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ISSUE PAPER: FINANCING THE NAFTA ENVIRONMENT PACKAGE

ISSUE

How can Mexico, Canada and the United States fund, without imposition of a trade tax or very large appropriations from general revenues, specific actions related to environmental issues associated with the implementation of the North American Free Trade Agreement (NAFTA)?

BACKGROUND

I. Context

The need for financing is the single, common thread that runs through all of the proposals for environmental projects made in the context of the NAFTA approval process. Because of the complexity of the issue and the ad hoc nature of many of the proposed environmental projects, debate on how to fund the environmental supplemental package has not progressed much beyond confused statements about the need for "massive" amounts of money. The areas of need that have been identified in the NAFTA process fall into four generic categories. Each category of need requires, by virtue of its nature, a different type of funding, as to amount, source and form.

II. Specific Areas of Need

1. Infrastructure Within the Border Zones(100 KM on Either Side) - Perhaps the single largest area of expenditures will be for the mundane necessities of water, sewage, roads and solid waste disposal. The vast bulk of this need relates to residential and light commercial development and not heavy industrial requirements. Both the Canadian and Mexican border zones will be affected, but the U.S. - Mexico border zone, on both sides of the boundary, will have the greatest need. While we can and should begin work on this problem promptly, it is one that can only be remedied over time, thus reducing the upfront cost of financing. Future development should be structured to be largely self-sustaining and user financed.

2. Industry Retrofitting - Pollution control and prevention equipment will be needed, primarily in Mexico, to enable manufacturers to meet existing domestic standards. Modifying existing facilities will be the most expensive part of this area. In particular, Mexico needs to develop a domestic hazardous waste disposal industry. New facilities will need to factor the cost of pollution prevention into construction costs. This will require an investment in both capital goods and technology. The wide experience in the United States in financing these kinds of activities will prove helpful.

3. Ongoing Operational/Enforcement Matters - The continuing administration and oversight of all of the activities identified in items 1 and 2 will require a substantial amount of time and personnel. In addition, implementation of a border clean-up and industry retrofitting is intertwined with enforcement of domestic environmental laws. In this context, enforcement does not mean fines, prosecutions and other sanctions, but preventive and consultative inspections. The financing of this area will require an ongoing, annual allocation of resources. These will be largely "soft" costs; i.e., salaries, supplies, communications, etc., not capital goods.

Policy Body { 4. The North American Commission on the Environment (NACE) - A variety of environmental issues will be addressed by the NACE, mostly relating to technical trade and environment questions, oversight, long-term planning, public participation in continental environmental issues and research on standards and process. The NACE will not be directly involved in "bricks and mortar" issues. The NACE will commence promptly upon implementation of the NAFTA and be a permanent institution.

III. General Considerations

While recommendations to address these needs must be tailored to fit each specific need, there are several basic points that are important in discussing all of these issues:

- o These environmental problems existed before the NAFTA and will persist whether or not the NAFTA is approved. Therefore, foregoing the NAFTA will not save money. The only real issue for much of the environmental spending is one of timing: the longer action is delayed, the higher the ultimate cost will be. ✓
- o Most of the environmental projects that require funding are

related to growth in economic activity and not the NAFTA. Unless general economic activity is slowed, these problems will grow worse. However, increased economic activity should provide the primary source of funding for the NAFTA environmental package. *how?* *who?*

o Because of the extensive engineering and construction needed to address many of the problems at issue, effective and efficient solutions to these problems will take a long period of time. Expenditure of too much money in too short a time will be counterproductive and wasteful. Therefore, it will be more productive to focus on sources of modest, but long-term, cashflows rather than headline grabbing totals. ✓

IV. Existing Assets

While all of the areas of need will require new funding, there are some existing assets upon which separate funding packages can be constructed. Many of the assets available are non-cash items, but some can be used in-kind and others can be monetized.

1. Border Infrastructure - The International Boundary and Water Commission (IBWC) currently owns and operates a wide array of public utility projects, including flood control districts, wastewater treatment plants and even hydroelectric dams. In general, the capital cost of such projects has already been paid and no user fees are charged for the ongoing operation of the projects. The dams produce saleable electric power. In addition, the IBWC has an engineering department of 225 professionals who are highly experienced in the design, planning and construction of large, cross-border infrastructure projects. *only US/Mexico? (yes)*

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2. Industry Retrofitting - There are three major intangible assets that could serve as a base in this area. First, the facilities and personnel of the U.S. National Laboratory system (Livermore, Sandia, Los Alamos and Oak Ridge), which are already working on matters related to environmental remediation, represents the finest collection of scientific research facilities in the world. Second, the U.S. has the largest environmental equipment and remediation industry in the world. Combined with the expertise of the National Laboratory system, this industry could mobilize an effective use of applied technology. In addition, the U.S. *but parcel by who?*

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environmental industry is well acquainted with the private methods used to finance this type of activity. Finally, the Clinton Administration has expressed a commitment to identify and assist key U.S. industries. This willingness to formulate an industrial policy is a key component in organizing the existing assets in this area and is itself a vital asset.

3. Operational and Enforcement Activities - The Environmental Protection Agency, in cooperation with the Department of State, has recently initiated a small pilot project for seconding EPA personnel to the Mexican environment ministry to perform substantive duties for up to six months. The Mexican government picks projects on which they need help and then the EPA suggests EPA personnel to fill the positions. This type of program could serve as the core of a program to provide resources for operational and enforcement activities.

4. NACE - This is the one area of need where there really are no material existing assets that can be converted to the use of the proposed NACE. The only possibility is (as yet unidentified) personnel of the three governments who could be seconded to the NACE secretariat.

Finally, there are certain miscellaneous assets that could be used in all four areas of need. First is the existing foreign assistance program related to the environment. AID currently administers environmental programs related to Latin America. These programs could be incorporated in an overall package of activities aimed at Mexico and Latin America. Environmental NGOs are also an asset to be incorporated into the package. Their staff could be detailed to work on assigned projects, and the NGOs could directly fund specified activities or studies.

RECOMMENDATIONS

1. Border Infrastructure -

The IBWC should be privatized, with the resulting proceeds and future cashflows contributed to a "North American Environmental Development Bank." This money would provide "seed" money for the bank. This bank would fund construction of infrastructure and environmental clean-up in the border regions.

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The privatization would take two forms: First, all users of IBWC services would pay regular, market fees for such services. (These fees would fall upon both U.S. and Mexican citizens, but these same citizens have been subsidized for decades.) Second, the IBWC should sell, or begin commercial operation of, its hydroelectric dams and water systems. In addition, the existing engineering department should be commercialized and provide services to the new Bank. Since the IBWC assets are owned jointly by Mexico and the U.S., use of them for this purpose also has the political benefit of enabling Mexico to contribute to the border clean-up without having to raise additional cash.

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The new Bank would be the focal point for additional funding sources, such as international lending institutions and environmental funds. The new Bank could also be given, on the same terms as a domestic bank, access to the central bank of each of the three countries. The new Bank would invest in infrastructure through pure grants, equity, subsidized loans and standard commercial loans where appropriate.

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Minimum land use and development standards covering residential and industrial construction should be formulated and implemented in the border region.

The first recommendation in the area of infrastructure addresses past and current environmental conditions on the border. However, unless additional action is taken, future development will recreate the problem that exists today. Therefore, any funding plan for border clean-up and infrastructure must address future land use in the border area. Texas, by way of example, has no comprehensive land use planning. Nor does it regulate residential or industrial development outside existing municipalities. Therefore, infrastructure, i.e., water, sewer and streets, is often lacking in areas of residential development. In many states, such basic necessities must be provided before development can occur. Gov. Richards of Texas has recently announced that Texas will be seeking \$8 billion of Federal money to pay for the NAFTA in Texas. At this time, most such clean-up funds come out of the EPA budget. It is unlikely that appropriations of that size will be available. In exchange for the Federal government, through the new Bank, taking on the current border clean-up, states should establish minimum

development standards. This will effectively pass on the cost of infrastructure to those who benefit: developers and buyers. The only cost to the states will be related to the administration of the minimum standards. The standards in question are simple, well-established and currently in effect throughout much of the United States. States should not be allowed to have unregulated development, without even basic minimum requirements, and then ask the nation to pay for the resulting environmental damage. If states will not adopt minimum development standards, the Federal government should impose such standards in the border region. A similiar situation exists in the Columbia River Gorge Scenic Area, a Federally created scenic reserve where land ownership remains unchanged but the Gorge Commission has formulated independent development standards that overlay existing rules.

2. Industry Retrofitting -

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A consortium of private corporations from the environmental industry should create a new corporation, partially capitalized by the U.S.G., to develop new environmental remediation technology and finance the export of environmental equipment. The new corporation should receive direct operational support in the area of research and development from the National Laboratory system.

This combination of government and private resources would provide an ideal opportunity to implement a new U.S. industrial policy. The U.S. environmental industry is a world leader and a strategic domestic industry. In addition, Japan and Germany are tying their international environmental aid programs to use of their standards and equipment. The new consortium would give the U.S. a more effective tool not only to accomplish NAFTA related goals, but also to compete in the global environmental market. It has been estimated that the market in environmental commerce in North America alone is nearly \$100 billion per year. To benefit from global markets, the new entity should be integrated into the implementation of overall U.S. foreign policy, as well as our international environmental assistance program. Operationally, the corporation would concentrate on two business lines: development and licensing of prevention and remediation technology and financing specific retrofitting projects, both with debt and equity. In addition, the corporation would develop an environmental consulting business as an adjunct to its research and development capacity and

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project analysis. In the area of export financing, the corporation would identify projects from among interested companies, help with initial analysis, design and technology assessment and then refer the prospective purchaser to the appropriate U.S. supplier for the required equipment and installation. At the same time, the corporation would work with the purchaser to locate and arrange financing, sometimes providing the financing itself.

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The new corporation would be capitalized in such a way that, when it is commercially successful, it could eventually be taken public, thus providing an opportunity for the U.S.G. to recoup its original investment. Initially, each of the private companies would make an equity investment in the new corporation. All members of the environmental industry would be invited to subscribe for stock. Subsequently, new investors could be accommodated by issuance of more equity by the new corporation. Each equity holder would enjoy four benefits, 1) the opportunity to profit from their stock if the enterprise is successful, 2) access to the technology and products generated by the new corporation, 3) access to the orders for environmental equipment generated by the new corporation and 4) access to the data on new foreign markets developed by the new corporation. The investment of the U.S.G. could be in the form of a convertible preferred with a deferred coupon and a put feature. Other forms of the U.S.G. investment should be considered, but any option should allow for non-cash accruals, equity conversion and a way for the U.S.G. to force the buyout of its investment. These features combine the business needs of the new corporation and the political needs of any administration that proposes a large capital investment. A corporation so capitalized would have easy access to private credit markets. The exact amount of the equity capitalization, and thus the U.S.G. investment, would depend upon the initial interest from private investors. However, if the U.S.G. investment, including commitment of the National Laboratory resources, were a precondition to the enterprise, there would be little problem in attracting substantial industry support. In no event would the U.S.G. cash investment exceed 20% of the total.

3. Operations and Enforcement -

A program of personnel exchanges between the EPA and the Mexican environment ministry should be established to provide both for temporary placement of EPA experts in Mexico and for creation of teams of U.S. and Mexican personnel to monitor jointly and administer the NAFTA related environmental

projects. The program should eventually be expanded to include Environment Canada.

While this recommendation will accommodate the immediate needs in this area, upon implementation of the NAFTA some additional funding of the domestic agencies will be necessary over the long-term. This funding should come from general revenues. Running this area through cooperative agreements among the existing agencies would be most efficient and would also allow each country to maintain sovereignty in the sphere of domestic environmental administration and enforcement.

