—

(A) IN GENERAL.—If the Administrator
enters into a cooperative agreement or memo-
randum of understanding described in para-
graph (1), the Administrator may require the
other party to the agreement or memorandum
to provide payment to the Administrator.

(B) DEPOSIT.—Any amounts received as a
payment under subparagraph (A) shall be de-
posited into the State and Tribal Assistance
Grants account of the Environmental Protec-
tion Agency and shall remain available, without
further appropriation, to carry out the purposes
of this title.

(5) PERSONNEL; SERVICES; TECHNICAL ASSIST-
ANCE.—The Administrator may provide or accept
personnel, services, and technical assistance pursu-
ant to a cooperative agreement or memorandum of
understanding described in paragraph (1), with or without reimbursement, for the purposes of carrying out the agreement or memorandum.

SEC. 204. WATER QUALITY PLAN.

(a) Development.—

(1) In general.—The Administrator, in consultation with the entities described in section 203(c), shall develop a plan for the purpose of improving and protecting the water quality of the New River watershed.

(2) Requirements.—The plan under paragraph (1) shall—

(A) build on and incorporate any existing efforts and plans to improve and protect the water quality of the New River, whether ongoing or completed; and

(B) include—

(i) such features as are needed to improve and protect the quality of wastewater, stormwater runoff, and other untreated flows;

(ii) criteria for selecting—

(I) water quality restoration and protection projects; and
(II) projects on the priority list under subsection (e)(1);

(iii) the amounts necessary for the operations and maintenance of infrastructure existing on and constructed after the date of enactment of this Act; and

(iv) potential sources of funding to help pay the costs described in clause (iii).

(3) OPERATIONS AND MAINTENANCE FUNDING.—

(A) IN GENERAL.—The Administrator, working with the entities described in section 203(c), shall assess and identify potential alternative sources and approaches for financing infrastructure projects, including financing the operations and maintenance of those infrastructure projects.

(B) REQUIREMENT.—In carrying out subparagraph (A), the Administrator shall assess the approaches identified in the report of the Environmental Financial Advisory Board entitled “Evaluating Stormwater Infrastructure Funding and Financing” and dated March 2020.
(b) ISSUANCE; UPDATES.—The Administrator shall—

(1) not later than 1 year after the date of enactment of this Act, issue the plan under subsection (a)(1); and

(2) every 5 years after the date on which the plan is issued under paragraph (1), update the plan.

(c) PRIORITY LIST.—

(1) IN GENERAL.—The plan under subsection (a)(1) shall include a priority list of potential or proposed water quality restoration and protection projects for the New River watershed that—

(A) provides for the management of wastewater or stormwater or the removal of debris, sediment, chemicals, bacteria, and other contaminants from the water flowing north into the United States;

(B) estimates the costs and identifies the entities that will fund the construction, operation, and maintenance of each project on the priority list;

(C) is developed in coordination with the entities described in section 203(c);

(D) assists agencies to coordinate funding; and
(E) identifies projects—

(i) in the New River watershed; and

(ii) that address transboundary flows that affect coastal communities in and near the New River watershed.

(2) DEVELOPMENT.—In developing the priority list under paragraph (1), the Administrator shall—

(A) use the best available science, including any relevant findings and recommendations of a watershed assessment conducted by Federal, State, and local agencies;

(B) carry out and fund science development, monitoring, or modeling as needed to inform project development and assessment; and

(C) include, in order of priority, potential or proposed water quality or stormwater projects for the restoration and protection of the New River that—

(i) would help—

(I) to achieve and maintain the water quality standards for—

(aa) public health;

(bb) recreational opportunities;

(cc) scenic resources; and
(dd) wildlife and habitat;
and

(II) to address water needs in the New River watershed, including through water reuse and water recycling; and

(ii) would identify responsible agencies and funding sources through coordinated efforts by the entities described in section 203(c).

SEC. 205. GRANTS, AGREEMENTS, AND ASSISTANCE.

