

118TH CONGRESS
1ST SESSION

S. 128

To provide for the assumption of full ownership and control of the International Outfall Interceptor in Nogales, Arizona, by the International Boundary and Water Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2023

Ms. SINEMA (for herself and Mr. KELLY) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To provide for the assumption of full ownership and control of the International Outfall Interceptor in Nogales, Arizona, by the International Boundary and Water Commission, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nogales Wastewater
5 Improvement Act of 2023”.

6 **SEC. 2. NOGALES WASTEWATER IMPROVEMENT.**

7 (a) AMENDMENT TO THE ACT OF JULY 27, 1953.—

8 The first section of the Act of July 27, 1953 (67 Stat.

1 195, chapter 242; 22 U.S.C. 277d–10), is amended by
 2 striking the period at the end and inserting “: *Provided*
 3 *further*, That the equitable portion of the Nogales sanita-
 4 tion project for the city of Nogales, Arizona, shall be lim-
 5 ited to the costs directly associated with the treatment and
 6 conveyance of the wastewater of the city and, to the extent
 7 practicable, shall not include any costs directly associated
 8 with the quality or quantity of wastewater originating in
 9 Mexico.”.

10 (b) NOGALES SANITATION PROJECT.—

11 (1) DEFINITIONS.—In this subsection:

12 (A) CITY.—The term “City” means the
 13 City of Nogales, Arizona.

14 (B) COMMISSION.—The term “Commis-
 15 sion” means the United States Section of the
 16 International Boundary and Water Commission.

17 (C) INTERNATIONAL OUTFALL INTER-
 18 CEPTOR.—The term “International Outfall In-
 19 terceptor” means the pipeline that conveys
 20 wastewater from the United States-Mexico bor-
 21 der to the Nogales International Wastewater
 22 Treatment Plant.

23 (D) NOGALES INTERNATIONAL WASTE-
 24 WATER TREATMENT PLANT.—The term
 25 “Nogales International Wastewater Treatment

1 Plant” means the wastewater treatment plant
2 that—

3 (i) is operated by the Commission;

4 (ii) is located in Rio Rico, Santa Cruz
5 County, Arizona, after manhole 99; and

6 (iii) treats sewage and wastewater
7 originating from—

8 (I) Nogales, Sonora, Mexico; and

9 (II) Nogales, Arizona.

10 (2) OWNERSHIP AND CONTROL.—

11 (A) IN GENERAL.—Subject to subpara-
12 graph (B) and in accordance with authority
13 under the Act of July 27, 1953 (67 Stat. 195,
14 chapter 242; 22 U.S.C. 277d–10 et seq.), on
15 transfer by donation from the City of the cur-
16 rent stake of the City in the International Out-
17 fall Interceptor to the Commission, the Com-
18 mission shall enter into such agreements as are
19 necessary to assume full ownership and control
20 over the International Outfall Interceptor.

21 (B) AGREEMENTS REQUIRED.—The Com-
22 mission shall assume full ownership and control
23 over the International Outfall Interceptor under
24 subparagraph (A) after all applicable governing

1 bodies in the State of Arizona, including the
2 City, have—

3 (i) signed memoranda of under-
4 standing granting to the Commission ac-
5 cess to existing easements for a right of
6 entry to the International Outfall Inter-
7 ceptor for the life of the International Out-
8 fall Interceptor;

9 (ii) entered into an agreement with re-
10 spect to the flows entering the Inter-
11 national Outfall Interceptor that are con-
12 trolled by the City; and

13 (iii) agreed to work in good faith to
14 expeditiously enter into such other agree-
15 ments as are necessary for the Commission
16 to operate and maintain the International
17 Outfall Interceptor.

18 (3) OPERATIONS AND MAINTENANCE.—

19 (A) IN GENERAL.—Beginning on the date
20 on which the Commission assumes full owner-
21 ship and control of the International Outfall In-
22 terceptor under paragraph (2)(A), but subject
23 to paragraph (5), the Commission shall be re-
24 sponsible for the operations and maintenance of
25 the International Outfall Interceptor.

1 (B) AUTHORIZATION OF APPROPRIA-
2 TIONS.—There are authorized to be appro-
3 priated to the Commission to carry out this
4 paragraph, to remain available until ex-
5 pended—

6 (i) \$6,500,000 for fiscal year 2025;

7 and

8 (ii) not less than \$2,500,000 for fiscal
9 year 2026 and each fiscal year thereafter.

10 (4) DEBRIS SCREEN.—

11 (A) DEBRIS SCREEN REQUIRED.—

12 (i) IN GENERAL.—The Commission
13 shall construct, operate, and maintain a
14 debris screen at Manhole One of the Inter-
15 national Outfall Interceptor for inter-
16 cepting debris and drug bundles coming to
17 the United States from Nogales, Sonora,
18 Mexico.

19 (ii) REQUIREMENT.—In constructing
20 and operating the debris screen under
21 clause (i), the Commission and the Com-
22 missioner of U.S. Customs and Border
23 Protection shall coordinate—

1 (I) the removal of drug bundles
2 and other illicit goods caught in the
3 debris screen; and

4 (II) other operations at the Inter-
5 national Outfall Interceptor that re-
6 quire coordination.

7 (B) AUTHORIZATION OF APPROPRIA-
8 TIONS.—There are authorized to be appro-
9 priated to the Commission, to remain available
10 until expended—

11 (i) for fiscal year 2025—

12 (I) \$8,000,000 for construction
13 of the debris screen described in sub-
14 paragraph (A)(i); and

15 (II) not less than \$1,000,000 for
16 the operations and maintenance of the
17 debris screen described in subpara-
18 graph (A)(i); and

19 (ii) not less than \$1,000,000 for fiscal
20 year 2026 and each fiscal year thereafter
21 for the operations and maintenance of the
22 debris screen described in subparagraph
23 (A)(i).

24 (5) LIMITATION OF CLAIMS.—Chapter 171 and
25 section 1346(b) of title 28, United States Code

1 (commonly known as the “Federal Tort Claims
2 Act”), shall not apply to any claim arising from the
3 activities of the Commission in carrying out this
4 subsection, including any claim arising from dam-
5 ages that result from overflow of the International
6 Outfall Interceptor due to excess inflow to the Inter-
7 national Outfall Interceptor originating from
8 Nogales, Sonora, Mexico.

9 (c) EFFECTIVE DATE.—This section (including the
10 amendments made by this section) takes effect on October
11 1, 2024.

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