4. NACE -

The NACE should be funded by annual, equal appropriations from the general treasury revenues of the three countries.

Of the four funding needs, the cost of the NACE, while not insubstantial, will probably be the smallest. Therefore, it is a good candidate to be funded by ongoing appropriations from the general revenue of the three countries. In addition, this form of funding may reassure all three countries as to who has ultimate authority over the NACE.

CONCLUSION

All of the foregoing recommendations are in some way interrelated. This package of financing proposals would not only provide an integrated solution to the NAFTA-related funding problems, but also create opportunities, both commercial and otherwise, for the U.S. in the area of international environmental affairs. Having said that, the difficulty in implementing some of the recommendations has not been underestimated, and no one recommendation is essential to the usefulness of other recommendations. These proposals should be viewed as the basis for further analysis and discussion of the issue.

ISSUE PAPER: STRUCTURE FOR IMPLEMENTATION OF FINANCING FOR U.S.-MEXICO BORDER ENVIRONMENTAL INFRASTRUCTURE PROJECTS

ISSUE

Through what form of financing, and through what structure, should available financial resources be disbursed to fund U.S.-Mexico border environmental infrastructure projects?

BACKGROUND

I. Context

The infrastructure needed to address environmental degradation in the U.S.-Mexico border zone (100 KM on either side of the boundary) is not unique: water and sewage systems, solid waste disposal sites, roads, flood control projects, etc.. The physical setting and governmental context, however, are unique. In addition, the nature and size of the problem present special considerations. Any plan for the financing of such border infrastructure projects should take into account the following:

1. The central feature of the area is an international boundary. This very real, but arbitrary, line of demarcation creates an artificiality not fully present inside a country -- even countries like Mexico and the U.S., which both have federal systems.
2. Equally important, the area contains numerous levels of governmental jurisdictions (two Federal governments, four U.S. state governments, six Mexican state governments and dozens of county and municipal governments).
3. The problem to be dealt with, environmental pollution, cuts across and is not inhibited by any of the numerous jurisdictional boundaries in the border zone.
4. The amount of work to be done is very large and covers an enormous geographical area.
5. The geographical area of interest includes two significantly different cultures, political systems and economies.

II. Implications For Financing Structure

The foregoing factors should affect the form and structure of the required financing. In fact, if they are not adequately addressed in the implementation of any financing package, they could unnecessarily raise the total cost of the infrastructure project. This is so because, in the context of overlapping jurisdictions, the nature of the problem, i.e., related cross-border pollution sources, can lead to duplication of facilities. In addition, unless regional planning is used, there is no guarantee that facilities will be designed and sited in the most cost efficient manner.

Given current U.S. and Mexican federal budgetary constraints, the sheer size of the proposed projects means that any financing mechanism should be ultimately self-sustaining. This implies that the financing mechanism be structured so as to allow for private funds and for use of cashflows from the projects. It also implies a structure that will implement the projects over time, since it is not possible to spend efficiently in a short period the gross dollar amount required. Therefore, the financing structure should encourage steady, locally based cashflows which can be monetized through private capital.

The type of infrastructure involved requires continuous expansion, maintenance and upgrade. To finance individual projects without standardization of equipment or coordination of future design and construction of all infrastructure in the border zone would risk inconsistent and inadequate operation. This could lead in turn to increased costs for retrofitting and maintenance. Because money will be expended in two countries and multiple sub-jurisdictions, each with different approaches to public projects, there should be a common accountability for the construction and ongoing operation of the projects. This accountability should be comparable, without regard to national or local differences, wherever the project is constructed.

Finally, because the users (and ultimate financiers) of such infrastructure are local, and because these types of projects have been traditionally funded and administered by local governments in both the U.S. and Mexico, the form and structure of any financing should be able to accommodate participation by local jurisdictions. (It is important to note in this regard that the greatest criticism of the joint EPA-SEDESOL Integrated Border Plan has been that local participants had no access to its development process.)

KEY ELEMENTS OF FORM AND STRUCTURE

Based on the foregoing, any financing structure for border infrastructure projects should have at least the following key elements:

1. The ability to coordinate all jurisdictions in the border zone in connection with the siting, design and construction of infrastructure projects.
2. The capacity to provide independent and standardized engineering expertise throughout the border zone.
3. The mechanism to include local jurisdictions in the planning process and utilize their existing governmental structures for the administration of the individual projects and the collection of the cashflows therefrom.
4. The capacity to monitor and supervise the construction and operation of all projects, both as a matter of technical efficiency and as a matter of public accountability.
5. The power to provide financial incentives (short of outright direct investment) that will facilitate access to private capital for the construction of the projects and allow the monetization of cashflows from the operation of the projects or other local revenues.

PRECEDENTS

As noted, the border zone is unique and no single existing entity has all of the listed key elements. However, this type of problem is not without analogous solutions and precedents. (It is interesting to note that the concept of a "border authority" as a mechanism to coordinate more general activities in the border area was suggested by then-Sen. Bentsen of Texas some years ago.)

Interstate compacts have long dealt with cross-boundary infrastructure projects. The best example is probably the Port Authority of New York and New Jersey, which has successfully constructed and operated numerous joint facilities. Two well known Federal authorities that deal with interstate infrastructure projects are the Tennessee Valley Authority and the Bonneville Power Administration. In the international area, the St. Lawrence Seaway is a jointly

administered infrastructure project, and the International Boundary and Water Commission constructs and operates basic infrastructure projects along the U.S.-Mexico border. While none of these examples individually addresses every issue raised by the proposed projects, a combination of their elements would.

The examples mentioned have structural elements that would address the unique jurisdictional issues in the border zone. Local municipal authorities provide a fiscal example to address the basic financial requirements of the financing structure. The same kind of bonding authority used by local institutions could facilitate the use of private capital and monetization of local, project-based cashflows. This structure is highly familiar to, and accepted by, local governments, Wall Street financiers and North American investors.

RECOMMENDATIONS

1. A new institution should be created, jointly by the U.S. and Mexico, to implement the financing, completion and supervision of the proposed border infrastructure projects.

2. The form of such an institution should be that of a "Border Authority," containing elements of a number of existing entities that deal with cross-boundary infrastructure projects.

3. Two essential powers of such a "Border Authority" would be the right to approve design and siting decisions for projects in the border zone and the authorization to issue bonds and/or guarantees of bonds used to finance the projects. The bonds/guarantees would provide for some limited recourse to the cashflows from the projects, the projects themselves and the U.S. and Mexican governments, in that order.

The exact form and structure of such a "Border Authority" should be delineated as soon as there is a consensus on the concept.

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PROPOSAL INTERNATIONAL BOUNDARY ENVIRONMENTAL COMMISSION

A Binational U.S./Mexico Border Environmental Management Institution

April, 1993

The U.S.-Mexico border is truly a region under stress. With increasing economic development and explosive population growth, it is essential to strengthen the institutional capability for protecting the quality of the environment in the border region. With rapidly changing conditions, existing institutions are finding it increasingly difficult to cope with the tasks of providing environmental protection in a transboundary context.

The International Boundary and Water Commission has a long and respected record of achievement, but its treaty mandate focuses primarily on water quantity. The La Paz Agreement of 1983 provides an important vehicle for coordinating the border activities of the environmental agencies of the two countries -the EPA and SEDESOL- but the energy and attention that these hard-working agencies can give the border region must be shared with compelling concerns throughout each of their respective countries. With the many demands placed on these two agencies, it is difficult for them to provide the focus and continuity essential for the difficult transboundary issues caused by explosive growth, limited budgets and fragile transboundary environments.

The border area now requires a binational institution whose exclusive mandated responsibility is the protection of the environmental quality of the border region itself: a commission which would build on the advances of the La Paz Agreement, and the achievements of the IBWC. It would supplement, not supplant, existing binational institutions.

The NAFTA negotiations now provide an opportunity for environmental institution building--at the trilateral level in the form of a North American Commission on the Environment (NACE), and at the bilateral level with an International Border Environmental Commission (IBEC) which would be a regional entity whose focused responsibility is the protection of the U.S.-Mexico border region. The NACE and the IBEC would coordinate their activities and thus work in tandem to provide environmental oversight at both the continental and regional levels.

This proposal is a collective effort that builds on the thought and work of many different scholars from both academia and NGO's. We offer it for your consideration and review. Comments and questions should be directed to Professor Albert Utton at the above institution.

Udall Center
(602) 621-7189

CRITERIA FOR AN EFFECTIVE BINATIONAL INSTITUTION

1. Adequate jurisdiction over transboundary natural resources to permit it to collect data, prepare comprehensive plans and improve environmental management along the border.
2. Capable of anticipating problems, setting priorities and acting prior to the emergence of crises that erode institutional trust. Priorities should be set on the basis of the seriousness of problems, efficient allocation of scarce resources and sustainability of solution.
3. Sufficient financial resources to enable it to deal pro-actively with needs and problems before they reach the crisis stage and without the necessity of seeking separate authorization and funding for each project from the national governments.
4. Should be interdisciplinary with capacity and incentives to generate broad support for its programs, building from a base of local grassroots support as well as state and federal backing.
5. Responsive and directly accountable to local communities with local attitudes and experiences built into the development of plans and priorities and with the goal of building the capacity of local institutions to solve problems in a sustainable way that does not initiate or perpetuate a cycle of dependence.
6. Must fit into the already crowded space of existing institutions by helping them meet their goals and work together more cooperatively. Other agencies, officials, NGO's and individuals should be able to look to the institution for information and expertise.
7. Should be flexible to enable it to grow and change with differing conditions and mandates.

PROPOSAL

INTERNATIONAL BOUNDARY ENVIRONMENTAL COMMISSION (IBEC)

We propose the creation of a new border environmental institution with oversight jurisdiction over water quality (surface and groundwater), air quality, hazardous material and toxic waste management and other environmental quality and health matters in the U.S.-Mexico Border Region. This should be done through codification of the annexes under the La Paz Agreement in treaty form with designation of the IBEC as the lead agency with responsibility for border environmental protection.

- I. NESTED INSTITUTIONS DESIGN: The IBEC will not duplicate or supplant existing institutions, but instead will serve a needed coordinating and service role in environmental matters along the U.S./Mexico border.
 - A. The IBEC will work in cooperation with the proposed Trilateral North American Commission on the Environment (NACE) in matters affecting the U.S./Mexico border area. NACE's primary focus can be expected to be national legislative issues, upward harmonization of standards, and trade sanction-type authority among Canada, the United States and Mexico. NACE will be responsible for those transboundary environmental impacts that have geographic implications that extend beyond the U.S.-Mexico border region. The IBEC, in contrast, will focus its efforts on the specific environmental issues, construction of facilities and implementation of environmental programs in the areas contiguous to the U.S.-Mexico border.
 - B. The treaty and related jurisdiction of the International Boundary and Water Commission (IBWC) over boundary waters will continue. This would permit the IBWC to continue its important historic role in border water supply apportionment while allowing for coordinated management of border environmental problems by the IBEC.
 - C. The IBEC would relieve existing institutional problems faced by EPA and SEDESOL in meeting the needs of the border area at the same time these agencies are faced with pressing national environmental issues and programs to administer. The IBEC would provide an institutional structure for addressing the unique border environment with information and needed expertise supplied by EPA and SEDESOL. Mechanisms initiated in the La Paz process, such as working groups, will be transferred, and where appropriate, carried forward by the IBEC.
- II. MANDATE and GOALS: Assuring that water quality, air quality, hazardous material and toxic waste management, and environmentally related health concerns in the U.S./Mexico border area will be addressed in ways that will permit sustained economic development along the border. Attention should also be paid to preservation of important ecosystems and endangered habitats and species.
 - A. Defining sustainable economic development to take into account a healthy environment for quality of life, tourism and protection of the environment for today's border residents and for future generations.
 - B. Oversight jurisdiction covering the entire U.S./Mexico border with the ability to designate local areas as having critical environmental management needs.