(a) IN GENERAL.—In order to carry out the purposes of the program as described in section 201(b), the Administrator may—

(1) provide grants and technical assistance to the Commissioner, State and local governments, nonprofit organizations, and institutions of higher education, in both the United States and Mexico; and

(2) enter into interagency agreements with other Federal agencies.

(b) CRITERIA.—The Administrator, in consultation with the entities described in section 203(c), shall develop criteria for providing grants and technical assistance and entering into interagency agreements under subsection (a)
to ensure that activities carried out under an interagency agreement or using those grants or technical assistance—

(1) accomplish 1 or more of the purposes identified in section 201(b); and

(2) advance the implementation of priority projects identified under section 204(c).

(c) COST SHARING.—The Administrator may establish a Federal share requirement for any project carried out using any assistance proved under this section on an individual project basis.

(d) ADMINISTRATION.—

(1) IN GENERAL.—The Administrator may enter into an agreement to manage the implementation of this section with the North American Development Bank or a similar organization that offers grant management services.

(2) FUNDING.—If the Administrator enters into an agreement under paragraph (1), the organization selected shall—

(A) for each fiscal year, receive amounts to carry out this section in an advance payment of the entire amount on the date of enactment of an appropriations Act making appropriations to the Administrator for a fiscal year, or as soon as practicable thereafter; and
otherwise administer the implementation of this section to support partnerships between the public and private sectors in accordance with this title.

(c) CONSTRUCTION, OPERATION, AND MAINTENANCE.—The Commissioner may construct, operate, and maintain any project carried out using funds made available to carry out this section.

SEC. 206. ANNUAL BUDGET PLAN.

The President, as part of the annual budget submission of the President to Congress under section 1105(a) of title 31, United States Code, shall submit estimated expenditures and proposed appropriations for projects under this title for the current year, budget year, and 5 outyears (as those terms are defined in section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)), including for projects included in the priority list under section 204(c), for each Federal agency described in section 203(c)(1).

SEC. 207. REPORTS.

Not later than 180 days after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall submit to Congress a report on the implementation of this title, including—

(1) a description of—
(A) each project that has received funding pursuant to this title; and

(B) the status of all projects that have received funding pursuant to this title that are in progress on the date of submission of the report; and

(2) an assessment of the effectiveness of the operation and maintenance of each project that has been carried out pursuant to this title.

TITLE III—BORDER WATER INFRASTRUCTURE IMPROVEMENT

SEC. 301. UNITED STATES-MEXICO BORDER WATER INFRASTRUCTURE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term “eligible entity” means the United States Section of the International Boundary and Water Commission, a State, a local government, an Indian Tribe, or a water or wastewater district with jurisdiction over any area in the United States or Mexico that is located within 100 kilometers of the United States-Mexico border.

(2) ELIGIBLE PROJECT.—

(A) IN GENERAL.—The term “eligible project” means a project for the construction of
infrastructure for drinking water treatment or distribution, wastewater management, or stormwater management, including natural and green infrastructure and infrastructure for water reuse and water recycling, that—

(i) addresses an existing human health or ecological issue;

(ii) has an effect in the United States;

(iii) with respect to wastewater management infrastructure the water discharged from which will flow, directly or indirectly, into the United States, is designed to meet, to the maximum extent practicable, all relevant water quality standards of the country in which the project is located, including, for projects located in the United States, any applicable standards established under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(iv) is proposed by an eligible entity with legal authority—

(I) to develop the project;
(II) to provide the proposed
drinking water or wastewater services;
and

(III) to obtain necessary financ-
ing, including operations and mainte-
nance funding;

(v) will comply with relevant State
and local environmental and other laws
(including regulations), including with re-
spect to—

(I) obtaining any necessary oper-
ating permits and licenses; and

(II) complying with any other
regulatory requirements related to
land acquisition and rights-of-way;

and

(vi) has the support of appropriate
Mexican Federal and State agencies, in-
cluding the Comision Nacional de Agua
(commonly known as “CONAGUA” or the
Mexican National Water Commission) and
any appropriate State or municipal water
utility, if the project is located in Mexico.