- C. Not a supra-national law enforcement authority, but rather should rely on the "intrusive sunshine" of regular reports to the public and agreements evaluating the state of border environment and enforcement programs of the various governmental agencies.
 - D. Empowering local governments and agencies to become self supporting through improved information, planning, and management, and enhanced infrastructure, metering, fee collection, and bonding capability. Emphasis should be placed on supplementing existing state and local cost sharing arrangements.
 - E. Obtaining adequate and ongoing sources of revenue to permit the IBEC to fund pro-active planning and management activities and to provide low interest loans, grant funding and other incentives to local areas to build infrastructure and management capability.
 - F. Striving to incrementally improve the quality of the environment and access of water users on each side of the border to good quality water supply and wastewater services with ongoing emphasis on what users themselves want and are most concerned about.
 - G. Develop and maintain the capability for production and open access to environmental data in the border region through development of a border database.
 - H. Working toward the goal of self-sufficient, self-supporting utilities with cost of service fee structures as users develop more confidence in the system and rely less on individual solutions.
 - I. Strengthening positive binational linkages along the border recognizing that the border culture provides an important unity to the binational region.
- III. STRUCTURE: Binational commission with strong local involvement in the border region.
- A. A binational commission supported by advisory boards.
 - 1. Commission co-chaired by appointees of the Presidents of Mexico and the United States, (in U.S. confirmed by Senate), who serve at the pleasure of the respective Presidents. Each co-chair would be a full-time paid employee of the IBEC. The co-chairs shall have demonstrated expertise in environmental affairs, and shall not have vested economic interest in trade and investment arising under the North American Free Trade Agreement.

2. Fourteen commission members including the two co-chairs and twelve members appointed by the governors of the border states (one member for each of the six Mexican border states, two each for Texas and California, one each for Arizona and New Mexico). The terms for the governor-appointed members would be six years.
3. Technical advisors and local advisory boards are to be appointed by the Commission to provide special expertise and local input on specific issues under consideration by the Commission.
4. Agency resource people from such agencies as IBWC, CILA, EPA, SEDESOL, Public Health Service, SALUD, and HHS, should be designated to work with IBEC and be funded by their respective agencies.

B. Regular, open IBEC meetings in border communities.

1. The headquarters of the IBEC should be binational and in a border community, perhaps alternating between the two countries on a periodic basis. Meetings of the Commission should be held in various communities along the border, giving local residents convenient opportunities to attend.
2. The IBEC should meet on a regular basis, no less than four times a year.
3. Commission meetings should be open to public with opportunity for public comment and presentation of proposals. Notice of all meetings shall be publicly made at least 15 days in advance. Executive sessions shall be held to a minimum.
4. The IBEC also would be empowered to hold public hearings, technical meetings, workshops and briefings relating to border environmental matters under its own auspices or in cooperation with other authorities and organizations. Persons and organizations may petition the IBEC to schedule a meeting or invite written statements concerning environmental issues in the border region, or urge the IBEC to take action under its jurisdiction.

C. The secretariat for the IBEC should be a binational, interdisciplinary support staff with broad expertise in environmental affairs.

1. The technical staff should emphasize social, legal, planning and economic as well as engineering and scientific expertise to permit it to collect, analyze and synthesize data and to make recommendations in accord with the IBEC mandates.
 2. The secretariat will be responsible to the entire Commission but will report on an ongoing basis to the Co-chairs.
 3. Staff will be responsible for chairing and organizing the working groups created by the Commission.
- D. Designated Critical Environmental Management Areas (CEMA's) may be organized in border areas identified as having significant environmental problems.
1. Designation of CEMA is made by IBEC, but nominations could come from the IBEC staff or from local areas who wish to be designated as a CEMA.
 2. Each CEMA must be provided with adequate resources to establish a planning office to receive technical assistance from the IBEC professional staff and work with local agencies, officials and NGO's.

IV. FUNCTIONS AND POWERS

- A. Information collection, analysis and dissemination.
1. First task of IBEC will be to collect, maintain and update an inventory of border environmental resources and threats to air quality and water quality, hazardous materials and toxic waste problems, environmental health issues and bioresource problems and to prepare the outlines of a plan for border environmental management and sustainable economic development which identifies initial Critical Environmental Management Areas.
 2. Preparation of an annual "State of the Border" environmental resources report which incorporates information and experiences from the CEMA's. These reports should include the following kinds of information and should be provided to local, state and federal agencies and NGO's for coordinated implementation of solutions.
 - (i) Analyze the actions necessary to protect/manage the quality of shared water resources to ensure adequate supplies of

water for the border region's population, economic development and wildlife.

- (ii) Determine the procedures that are necessary to ensure adequate tracking of hazardous/toxic and radioactive wastes from "cradle to grave."
 - (iii) Promote the actions necessary to encourage the reduction of municipal, industrial, agricultural and radioactive wastes generated within the border region.
 - (iv) Analyze the necessary actions to ensure environmentally sound treatment, storage and/or disposal capacity for toxic and radioactive wastes located within the border region.
- 3. IBEC will act as a clearinghouse for information about environmental problems and related information along the border providing information and technical assistance services to agencies, officials, NGO's and private individuals.
 - 4. CEMA planning office and/or IBEC technical staff will work with local communities, governmental agencies, utilities, and locally based NGO's to develop more detailed environmental management plans for local areas. The goal will be to empower local officials, not to supplant them.

B. Public participation and local border community involvement.

- 1. The IBEC and its staff will be mandated to provide opportunities for direct participation by interested individuals and organizations in the planning process leading up to the annual "State of the Border" report and supplementary reports. Some suggested means for encouraging such participation include:
 - (i) "Scoping workshops" in which interested parties are provided background information, problem identification and proposed solutions and are given an opportunity for oral and written comments.
 - (ii) Public hearings and participation of the public in working groups to provide information and foster support for recommended actions.

- (iii) Public bulletins and newsletters describing the work and proposed actions of the IBEC.
- (iv) Use of computer electronic mail and bulletin board systems to disseminate information, questions and comments to interested individuals and groups.

C. "Ombudsman" environmental oversight function.

1. The IBEC will be authorized to receive and investigate citizen complaints of non-enforcement of environmental laws or other potential problems within the Commission's jurisdiction.
 - (i) The IBEC's technical staff may be directed to investigate the matter and issue a report to the IBEC.
 - (ii) If further action is deemed advisable by the Commissioners, an official IBEC report may be issued on the matter with findings and recommendations for action.
2. The IBEC will also be mandated to regularly review the existing environmental programs in the border region to identify gaps and weaknesses and recommend needed changes. This information would be presented through the annual "State of the Border" reports and in supplementary reports as needed.

D. Establishment of a Border Environmental Trust Fund (BETF) to provide secure financing for operation of the IBEC and ongoing border environmental planning and project implementation.

1. The BETF should receive appropriations from the two national governments. However, it must also have a stable source of funding outside the federal authorization and appropriation process that is logically connected to the increased burden on the border environment resulting from the removal of trade restrictions. This could be provided by a "customs processing fee" dedicated to environment, health and other purposes, which would be a percentage of the value of transboundary trade at a rate low enough to avoid distortion of trade or investment activities.
2. In addition to financing the administrative costs of the IBEC and CEMA's, monies from the Trust Fund should be made available to border communities through grants and low interest loans for needed infrastructure projects identified during the planning process.

Such grants and loans should be directed toward building better management capacity and opportunity for environmentally sustainable and financially self-sufficient development in the local border areas.

3. Particular emphasis should be placed upon improvements in planning, management and infrastructure to enhance the match between user fees and cost-of-service requirements for local utilities.
 4. Funding decisions should be based on flexible cost-sharing that acknowledges the difference in resources that exist in different communities and different sides of the border.
- E. Build upon and strengthen the binational linkages of border communities to facilitate joint problem-solving.
1. Acknowledge and understand the different priorities and perceptions of different cultural and economic groups, looking for commonalities that reach across the border.
 2. Develop public information and educational campaigns that strength the capacity of local bilingual media to cover natural resource and water stories while also emphasizing the binational aspects of water problems to non-bilingual residents.
 3. Host binational meetings and facilitate collection of binational data.

PROPOSAL

for a United States-Mexico

INTERNATIONAL BOUNDARY ENVIRONMENTAL COMMISSION

**A Binational United States-Mexico Border Environmental Management
Institution**

April, 1993

WILLIAM S. TILNEY
MAYOR
KENNETH E. BEASLEY
CHIEF ADMINISTRATIVE OFFICER
MARK ANDREW SMITH
EXECUTIVE ASSISTANT TO THE MAYOR



CITY COUNCIL

GENE FINKE
DISTRICT NO. 1
JESUS TERRAZAS, JR.
DISTRICT NO. 2
TONY PONCE
DISTRICT NO. 3
STAN ROBERTS
DISTRICT NO. 4
JOE C. PICKETT
DISTRICT NO. 5
JAY J. ARMES
DISTRICT NO. 6

An Introductory Note:

On October 16, 1992, we co-hosted an informal meeting to discuss critical problems faced by the El Paso/Juarez/Dona Ana area in dealing with transboundary air quality and water problems.

In attendance were:

Alicia Chacon, Judge El Paso County
William Tilney, Mayor of El Paso
Ed Archuleta, Public Service Board, El Paso
Carolyn Brittin, Texas Development Board
Nat Campos, El Paso City Planning Office
Tyrus G. Fain, Texas General Land Office
Helen Ingram, Udall Center, University of Arizona
Travis Johnson, Senator Lloyd Bentsen
Mary Kelly, Texas Center for Policy Studies
Wesley Leonard, University of Texas at El Paso
Rick Lowerre, Attorney at Law
Martha McCabe, Texas General Land Office
Francisco C. Nunez, Water and Sewage Agency of Juarez
Stephen Riter, University of Texas at El Paso
Ambassador Alberto Szekely
Dora Tovar, Texas General Land Office
Dr. Albert Utton, Transboundary Center, University of New Mexico
Gavin Villareal, Texas General Land Office

Some attended as observers, not representatives or participants and were not involved in preparation of this proposal. Others were invited, but were unable to attend.

As the discussions proceeded, participants expressed an acute awareness of three important considerations whose implications go beyond the meeting's agenda:

- The potential for accelerated deterioration of air quality, water resources and health conditions all along the U.S.-Mexico border unless extraordinary action is taken.
- Uncertainty about how to meet the challenges associated with the transition from a Bush-Quayle to a Clinton-Gore administration.
- The continued lack of any effective means to convey local, strictly bilateral, border needs and perspectives as Canada, Mexico and the United States negotiate sidebar agreements to the NAFTA draft.

El Paso

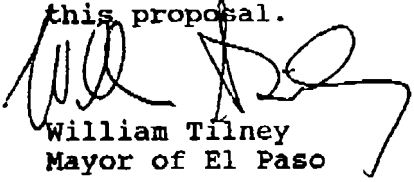
Page 2

There was general agreement that while we should pursue for the El Paso region an attack on air and water problems and whatever help can be found, we need fundamental changes in the way transboundary issues are addressed at all levels of government.

That must involve a new compact between our governments and with the people they are supposed to protect and serve. This need is longstanding and must be addressed, regardless of what happens to NAFTA.

Accordingly, a suggestion was made for several of the experts present to take the lead in drafting a proposal for creation of a structure to provide a new approach to U.S.-Mexico border problems.

We would like to think the proposal which follows is a direct result of our October 16th initiative. But that would fail to acknowledge that this is a product of years of study and work by people like Helen Ingram, Nancy Laney, Steve Mumme, Roberto Sanchez, Alberto Szekely and Albert Utton. We do hope, however, that our support and encouragement has and will continue to inspire the kind of creative thinking on transboundary issues reflected in this proposal.



William Tilney
Mayor of El Paso



Alicia Chacon
El Paso County Judge

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U S A

INTERNATIONAL TRANSBOUNDARY RESOURCES CENTER

MEXICO

CENTRO INTERNACIONAL DE RECURSOS TRANSFRONTERIZOS

PROPOSAL

THE UNIVERSITY OF NEW MEXICO
SCHOOL OF LAW
ALBUQUERQUE, NM
87131-1431, USA
(505) 277-4820

for a United States-Mexico

INTERNATIONAL BOUNDARY ENVIRONMENTAL COMMISSION

A Binational United States-Mexico Border Environmental Management Institution

April, 1993

The United States-Mexico border is truly a region under stress. With increasing economic development and explosive population growth, it is essential to strengthen the institutional capability for protecting the quality of the environment in the border region. With rapidly changing conditions, existing institutions are finding it increasingly difficult to cope with the tasks of providing environmental protection in a transboundary context.

The International Boundary and Water Commission has a long and respected record of achievement, but its treaty mandate focuses primarily on water quantity. The La Paz Agreement of 1983 provides an important vehicle for coordinating the border activities of the environmental agencies of the two countries -the EPA and SEDESOL- but the energy and attention that these hard-working agencies can give the border region has to be shared with compelling concerns throughout each of their respective countries. With the many demands placed on these two agencies, it is difficult for them to provide the focus and continuity essential to addressing the range of the difficult transboundary issues.

The border area now requires a binational institution whose exclusive mandated responsibility is the protection of the environmental quality of the border region itself: a commission which would build on the advances of the La Paz Agreement, and the achievements of the IBWC. It would supplement, not supplant, existing binational institutions.

The NAFTA negotiations now provide an opportunity for environmental institution building--at the trilateral level in the form of a North American Commission on the Environment (NACE), and at the bilateral level with an International Border Environmental Commission (IBEC) which would be a regional entity whose focused responsibility is the protection of the United States-Mexico border region. The NACE and the IBEC would coordinate their activities and thus

THE UDALL CENTER
for Studies in Public Policy



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work in tandem to provide environmental oversight at both the continental and regional levels.

This proposal is a collective effort that builds on the thought and work of many different scholars from both academia and NGO's.

On March 6, 1993, a group of border policy scholars met in Tucson, Arizona under the auspices of the Udall Center for Studies in Public Policy and the International Transboundary Resources Center (CIRT) to review a range of proposals and arrive at a common set of recommendations incorporating the principal points of agreement and emphasis among them. Those attending the meeting were Dr. Helen Ingram and Ms. Nancy Laney from the Udall Center, Professor Albert E. Utton from CIRT, and Professor Stephen D. Mumme from Colorado State University.

As a result of this meeting, a draft proposal was prepared and circulated for comments and revisions were made reflecting the input and suggestions offered. Especially helpful suggestions were made by the following individuals:

Ty Fain
Texas General Land Office

Paul Ganster
San Diego State University
Institute for Regional Studies of the Californias

Dick Kamp
Border Ecology Project

Mary Kelly
Texas Center for Policy Studies

Roberto Sánchez
El Colegio de la Frontera Norte

Alberto Székely
CIRT - Mexico City

Certainly, no single contributor to this process is in total agreement with every aspect of the proposal. The present proposal is just that, a proposal. It is neither the last word nor is every detail worked out, but, it is offered in the spirit of furthering the development of binational institutions to improve the quality of life of the inhabitants of the border region.

CRITERIA FOR AN EFFECTIVE BINATIONAL INSTITUTION

1. Adequate jurisdiction over transboundary natural resources to permit it to collect data, prepare comprehensive plans and improve environmental management along the border.
2. Capable of anticipating problems, setting priorities and acting prior to the emergence of crises that erode institutional trust. Priorities should be set on the basis of the seriousness of problems, efficient allocation of scarce resources and sustainability of solution.
3. Sufficient financial resources to enable it to deal pro-actively with needs and problems before they reach the crisis stage and without the necessity of seeking separate authorization and funding for each project from the national governments.
4. Should be interdisciplinary with capacity and incentives to generate broad support for its programs, building from a base of local grassroots support as well as state and federal backing.
5. Responsive to local communities with local attitudes and experiences built into the development of plans and priorities and with the goal of building the capacity of local institutions to solve problems in a sustainable way that does not initiate or perpetuate a cycle of dependence.
6. Must fit into the already crowded space of existing institutions by helping them meet their goals and work together more cooperatively. Other agencies, officials, NGO's and individuals should be able to look to the institution for information and expertise.
7. Should be flexible to enable it to grow and change with differing conditions and mandates.

PROPOSAL

INTERNATIONAL BOUNDARY ENVIRONMENTAL COMMISSION (IBEC)

We propose the creation of a new border environmental institution with oversight jurisdiction over water quality (surface and ground water), air quality, hazardous material and toxic waste management and other environmental quality and health matters in the United States-Mexico Border Region. This should be done through codification of the annexes under the La Paz Agreement in treaty form with designation of the IBEC as the lead agency with responsibility for border environmental protection.

- B. Oversight jurisdiction covering the entire United States-Mexico border with the ability to designate local areas as having critical environmental management needs.
 - C. Avoiding supra-national law enforcement authority, but rather relying on the "intrusive sunshine" of regular reports to the public and governments evaluating the state of border environment and enforcement programs of the various governmental agencies.
 - D. Empowering local governments and agencies to become self supporting through improved information, planning, and management, and enhanced infrastructure, metering, fee collection, and bonding capability. Emphasis should be placed on supplementing existing state and local cost sharing arrangements.
 - E. Obtaining adequate and ongoing sources of revenue to permit the IBEC to fund pro-active planning and management activities and to provide low interest loans, grant funding and other incentives to local areas to build infrastructure and management capability.
 - F. Striving to incrementally improve the quality of the environment and access of water users on each side of the border to good quality water supply and waste water services with ongoing emphasis on what users themselves want and are most concerned about.
 - G. Developing and maintaining the capability for production and open access to environmental data in the border region through development of a border database.
 - H. Working toward the goal of self-sufficient, self-supporting utilities with cost of service fee structures as users develop more confidence in the system and rely less on individual solutions.
 - I. Strengthening positive binational linkages along the border recognizing that the border culture provides an important unity to the binational region.
- III. STRUCTURE: Binational commission with strong local involvement in the border region.
- A. A binational commission supported by advisory boards.
 - 1. Commission co-chaired by appointees of the Presidents of Mexico and the United States, (in the United States confirmed by the Senate), who serve at the pleasure of the respective Presidents. Each co-chair would be a full-time paid employee of

- C. The secretariat for the IBEC should be a binational, interdisciplinary support staff with broad expertise in environmental affairs.
 - 1. The technical staff should emphasize social, legal, planning and economic as well as engineering and scientific expertise to permit it to collect, analyze and synthesize data and to make recommendations in accord with the IBEC mandates.
 - 2. The secretariat will be responsible to the entire Commission but will report on an ongoing basis to the Co-chairs.
 - 3. Staff will be responsible for chairing and organizing the working groups created by the Commission.
- D. Critical Environmental Management Areas (CEMA's) may be designated in border areas identified as having significant environmental problems.
 - 1. Designation of CEMA would be the responsibility of the IBEC, but nominations could come from the IBEC staff or from local areas who wish to be designated as a CEMA.
 - 2. Each CEMA must be provided with adequate resources to establish a planning office to receive technical assistance from the IBEC professional staff and work with local agencies, officials and NGO's.

IV. FUNCTIONS AND POWERS

- A. Information collection, analysis and dissemination.
 - 1. First task of IBEC will be to collect, maintain and update an inventory of border environmental resources and threats to air quality and water quality, hazardous materials and toxic waste problems, environmental health issues and bioresource problems and to prepare the outlines of a plan for border environmental management and sustainable economic development which identifies initial Critical Environmental Management Areas.
 - 2. Preparation of an annual "State of the Border Environment" Report which incorporates information and experiences from the CEMA's as well as the rest of the border region. These reports should include the following kinds of information and

- (i) "Scoping workshops" in which interested parties are provided background information, problem identification and proposed solutions and are given an opportunity for oral and written comments.
- (ii) Public hearings and participation of the public in working groups to provide information and foster support for recommended actions.
- (iii) Public bulletins and newsletters describing the work and proposed actions of the IBEC.
- (iv) Use of computer electronic mail and bulletin board systems to disseminate information, questions and comments to interested individuals and groups.

C. "Ombudsman" environmental oversight function.

- 1. The IBEC will be authorized to receive and investigate citizen complaints of non-enforcement of environmental laws or other potential problems within the Commission's jurisdiction.
 - (i) The IBEC's technical staff may be directed to investigate the matter and issue a report to the IBEC.
 - (ii) If further action is deemed advisable by the Commissioners, an official IBEC report may be issued on the matter with findings and recommendations for action.
- 2. The IBEC will also be mandated to regularly review the existing environmental programs in the border region to identify gaps and weaknesses and recommend needed changes. This information would be presented through the annual "State of the Border" reports and in supplementary reports as needed.

D. Border Environmental Trust Fund (BETF) to provide secure financing for operation of the IBEC and ongoing border environmental planning and project implementation.

- 1. The BETF should receive appropriations from the two national governments. However, it must also have a stable source of funding outside the federal authorization and appropriation process that is logically connected to the increased burden on the border environment resulting from the removal of trade restrictions. This could be provided by a "customs processing

GENERAL LAND OFFICE

GARRY MAURO
COMMISSIONER
MEMORANDUM

DATE: April 14, 1993

TO: Jose Villareal, Susana Valdez

FROM: Garry Mauro *Garry Mauro*

SUBJECT: Action on U.S./Mexico Border, NAFTA and related issues

This is my understanding of how we concluded Tuesday's visit about how the administration can begin fulfilling commitments on Southwest Border problems.

First: Through our joint efforts key leaders and underutilized experts will be brought into informal consultation with a small group of Administration staffers you will identify and have convened. This ad hoc work should begin before the April 25 IAF meeting in El Paso on border pollution.

Purpose: We are seeking to:

1. Bring to the forefront of Clinton Administration concern some critical issues that are unique to the U.S.-Mexico border and in danger of being neglected by the transition from campaigning to governing.
2. Facilitate access and participation by heretofore underutilized, highly committed people from the border region who are, in one combination or another, experts, officials, leaders or Clinton loyalists. They all want to be involved in changing how we deal with border problems.

Between now and the end of April we will work with you on:

- a. Organizing a multi-jurisdictional border working group which will take responsibility for convening a southwest border policy conference for this spring in El Paso.
- b. Working to organize and instruct a longer term White House task force or Border Environmental Board, with responsibility to recommend federal policy, suggest legislative action, inform the public and build consensus on

border issues. Its range of attention will include NAFTA sidebar agreements, joint commissions with Mexico, and funding mechanisms to deal with special border problems.

c. Organizing a meeting, as appropriate, between border leaders and the President.

Much of our work can be done by telephone and by facilitating contact between people ready to work. We needn't wait for formal designation to begin proposing and planning. We should meet, or at least confer by phone no later than April 21. (I may be in Washington for a day or so that and the following week.)

Note: Copies of recent memos on border issues and our concerns are attached for background reading.

GENERAL LAND OFFICE

GARRY MAURO
COMMISSIONER

MEMORANDUM

DATE: April 14, 1993

TO: Garry Mauro
FROM: Ty Fain
SUBJECT: Border Initiative: Next 90 Days Targets

A. By April 30:

Get go-ahead from White House. (Or informally support border leaders as they proceed on their own.)

B. By May 15:

Get okay on attached IBEC draft for a Border Commission bill from: Coleman, de la Garza, Richardson, Pastor, Bingaman, Krueger, Feinstein, Boxer, DeConcini.