(B) Exclusions.—The term “eligible
project” does not include a project—
(i) for new water supply;

(ii) that threatens an ecosystem located in the United States, or that is located in both the United States and Mexico, if the project causes a reduction in the flow of water; or

(iii) to provide drinking water, wastewater, or stormwater services to enable new development.

(3) PROGRAM.—The term “program” means the program established under subsection (b).

(b) ESTABLISHMENT.—The Administrator shall carry out a program to provide assistance to eligible entities for activities related to eligible projects, including feasibility studies, planning studies, environmental assessments, financial analyses, community participation efforts, and architectural, engineering, planning, design, construction, and operations and maintenance activities.

(c) CONSULTATION.—In carrying out the program, the Administrator shall consult with the North American Development Bank.

(d) COORDINATION.—In carrying out the program, the Administrator shall coordinate with Federal, State, local, and Tribal entities in the border region, including the Department of Homeland Security, the International
Boundary and Water Commission, and relevant State agencies.

(e) PROJECT SELECTION.—

(1) IN GENERAL.—In selecting projects for which to provide assistance under the program, the Administrator shall select projects in accordance with—

(A) paragraph (2); and

(B) any other criteria determined appropriate by the Administrator.

(2) PRIORITIZATION.—In carrying out paragraph (1), the Administrator shall prioritize projects that—

(A) are identified in a plan developed pursuant to section 104 or 204; or

(B)(i) are likely to have the greatest positive effects relating to the environment and public health;

(ii) will result in benefits on the United States side of the United States-Mexico border;

(iii) address the most urgent public health and environmental needs, as determined by the heads of the Regional offices for Regions 6 and 9 of the Environmental Protection Agency; and
(iv) maximize sustainable practices, such as water reuse and water recycling, natural and green infrastructure, water efficiency, and conservation.

(f) Terms and Conditions.—The Administrator may establish such terms and conditions on assistance provided under the program as the Administrator determines appropriate.

(g) Cost Share.—The Administrator may establish a Federal share requirement for any project carried out using any assistance proved under this section on an individual project basis.

(h) Regional Allocations.—The amounts made available to carry out this section shall be made available in equal amounts for use by the Regional offices for Regions 6 and 9 of the Environmental Protection Agency.

Title IV—Miscellaneous

Sec. 401. Role of the Commissioner and International Agreements.

(a) Wastewater and Stormwater Authority.— The Commissioner may study, design, construct, operate, and maintain projects to manage, improve, and protect the quality of wastewater, stormwater runoff, and other untreated flows in the Tijuana River watershed and the New River watershed.
(b) **Tijuana and New River Projects Within the United States.**—The Secretary, acting through the Commissioner, shall—

(1) construct, operate, and maintain projects that—

(A) are on a priority list developed under section 104(c) or 204(c);

(B) are within the United States; and

(C) improve the water quality of the Tijuana River watershed or the New River watershed, as applicable; and

(2) use available funds, including funds received under this Act, to construct, operate, and maintain the projects described in paragraph (1).

(c) **Agreements with Mexico.**—The Secretary, acting through the Commissioner, may execute an agreement with the appropriate official or officials of the Government of Mexico for—

(1) the joint study and design of stormwater control and water quality projects; and

(2) on approval of the necessary plans and specifications of the projects described in paragraph (1), the construction, operation, and maintenance of those projects by the United States and Mexico, in accordance with the treaty relating to the utilization
of the waters of the Colorado and Tijuana Rivers,
and of the Rio Grande (Rio Bravo) from Fort
Quitman, Texas, to the Gulf of Mexico, and supple-
mentary protocol, signed at Washington February 3,
1944 (59 Stat. 1219), between the United States
and Mexico.
(d) FUNDING.—A project located wholly or partially
within Mexico shall be eligible for funding under the pro-
gram established under section 301(b) if the project is—
(1) identified under and consistent with the re-
results of the study under subsection (c)(1); and
(2) approved pursuant to subsection (c)(2).
(e) SAVINGS PROVISION.—Nothing in this section
limits the authority of the International Boundary and
Water Commission under this Act or any other provision
of law.