C. By June 15:

Have okay on IBEC draft from participants in border summit in El Paso. (Hispanic Organizations, BTA et al, Mayors and Judges, Governors and others.)

D. At Border Summit:

Announce Consensus Border Agenda. (1) Commission bill, (2) NAFTA sidebars, (3) Executive Orders on Administration policy and follow-up Task Force (or de la Garza's Border Board).

TEXAS GENERAL LAND OFFICE

GARRY MAURO
COMMISSIONER

MEMORANDUM

March 10, 1993

From: Garry Mauro

RE: NAFTA & the S.W. Border - A New Initiative

Note: This memo addresses only one element of the many issues involved in how the U.S. government should deal with environmental problems associated with Mexico and NAFTA. It has been prepared in consultation with state and local officials, non-governmental organizations, business leaders and Members of Congress from the four states on our land border with Mexico. It is an outgrowth of many meetings and discussions along both sides of the Border, in Washington and in Mexico City. We are joined in this effort by strong supporters of the Clinton administration who know the problems of the border and are ready to give of their time and talent.

A Domestic Issue As trade between Mexico and the United States increases, border states and communities anticipate new and greater strains on our environment, public health and safety, and physical and social infrastructure. How will such strains affect people who live on our Southwest Border and what, if any, extraordinary federal action should precede NAFTA?

The Reagan-Bush Effort After a NAFTA became a likely possibility and there was an outcry over environmental and labor issues, the Administration proposed a number of border environmental projects. They were developed by the EPA, the International Boundary and Water Commission (IBWC) and Mexican Government agencies. The planners employed a process sanctioned by the La Paz Agreement and presented in 1991 as "The Integrated Border Environmental Plan" (IBEP). They were severely criticized for failure to involve, or even consult with, state and local governments, business leaders, non-governmental organizations and Congress.

The top-down, non-inclusive process employed on the U.S. side of the border was uncharacteristic of EPA, more akin to the planning style often attributed to the IBWC and the Government of Mexico. Whatever merit its projects may have, the IBEP has a bad reputation and deals with only a few of the many environmental problems of the border region. Even if the plan were comprehensive, a myriad of complex non-environmental problems face border residents and remain unaddressed. Furthermore, the source of funding cited for the first two years of the U.S. commitment was vague at best and non-existent for the second phase. In short, IBEP was a narrowly conceived, poorly conducted process; a failure in terms of policy planning, politics and public relations.

A Proposed Clinton Initiative Before NAFTA is presented for implementation, the Clinton administration should demonstrate its commitment to change on the S.W. Border, break with the past and "put people first" through a new initiative on the Southwest border.

The first step is creation of a Presidential task force to identify and recommend action on unique problems local communities and states suffer by virtue of their being on our international border with Mexico.

Attention should be balanced between existing problems and those that may arise or be aggravated by increased cross-border activity. The initiative must be planned and conducted in close cooperation with state and local leaders from the public, business and non-profit sectors of the region. It must be cognizant and respectful of current budgetary restraints. Members of Congress from effected districts and committees with jurisdiction must be consulted, and as appropriate, engaged.

Findings and recommendations should be developed expeditiously and some progress reports issued almost immediately to demonstrate to taskforce-weary border citizens that this administration wants meaningful action.

A Presidential Task Force Within the Task Force three working groups should be constituted and instructed to come forward with a workable and sustainable domestic border plan within a short period of time (under a year).

1. The Border Region Working Group

This working group should be composed largely of local and state leaders from four Border states. It is to include unpaid appointees, balanced between officials, business and labor leaders, technical experts and representatives from the nonprofit sector. Although they may meet as a full group, most of their work will be on task-oriented teams of short duration.

Members will be appointed by the President and their work will be supported by a small professional staff. In due course, perhaps within a year, members should move into positions on such things as the EPA's IBEP advisory group, or the Border Environmental Board, created under legislation enacted last year and still unfilled.

This working group is essential to bring local and grass roots participation into planning the Border's future. It is vital to provide integrity to the IBEP and credibility to the Clinton administration's commitment to the border.

President Clinton has been sent a letter on the need for this working group by El Paso County Judge Alicia Chacon and Mayor William Tilney. They and their staff have contributed to this memo. We have consulted with most of their counterparts in Texas cities. Judge Chacon is the incoming Chair of the Mexican American Legal Defense Fund (MALDEF) which is working with other Hispanic groups to secure more attention to border problems as NAFTA moves forward.

In addition, a number of grass roots and non-governmental organizations on the Border have expressed an interest in a new approach to these issues. Earlier this week a number of the environmental groups were brought together by Governor Richards's staff and produced a set of recommendations for "sidebar" agreements within the NAFTA. They are consistent with this initiative and are attached.

Mary Kelly of the Texas Center for Policy Studies, Professor Al Utton of the University of New Mexico Center on Transboundary Resources and Helen Ingram of the Udall Center at the University of Arizona are in touch with us on this initiative and have provided input from recent meetings in San Diego, Tuscon and Santa Fe.

Simply put, help is available to the Administration from the grassroots. The goodwill is there. They need a structure and a mandate from Washington.

2. The Cabinet Working Group on the S.W. Border

Cabinet members with relevant border responsibilities , their alternates and selected others, will be instructed by the President to serve on this special committee. It is to have its own small (detailed) staff and be charged with moving the findings and recommendations from the working groups of the task force into national policy, through the budget process and into administration programs.

The formation and work of this committee should not delay meritorious federal projects ready to proceed. They must be given highest priority, especially if they support the national economic stimulus program. Similar priority should be given matters needing legislation in this session of Congress or incorporated into parallel NAFTA agreements.

3. A Congressional Commitment

The Congressional leadership should be asked to designate Members and staff to undertake a special parallel initiative on federal policy toward the S.W. Border. Its job will be to propose policies and projects as well as deal with problems and proposals presented by the Cabinet Committee and the citizens' task force.

Congressional involvement at the outset is key to the success of the President's initiative. House Agriculture Chairman de la Garza is a leader on NAFTA border issues and very well connected in Mexico. His bill for a bilateral border environmental board was enacted last year. Senator Bob Krueger is an expert on Mexico and the border region. Ron Coleman of El Paso sits on the Appropriations Committee. Bill Richardson of New Mexico is a leader in Congress and the Hispanic community. He has legislation pending on border issues as do Senators de Concini and McCain of Arizona. From California to Texas and into the heartland there is Congressional concern about the problems, risks and opportunities we face on our border with Mexico.

The Bilateral Dimension The principal short term mandate of these three "working groups" will be to recommend coordinated federal domestic policies and actions that can be funded, if needed, and implemented. Each working unit must, however, have designated members and staff prepared to address relevant bilateral matters. As such matters arise or attention turns to them, the task forces must proceed in accordance with U.S. policy toward Mexico, treaties and agreements in force, etc.. This will require a close staff working relationship with the State Department, the EPA-SEDASOL group and the U.S. Trade Representative.

In addition, a procedure acceptable to the Government of Mexico, the Treasury Department and the institutions concerned is needed to confer on resource requirements and plans with the World Bank, Interamerican Development Bank and other bodies funding border projects on the Mexican side.

White House Action Each element of this three party initiative - state/local, executive and congressional - is essential to expeditiously create a sound federal policy on the Southwest Border. A level of intergovernmental cooperation is required which is unlikely to occur without a Presidential mandate and White House oversight.

But there is more involved than simply bringing all the parties together. The initiative must move expeditiously and not lag behind NAFTA implementation. Given the pressure to move NAFTA forward at almost any cost, the power and prestige of the White House needs to be available to indelibly stamp a "put people first" on this administrations approach to NAFTA and Border issues.

Recommendation: An executive order should be drafted for the President's signature creating a Presidential Task Force on the Southwest Border, as described above, and giving it a clear mandate to produce recommendations for action by a date certain. After informal consultation, a communication should be sent to the leadership of Congress asking for the equivalent of a legislative task force to work alongside those created by the President.

BASIC PRINCIPLES -- ENVIRONMENTAL SIDEBAR AGREEMENT
draft, 3/9/93

I. FUNDING

A. Restore EPA funding for border environmental investments and remediation to at least \$300 million in FY 94. Require EPA to set realistic resource estimates for implementing the first phase of the Integrated Border Environmental Plan (IBEP), and request necessary appropriations for implementation.

B. Identify new funding sources to generate additional and substantial revenues needed for infrastructure (water, wastewater, solid waste, certain transportation improvements), regulatory activities and enforcement. (SEE GEPHARDT STATEMENTS) Options: phased-out tariffs, transaction or user fees, direct appropriations, industry contributions, other sources.

- o Create a new financing institution (such as a regional development bank) with authority to issue bonds, award grants, and loan funds for capital construction projects. A portion of the new revenues should be dedicated for infrastructure development and distributed through this mechanism. (SEE WYDEN/RICHARDSON PROPOSAL)

- o For the U.S. only, guarantee that some specified portion of any funds (50-75 percent) generated within a state would be returned to that state. Maximize the state role in identifying infrastructure projects for funding, and require that the financing institution defer to the state's priorities in awarding grants and loans except in cases where compelling international problems require adjustments to those priorities. (State priority lists could be subject to review by EPA or the NACE for consistency with the Integrated Border Environmental Plan or successor border plans.) Other funds not dedicated to infrastructure development should be distributed primarily through existing arrangements such as EPA-state agreements for environmental enforcement.

II. NORTH AMERICAN COMMISSION ON THE ENVIRONMENT
(NACE)

- o Create a North American Commission on the Environment as agreed to in principle by the three NAFTA countries last year and

essentially embodied by SENATOR BAUCUS' PROPOSAL. Specifically, the NACE should:

- o include state, local, and public members;
- o in addition to general environmental oversight, provide a focal point for consideration of transborder problems (air pollution, hazardous waste transportation across international boundaries, acid rain, etc.) not addressed by other bilateral agreements;
- o have investigative powers and authority to refer problems to dispute resolution panels; *or other enforcement agencies*
- o retain a permanent staff with adequate funding (provided by a portion of the new revenues generated by a transaction fee or other mechanism);
- o oversee environmental law enforcement and implementation of environmental agreements between all three NAFTA countries;
- o monitor trends and identify problems related to common biological resources and biodiversity;
- o have authority to accept and respond to complaints (including citizen complaints) regarding inadequate environmental enforcement, authority to recommend corrective action to appropriate governmental agencies, and authority to refer cases to NAFTA dispute resolution panels if a country fails to correct an identified problem;
- o guarantee public access to information and public participation in all proceedings;
- o NOT be charged with developing minimum environmental standards.

III. DISPUTE RESOLUTION

Specific language is needed to clarify a number of issues in the NAFTA related to dispute resolution. These include (but may not be limited to -- see lists to be submitted by Environmental Defense Fund and Natural Resources Defense Council):

- o The structure and operations of the dispute resolution panels must be clearly defined, as well as the standard of review they will apply. Dispute panel hearings must be open to the public and invite public participation. The role of these panels relative to existing federal and state regulatory agencies, and federal and state regulatory standards and rules, must be clarified. Strong provisions must be included to confirm that the NAFTA protects the rights of states to set standards more stringent than federal or international standards so long as those standards are not specifically designed to discriminate against Mexican

or Canadian goods or services.

- o New provisions must expand Annex 104.1 to extend the NAFTA's exemption to all international environmental agreements that employ trade restrictions (e.g., MARPOL treaty restricting ocean dumping, various wildlife agreements).

- o Language is needed to clarify that NAFTA provisions affecting the energy sector do not preclude the ability of any country or state to create incentives for energy efficient products and renewable energy resources, or to limit regulatory strategies that encourage energy conservation.

IV. INSTITUTIONAL REFORMS

A. International Boundary and Water Commission (IBWC): reform the United States Section of the IBWC to clarify and limit its responsibilities (and limit its role in activities such as water quality activities under the direct jurisdiction of EPA and state authorities); restructure the IBWC's board to provide for state and local government representation through formal advisory committees, and force its operations to be more accountable to the public.

B. U.S. Environmental Protection Agency: Create a new EPA regional or field EPA field office in El Paso, Texas, charged with coordinating EPA's border activities. (REP. RON COLEMAN PROPOSAL.)

C. La Paz Agreement: Explore strengthening the 1983 agreement to require meaningful participation by state and local governments and the public and to clarify procedures by which the consultation envisioned in the agreement must occur.

V. OTHER ISSUES

A. Wildlife trade, wildlife habitat protection, biodiversity issues. (SEE LANGUAGE TO BE SUBMITTED BY THE INTERIOR DEPARTMENT, NATIONAL AUDUBON SOCIETY.)

B. "Right to Know" provisions applied to U.S. companies operating in Mexico.

TO: KATIE MCGINTY/DAN BLANK

FROM: S. VALDEZ

DATE: APRIL 23, 1993

RE: THE ESTABLISHMENT OF A COMMISSION TO ADDRESS THE ISSUE OF THE ENVIRONMENT WITH REGARD TO THE BORDER STATES AND THE NAFTA AGREEMENT

*How - -
What is your
purpose of
this?*

=====

GARRY MAURO, the commissioner of the TEXAS GENERAL LAND OFFICE, has been in continuing contact with the office of Public Liaison here at the White House seeking the President's ear on an issue that is of great importance to him. He is concerned about the possible negative environmental impact passage of the NAFTA agreement may have on the US states bordering Mexico. His concerns, which are shared by many in the region, are stated concisely in a study commissioned by THE UDALL CENTER, at the UNIVERSITY OF AZ: "the US-Mexico border is truly a region under stress. With increasing economic development and explosive population growth, it is essential to strengthen the institutional capability for protecting the quality of the environment in the border region."

One proposal put forward by the UDALL CENTER to address the potential impact of expanded trade on the environment of the region calls for the establishment of an INTERNATIONAL BOUNDARY ENVIRONMENTAL COMMISSION (IBEC), which would be a binational border environmental management institution. IBEC would not duplicate or supplant existing institutions, but instead serve a needed coordinating and service role in environmental matters along the US-Mexico border.

This, however, was not the commission meant when MAURO asked for presidential action. He was looking at that stage only for a demonstration of the Administration's firm commitment to engage itself on this issue. A suitable start would take the form of a unilateral US commission to look into the structure and spending of any bilateral effort. This is what MAURO and TYRUS FAIN, a cohort, call the TASK FORCE.

The MAURO request and the UDALL CENTER proposal were hatched from different eggs, but come from the same chicken. Each idea sprang of its own accord, but are both designed to address what is generally feared to be potentially catastrophic results on the ecosystem of the region in the name of free trade. And the beauty of it the two ideas are: they fit nicely together. The creation of IBEC could be facilitated by a US commission which preceded it.

It would seem as though this is the most natural fit as well. Indeed, it seems already to have taken place to some degree. In a memo from FAIN to MAURO, a 90 day schedule has been drawn up to push the IBEC idea. A commission to help identify the problems on this side of the US border before any multi-national commission comes into existence followed later by that multi-national commission seems to be the way they want to head.

It is hard to image what sort of objections could be raised to this approach from the inside. One drawback to this approach, which is likely to be raised from the outside, is obvious: money. Is there money to spend, and will it be well spent? That determination, however, must come from more thorough analysis. There is also a further possible stumbling block.

When NAFTA first seemed as though it might become a reality, people down in the border region cried out over such issues as the environment. To deflect some of this concern, the Bush Administration proposed something called the INTEGRATED BORDER ENVIRONMENTAL PLAN (IBEP). This plan was severely criticized for failing to consult local groups. It was, in the words of MAURO, "a narrowly conceived, poorly conducted process."

But as is the case elsewhere in the world, a bureaucracy which has failed to serve its function well nonetheless lives on in the form of those who are on the payroll. Any attempt to sidestep this bureaucracy may cause problems for those wishing to do it. As stated by FAIN: "There could also be a perceived diminution, even replacement, of entrenched processes and working relationships in the Integrated Border Environment Plan (IBEP)... On the other hand, few of those who elected Bill Clinton and want real action on the Border are entrenched in the IBEP...process." This is probably something that needs to be thought about when considering what action to take.

That is the situation as it stands now. There are of course other players, and other aspects to this idea, but they do not form the core of the issue at the moment. I will however list the names of some of those you may need to know.

GARY MAURO; TYRUS FAIN (both of the TEXAS GENERAL LAND OFFICE); WILLIAM TILNEY, Mayor of El Paso; ALICIA CHACON, El Paso County Judge; THE UDALL CENTER FOR PUBLIC POLICY at U of AZ; on the 90 day schedule mentioned above (all from the Hill): COLEMAN; DE LA GARZA; RICHARDSON; PASTOR; BINGAMAN; KRUEGER; FEINSTEIN; BOXER; DECONCINI.

03-08-1993 03:04PM FROM

TO

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P.03

WILLIAM S. TILNEY
Mayor
KENNETH E. BEASLEY
Chief Administrative Officer
MARK ANDREW SMITH
Executive Assistant to the Mayor



CITY COUNCIL

GENE FINKE
DISTRICT NO. 1
JESUS TERRAZAS, JR.
DISTRICT NO. 2
TONY PONCE
DISTRICT NO. 3
STAN ROBERTS
DISTRICT NO. 4
JOE C. PICKETT
DISTRICT NO. 5
JAY J. ARMES
DISTRICT NO. 6

March 4, 1993

The Honorable William Clinton
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

When you say you support NAFTA, "but only with environmental safeguards", we, who live on the border, believe you are talking about us.

As border residents, we are committed to working for NAFTA's success; however, we are insistent that NAFTA contain clear and effective federal environmental protection. Without these safeguards, our border area will predictably suffer far-reaching consequences. The new administration brings hope and the promise of leadership. A demonstration of this would be aggressive, inclusive action which proposes solutions to the border's environmental concerns. The NAFTA timetable demands it.

Accurate information and planning is essential to the creation of a sound NAFTA environmental policy. Currently, there is a lack of policy and consensus directed at border environmental issues. To significantly address this void, it is our recommendation that a President's Environmental Task force on the U.S./Mexico Border be appointed immediately.

The focus of this professionally staffed, unpaid Task Force would include environmental-specific issues such as:

- * initiation of a new Border Commission
- * a Border Development Bank
- * special disease control and public health protection
- * a revenue stream for infrastructure investment linked to border transaction
- * changes in the enabling law underlying the U.S. section of the IBWC
- * the adequacy of the LA Paz Agreement
- * the Integrated Border Environmental Plan
- * cross-border cooperation by federal officials
- * need for federal agency offices on the border
- * protection and management of transboundary natural resources

The Honorable William Clinton
March 4, 1993
Page 2

Specifically, the Task Force would be charged with:

- a) identifying environmental issues within border communities;
- b) proposing policies, enabling legislation, and bilateral agreements on both domestic and bilateral border environmental issues; and
- c) recommending federal regulatory enforcement standards.

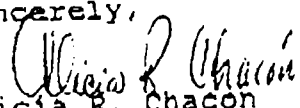
Present efforts, such as those which address available economic stimulus, public health, environmental remediation, and research funding along the border, must work concurrently with the Task Force. It is equally important that projects such as the EPA's bilateral border program with SEDASOL and our joint health project with Mexico continue. Expansion of the IBWC should be held in abeyance, but neither the 1944 Treaty nor the appointment of a new U.S. Commissioner need be affected.

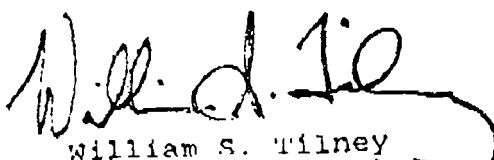
The Environmental Task Force, operating with the authority of the White House, would be a strong indicator that the Administration is committed to issues that deeply concern border residents. Our feeling is that appointments to the Task Force should not be more than thirty participants. Local and state officials from the border area, representatives from the private and non-profit sector, representatives from appropriate Cabinet departments, federal agencies, and Congressional involvement as well as technical advisors would provide an inclusive membership. Additionally, direction concerning bilateral consultation and participation would be an essential planning procedure. We are ready to submit specific recommendations on structure and membership, upon request.

From Texas to California, public officials, business leaders, editorial writers, scholars and activists, join us in urging the creation of the President's Environmental Task Force on the U.S./Mexico Border. Further, we offer our commitment in advising the creation of the Task Force as well would accept appointment to its membership.

We appreciate your attention to our concerns and remain in enthusiastic support of the Administration's efforts to serve our constituents.

Sincerely,


Alicia R. Chacon
El Paso County Judge


William S. Tilney
Mayor, City of El Paso

IX, Rural Legal Aid 10-011-900 0020

frontera audubon society

P.O. Box 8124 • Weslaco, Texas 78596 • (512) 968-3275

March 11, 1993

Katie McGinty
Deputy Assistant & Director
The White House Office on Environmental Policy
Old Executive Office Building
Room 358
Washington, D.C. 20501

Dear Ms. McGinty:

We are excited that President Clinton and Vice President Gore put an Environmental Office in the White House and placed you in charge. We see this as a giant step forward in elevating the environment to the priority it deserves, and we wish you the very best. Please let us know if there is ever anything we can do to help you.

This region's natural resources can already use your assistance. We believe our suggestions will result in savings of federal tax monies, internationally important wildlife resources, and the economies dependent upon them. Mike Cattaruzza and I will be coming to Washington from South Texas to testify before the House Appropriations Subcommittee on Interior on Wednesday, March 24th. We hope that you will find time to meet with us during our week in Washington to further discuss our request. We have attached Information Sheets detailing the items we wish to discuss. In brief:

First, we ask that the International Boundary & Water Commission (IBWC) be directed to work hand-in-hand with their sister federal agency, the U.S. Fish & Wildlife Service, to obtain both flood control and wildlife resource protection with the least expenditure of federal monies. Appointment of a Commissioner who is sensitive to the economic and environmental realities of this region to head the IBWC would be a giant first step in accomplishing that goal.

Second, please assure us that the Clinton Administration will view the currently-planned and newly-proposed bridges linking the United States and Mexico in a regional, cumulative light; that you will make certain there is a demonstrated need for bridges before they are considered for Presidential Permits; and that the Clinton Administration will make certain federal agencies work together so that permitted bridges (as well as other major federal projects) will be built in an environmentally and fiscally sound manner. Putting a hold on new Presidential Permits for Bridges until the cumulative impacts are assessed would be a logical first step.

"To Increase Environmental Awareness"



Both of these requests are grounded in our belief that all major federal decisions/actions here and elsewhere should be reviewed for fiscal and environmental soundness. As you know, our nation's natural resources and treasury are suffering in part because we have created bureaucracies that are at odds with each other, are ignorant of each other, or duplicate efforts. We can no longer afford to have sister agencies ignoring, duplicating, or un-doing each other's efforts. We see a fully functional and enforceable Council on Environmental Quality as a step sorely needed to lessen these burdens.

We respectfully request a meeting with you while we are in Washington. We testify Wednesday morning and are unavailable at that time. Does your schedule have any openings on Monday, Tuesday, Thursday or Friday of the week of the 22nd? We look forward to hearing from you. Please once again accept our heartfelt hope that you will be able to accomplish much for the environment from the White House. You have our very best wishes for success.

Sincerely,

Maurie Haas/rr

Maurie Haas

MH/cc

Enc.

INFORMATION SHEET ON IBWC & FWS

International Boundary & Water Commission (IBWC) & U.S. Fish & Wildlife Service (FWS). The U.S. Fish & Wildlife Service has spent fourteen years working on one of our nation's highest priority level habitat acquisition projects - the Lower Rio Grande Valley National Wildlife Refuge. Congress has generously funded the project and there are numerous state, county, city and private efforts underway in the region to complement the federal effort. Together we are working to piece together the remnants of an undeniably valuable, unduplicated international wildlife treasure of plants and animals found nowhere else in the United States; to connect those pieces via "wildlife corridors"; to make certain that the diverse ecosystems found here are available for future generations; to keep threatened species from finding their way onto the endangered species list; to remove species already on the endangered species list; and to bolster and stabilize our local economies via natural and cultural resource protection industries such as tourism, hunting, and fishing.

Over the years we have often found ourselves at odds with the International Boundary and Water Commission, the federal agency controlling our regional floodway systems, including the Rio Grande and our natural drainage system, the Arroyo Colorado. IBWC has consistently made decisions running counter to natural resource protection, directly un-doing the work undertaken by FWS, and harming the ability of the floodway system to properly work. IBWC decisions are often not based on scientific, engineering, or hydrologic data. What are results of this federal agency frequently acting above the law? A floodway system with major flaws. Lost wildlife resources of immense heritage and economic value. At best, two agencies ignorant of each other's actions regarding the same "turf" and at worst at odds with each other, resulting in unnecessary expenditures of federal tax monies as one agency undoes the work of the other.

We strongly believe this does not need to happen. Wildlife and people can co-exist in this region if the federal agencies will work together. Please help us make that happen. Have President Clinton appoint a Commissioner to head IBWC who will be sensitive to the big picture of this region - seeking to provide flood protection, wildlife protection, and economic benefits while also reducing federal spending overall. Make certain that federal agencies like FWS & IBWC work together and that federal decisions are reviewed to address resource and financial soundness.

INFORMATION SHEET ON INTERNATIONAL BRIDGES

International Bridges. The possibility of the North American Free Trade Agreement (NAFTA) moving forward puts additional strain on an area that already feels the pressures of overpopulation. Of particular concern is the proliferation of bridges and bridge proposals. (The newest bridge here is already called "The Free Trade Bridge.")

Bridges compromise our ability to complete the Wildlife Corridor along the Lower Rio Grande. (See preceding Information Sheet on IBWC & FWS.) They are destructive to the corridor and bring increased pressure to develop (for-other-than-wildlife-uses) areas near the bridges. In each instance this makes the recovery of already endangered species difficult or impossible and increases the probability of adding new species to the endangered list.

In addition to the environmental costs associated with bridges, they cost money - not only for the bridge itself but for the connecting roads, railroads, customs and border patrol facilities/staffs, maintenance, etc. Federal costs associated with continued and additional endangered species protection also rise.

Any need for additional bridges should to be evaluated on a regional basis so the total and cumulative costs and impacts associated with those bridges can be addressed. Cumulative assessments would result in the best savings possible of both money and wildlife resources. Then only those bridges shown to be needed would be permitted/built and only with the best fiscal and environmental requirements in place.

Presidential Permits are required to build an international bridge. Please make certain that these environmental and fiscal restraints are in place before issuing and renewing any permits. Please also direct the Coast Guard, who also must permit each international bridge built across the Rio Grande, to work with their sister agency, FWS, to make certain that cumulative impacts are addressed and that wildlife needs are taken into consideration in bridge design and construction. Consistent positions from both FWS and the Coast Guard regarding bridge permits would make it easier for applicants to know what is expected. Time, money, and natural resources would be saved.

ATTACHMENT #4

EPA MEXICAN BORDER ACHIEVEMENTS

- o EPA and SEDESOL (The Mexican Secretariat for Social Development) are currently carrying out activities recommended in the 1992 Environmental Plan. The Border Plan outlines plans to protect human health and natural ecosystems within 100 km (60 miles) on either side of the international border.
- o Key objectives of the Plan include: strengthened enforcement of existing laws; reduction of pollution through new initiatives; increased cooperative planning, training, and education; heightened public awareness of the border environment; and increased public and state/local government roles in Border Plan implementation.
- o Examples of our achievements include:
 - Pollution Prevention - EPA and SEDESOL have just released the first of a series of bilingual pollution prevention manuals focusing on the metal finishing industry. Other manuals will be developed in the coming months to focus on key industries. We also hope to work together to establish a binational voluntary toxic reduction program.

Emergency Planning and Response - Cooperative programs have been initiated in all of the 14 sister cities along the Border involving transborder planning, accident prevention and response.

Hazardous Waste/Solid Waste - Initial development of a database system to track the transboundary movement of hazardous waste from generation to disposal, technical exchange and training projects to enhance compliance with the regulatory program, and identification of inactive and abandoned waste sites in the border area.

Cooperative Enforcement - EPA has provided training to over 200 SEDESOL inspectors in the last year. Almost 20 federal and state enforcement actions were begun on the U.S. side of the Border. More than 200 facilities in Mexico were temporarily or permanently shut down by Mexican officials for failure to comply with Mexico's environmental laws.

Air - Work includes field studies in the El Paso - Juarez area, the placing of a monitoring stations in the San Diego - Tijuana area; and workshops on air quality data in Imperial Valley-Mexicali.

Water - Construction is underway for the Tijuana/San Diego wastewater treatment system, in Nuevo Laredo and in Ambos Nogales. In the U.S. Colonias, EPA closely with the Department of Agriculture and the Department of Housing and Urban Development to construct wastewater systems and assure safe drinking water for the more than 200,000 residents of these communities in Texas and New Mexico.

March 30, 1993

**TABLE 1. U.S.-MEXICO BORDER
INTERNATIONAL AND U.S. COLONIA
WASTEWATER TREATMENT FUNDING NEEDS
-- U.S. GOVERNMENT SHARE
(\$ million)**

	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>Beyond</u>	<u>Total</u>
Tijuana (1)	70	41	--	--	--	--	(111)
Mexicali (2)	10	65	--	--	--	--	(75)
Nogales (3)	5	13	40	--	--	--	(58)
C. Acuña (3)	5	--	28	--	--	20	(53)
Reynosa (3)	--	5	63	5	--	70	(143)
Other Int'l (4)	--	26	148	342	129	119	(764)
Texas Colonias (5)	50	50	50	50	27	--	(227)
New Mexico Colonias (5)	10	--	--	--	--	--	(10)
TOTALS	150	240	329	397	156	209	(1461)

NOTES:

- (1) U.S. share based on known needs and negotiated cost shares.
- (2) U.S. share based on signed Minute (International agreement) that sets a \$75 million goal for U.S. participation.
- (3) Based on Corps of Engineers (COE) study for International Boundary and Water Commission (IBWC). U.S. share will be determined during negotiation of individual project minutes prior to detailed project planning. IBWC's negotiating goal is to achieve U.S. benefits with U.S. cost share at 50% or less. U.S. share assumed to be 50% of total need.
- (4) See note 3. COE cost estimating study included all border city-pairs with significant international wastewater treatment needs outstanding.
- (5) Colonia cost estimates provided by the States. Assumes 50% State match.

Date: 6/25/93

FACSIMILE COVER SHEET

FROM: *Walter W. Kovalick, Jr., Ph. D.*
Acting Deputy Assistant Administrator
Office of Solid Waste & Emergency Response

Telephone: (202) 260-4610
Fax: (202) 260-3527

TO: KATIE MCGINTY
OFFICE OF ENV. POLICY

FAX: 456-2710

Pages to follow: 2

Regarding: Possible Mexican initiative for
technology. — Bob Lussman asked me to
call, but I missed you today. Attached
is a proposal/concept which we think has
merit as well as resource issues. We think
this has much greater potential for success
than remediation.

DAN: IS THIS YOURS?

KEITH
6/28

DRAFT #2

ENVIRONMENTAL TECHNOLOGY PUBLIC/PRIVATE POLLUTION PREVENTION PARTNERSHIP (ETPP) FOR THE U.S./MEXICO BORDER

The following blue print presents a program to create an environmental partnership involving business and government for demonstration of pollution prevention opportunities and technologies along the U.S./Mexico border. The program would build on efforts underway by the U.S./Mexico Pollution Prevention Workgroup and border states to pursue pollution prevention opportunities along the border. The combined effort will be designed to both address critical environmental problems in the border area and to promote the North American Free Trade Agreement (NAFTA). In order to make the program work on a large scale we must have commitment and buy-in at the highest levels from both the U.S. and Mexico.

ESTABLISH A PUBLIC/PRIVATE PARTNERSHIP

- Establish a partnership of U.S. manufacturing industries, U.S. technology and service providers, the Maquila Association, and key government and non-government organizations. Working with the U.S./Mexico Pollution Prevention Workgroup, other possible participants might include:
 - American Institute for Pollution Prevention
 - Environmental Business Council
 - Maquila Association
 - Border States
 - U.S. and Mexico Universities
 - Agency for International Development
 - Department of Commerce

COLLECT BASELINE DATA ON INDUSTRIES AND POLLUTANTS

- Identify priority industries and pollutants/wastes/emissions for prevention assessments and demonstration projects.
- Select pollutants which are most prevalent and pose the greatest exposure potential in the border area.
- Identify those technologies and pollution prevention practices that can be implemented to reduce identified pollutants.
- Seek commitments from individual companies and plants to serve as pilot facilities for demonstration of new technologies.

DRAFT #2

-2-

CONDUCT ASSESSMENTS AND DEMONSTRATIONS

- Conduct pollution prevention assessments at target industries to identify opportunities for reduction and the use of new technologies.
- Work with border states to assist in selected projects to promote pollution prevention in the border area.
- Conduct a technical conference and trade show in conjunction with the November 1993 Maquiladora Conference.

TRAINING AND CAPACITY BUILDING

- Continue development of bilingual manuals for selected industries for use in pollution prevention awareness and education efforts with Maquiladora industries.
- Translate existing EPA/State Pollution Prevention documents, videos, studies and training materials and provide to selected industries.
- Conduct technical conference and seminars for industry and community members to build support for environmental improvements.
- Work with universities in Mexico to establish pollution prevention training and technical assistance centers.
- Work with U.S. and Mexico universities along the border to develop a public awareness program for pollution prevention methods applicable for private individuals.

ESTABLISH A LONGER TERM POLLUTANT REDUCTION PROGRAM

- Work in partnership with states to establish a voluntary pollutant reduction program which would take the specific situation of the maquiladoras into consideration, but would include reduction goals, participation in a community environmental project and a reporting mechanism to track proposed reductions. The program should be flexible to allow facilities to set their own emission reduction goals and time frames for voluntary reductions.

NOTE: While we support this program wholeheartedly, reality is that additional human (FTE) and financial resources must be placed directly in this program in both Region 6 and Region 9 in order for it to be successful.

Texas Shrimp Association
Environmental Director
Postul Drawer 24
Port Isabel, Texas 78595

The Hon. Bill Clinton
The Hon. Al Gore
Ms. Kathleen
McGinty

Texas Shrimp Association
126 W. Cleveland
Post Office Box 1020
Aransas Pass, Texas 78336

July 6, 1993

The Hon. Max Baucus
United States Senate
511 Hart SOB
Washington, D.C. 20510

The Hon. Gerry Studds
United States House of Representatives
237 Cannon HOB
Washington, D.C. 20515

Attention: Mr. Mark Smith

The purpose of this letter is to bring to your attention a rapidly-developing situation on the Texas Coast, and that of Northern Mexico, involving a variety of federal agencies, jurisdictions, and the military.

I am sending this to you, since you are sponsoring a version of the Endangered Species Act, now up for consideration by the United States Congress.

I hope this is helpful to you, since you will be faced with the challenge of balancing trade, coastal economics, and conservation of the Gulf of Mexico, especially with the advent of the free trade in North America, treaty or no treaty.

The kernel of the situation is the move to extend the Gulf of Mexico Intracoastal Waterway into Mexico, to Tampico, Veracruz, and on to the Yucatan; the re-location of the United States Naval Underwater Mine Warfare Training School from Charleston, South Carolina, to Ingleside, Texas; and the presence of endangered species, protected species, and straddling-stocks of trans-boundary, estuarine-dependent, marine species of shared resource assets of the native, historical, artisan fisheries of at least four nations: gulf shrimp: brown, white, and pink.

I am sure that you are very much aware of the extraordinary efforts, and the vast resources that have been poured into the sea turtle question in the Western Gulf of Mexico: Headstart, DOC and DOI, and the United States Coast Guard; and the TED regulations, to name just two. Apparently, however, these two agencies and their enforcement agency, have not correlated the data on distribution of sea turtles, and other species, such as porpoises, and so forth, whose habitat will be affected by the 2 800-acre magnetic fields associated with the installation of the Navy's facility near Corpus Christi; or the enormous potential for damage associated with intra-coastal waterway construction: suspension of contaminated sediments, saltwater intrusion into estuaries, coastal erosion, not to mention the disposition of dredged materials, and the effects of dumping on benthic communities, wetlands, uplands, marshes, and so on. At this

point, one can assume at the very least, that no environmental impact statement has been conducted on either proposed project, and in the case of the re-location of the facility from Charleston, to Ingleside, did not take into consideration the fact that the Navy had already installed the underwater magnetic fields in the Atlantic, (or perhaps the conservationists there had begun to object due to the stringent sea turtle conservation projects there, and decided to send this to the Texas Coast). In the case of the extension of the GIWW, the lack of an environmental impact statement is unacceptable, because the need for such is highly questionable: the western gulf is very sensitive and vital to the gulf's food-web, since 98% of its fauna is estuarine-dependent, and the coast has many good ports for cargo: Houston, Corpus Christi, Brownsville, Tampico, and Veracruz. This being the case, TSA feels that improvements should be made to accommodate any increase in the transportation appropriate for the sea be made to the existing infrastructure, since the fisheries of the Gulf Rim Nations are of such economic importance, and that the migratory species of mammals, as well as reptiles, and the Atlantic stocks of the shared resource assets of swordfish and tuna, migratory species, utilize the gulf in the winter, for feeding and breeding.

I look forward to working with you on the issues. Please consider this a formal request to investigate how these plans got so far with no EIS, and why the existing program on inter-agency coordination (the Gulf of Mexico Program, Stennis Space Center, Mississippi), has not considered the endangered species question, or the importance of the estuaries of the Western Gulf to the system's natural function as habitat for resource assets, and protected species. Please call on TSA for amplification of these issues, as the ESA is considered, as well as the budgets for the USCOE, DOC, and DOI. The Corp's Mitigation Banking Plan for the Texas Coast is also an issue; it is reportedly at OMB, and as far as TSA knows, no EIS on this plan exists either, for the marine species and the marine/estuarine interface has not been considered from the fisheries' point of view. Please do not hesitate to call on TSA for information.

Very truly yours,

Ronald Boudreaux

Mrs. Ronald Boudreaux
Environmental Director
(210) 943-2788
Call first to FAX

SHRIMP IN THE WESTERN GULF OF MEXICO -- A TRANSBOUNDARY STOCK

Ralph Rayburn and Kristin L. Vehrs
Texas Shrimp Association
403 Vaughn Building
Austin, Texas 78701

Abstract

Through the mid-1970's, much of the Gulf of Mexico shrimp harvesting industry was established and capitalized on the ability to shrimp in domestic waters of the U.S. and the waters off the Mexican coast; operating about ten to eleven months of the year.

In 1976, the Mexican government declared a 200 mile exclusive economic zone and negotiated a bilateral treaty with the U.S. to phase out all U.S. shrimping in their zone by January 1, 1980.

The shrimp stocks in the Western Gulf of Mexico are a resource shared by both Mexico and the United States. Results of joint U.S./Mexico shrimp migration studies indicate that shrimp cross the international boundary in both north-south and south-north directions. The management activities of each nation, therefore, impact those of the other.

In recent years, some of the South Texas fleet have shrimped in waters off the Mexican coast. The Mexicans operate almost entirely inshore and, therefore, the offshore resource is not being fully utilized. Until December, 1982, the Mexicans were not even enforcing their zone. This condition has now developed into conflict between the U.S. shrimp industry and Mexican gunboats and the U.S. shrimp industry and the U.S. Coast Guard.

1. Introduction

The warm water shrimp fishery of the United States originated in the bays and estuaries of the Gulf of Mexico.

Fishery pioneers used large drag seines set close to shore and hauled by men or horses.

Using this method, shrimp harvesting was worthwhile only when shrimp were abundant near shore. The otter trawl was introduced into the shrimp fishery between 1912 and 1917. However, even using this gear, the fishermen continued to shrimp entirely in bays and shallow water. The otter trawl did reduce the seasonality of the fishery. Eventually the industry expanded and fishing grounds in the offshore region were discovered.

As the industry developed from its conception along the coastal shores to its current status as a multi-million dollar contributor to the economy, two distinctive sectors emerged. These are the Gulf shrimp fishery with larger vessels capable of sustained operation in the open Gulf of Mexico and the bay shrimp industry which is primarily smaller vessels which operate in state waters generally inside of the barrier islands.

As the shrimp industry expanded in the post World War II period, some members of the industry left their native Louisiana, Florida and other areas to establish a base of operation in Texas. During the late 1940's and early 1950's Texas had a resident requirement for shrimp licenses and new immigrants to the state were not allowed to catch or unload shrimp in state waters which extend out to 9 nautical miles. In response to this, a number of shrimper settled in the Brownsville-Port Isabel area of south Texas and began fishing off the coast of Mexico.

Exclusive Economic Zone of the United States of America

By the President of the United States of America

A Proclamation

WHEREAS the Government of the United States of America desires to facilitate the wise development and use of the oceans consistent with international law;

WHEREAS international law recognizes that, in a zone beyond its territory and adjacent to its territorial sea, known as the Exclusive Economic Zone, a coastal State may assert certain sovereign rights over natural resources and related jurisdiction; and

WHEREAS the establishment of an Exclusive Economic Zone by the United States will advance the development of ocean resources and promote the protection of the marine environment, while not affecting other lawful uses of the zone, including the freedoms of navigation and overflight, by other States;

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution and laws of the United States of America, do hereby proclaim the sovereign rights and jurisdiction of the United States of America and confirm also the rights and freedoms of all States within an Exclusive Economic Zone, as described herein.

The Exclusive Economic Zone of the United States is a zone contiguous to the territorial sea, including zones contiguous to the territorial sea of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands (to the extent consistent with the Covenant and the United Nations Trusteeship Agreement), and United States overseas territories and possessions. The Exclusive Economic Zone extends to a distance 200 nautical miles from the baseline from which the breadth of the territorial sea is measured. In cases where the maritime boundary with a neighboring State remains to be determined, the boundary of the Exclusive Economic Zone shall be determined by the United States and other State concerned in accordance with equitable principles.

Within the Exclusive Economic Zone, the United States has, to the extent permitted by international law, (a) sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, both living and non-living, of the seabed and subsoil and the superjacent waters and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; and (b) jurisdiction with regard to the establishment and use of artificial islands, and installations and structures having economic purposes, and the protection and preservation of the marine environment.

This Proclamation does not change existing United States policies concerning the continental shelf, marine mammals and fisheries, including highly migratory species of tuna which are not subject to United States jurisdiction and require international agreements for effective management.

The United States will exercise these sovereign rights and jurisdiction in accordance with the rules of international law.

Without prejudice to the sovereign rights and jurisdiction of the United States, the Exclusive Economic Zone remains an area beyond the territory and territorial sea of the United States in which all States enjoy the high seas freedoms of navigation, overflight, the laying of submarine cables and pipelines, and other internationally lawful uses of the sea.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

VALLEY

Saturday, October 17, 1992

Valley Morning Star

D Section

Extending intracoastal waterway south studied

By MARK WAITE
Star News Staff

SOUTH PADRE ISLAND — Task forces from the U.S. and Mexico have begun to study the extension of the Gulf Intracoastal Waterway into Mexico, Vernon Behrhorst, executive director of the Gulf Intracoastal Canal Association told delegates at the 87th annual GICA convention Friday.

The extension of the waterway into Mexico has been the subject of GICA resolutions since 1947, Behrhorst said.

Interest was rekindled during North American Free Trade Agreement talks in Mexico in which Mexican officials contacted the GICA.

In June 1991, both countries signed a memorandum of intent to study the issue.

"There's come many questions, issues from the U.S. side of this proposal," Behrhorst said.

Just before a meeting with Mexican officials recently on that topic, Mexican President Carlos Salinas de Gortari announced he was privatizing the Mexican ports.

The Mexican government proposes to pay for part or all of the construction of the intracoastal waterway with tolls, Behrhorst said.

That poses some problems in the U.S. We have a totally free waterway.

Towing Co. will do a trial run with barges on that segment of the gulf this fall, Behrhorst said.

The U.S. task force concluded that a Mexican intracoastal waterway should extend at least as far south as Tuxpan, which is 163 miles from Mexico City, a direct connection to the Mexican heartland.

A system of coastal lagoons exists on the Mexican side, similar to the U.S. where there is the Laguna Madre.

But the shallow lagoons in the U.S. are dredged to a depth of 12 feet by the U.S. Army Corps of Engineers, a cost that may be very prohibitive for Mexico.

The Gulf Intracoastal Waterway extends over 1,200 miles from Brownsville to St. Mark's in the Florida Panhandle. There were 116 million tons of cargo transported on the Gulf Intracoastal Waterway in 1990.

"We discussed congestion at the border and how this will go about relieving the congestion," Behrhorst said.

Gerry Schwebel, chairman of the Border Trade Alliance, urged GICA members to establish a link with Mexican ports and help close the gap with our southern neighbors as part of the North American Free Trade Agreement.

He said in Laredo, there are 2,216 trucks crossing a few days at the border.

Who goes first?



Mexican navy seizes 2 PI fishing boats

By MARK WAITE
Star News Staff

PORT ISABEL — Two Port Isabel-based fishing vessels have been chased down and seized by the Mexican navy in the Gulf of Mexico for allegedly fishing illegally in Mexican territorial waters.

Lt. Jim Munroe, of the U.S. Coast Guard's 8th District headquarters in New Orleans said Friday the boats, identified as the *Jennifer C* and *Quien Sabe* and their six crewmen were taken to Tampico to be turned over to local Mexican officials there.

"Specifically what they're going to be doing with them and when, I don't know. Of course, we've notified the U.S. Embassy," Munroe said.

Seizure of the vessels on Thursday followed what the Coast Guard said was "hot pursuit" into international waters by the Mexican naval vessel *Dragaminas*.

Munroe said the Coast Guard cutter *Kodiak Island* verified the

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The Mexican government proposes to pay for part or all of the construction of the intracoastal waterway with tolls, Behrhorst said.

"That poses some problems in the U.S. We have a totally free waterway," he said.

Other questions included whether Mexico has the equipment for constructing and maintaining the ports and waterways, if there are good connections between the coastal ports and the heartland of Mexico and if there are adequate shipyards.

The Jones Act, which forbids foreign flag ships from maritime traffic between U.S. ports, is also a possible obstacle, he said.

The plan is for the intracoastal waterway to be routed into the open Gulf of Mexico from the Brownsville Ship Channel to a point eight miles south of the border.

This is to avoid environmentally sensitive South Bay and the building of a cost-effective lock on the Rio Grande. McKinney

"We discussed congestion at the border and how this will go about relieving the congestion," Behrhorst said.

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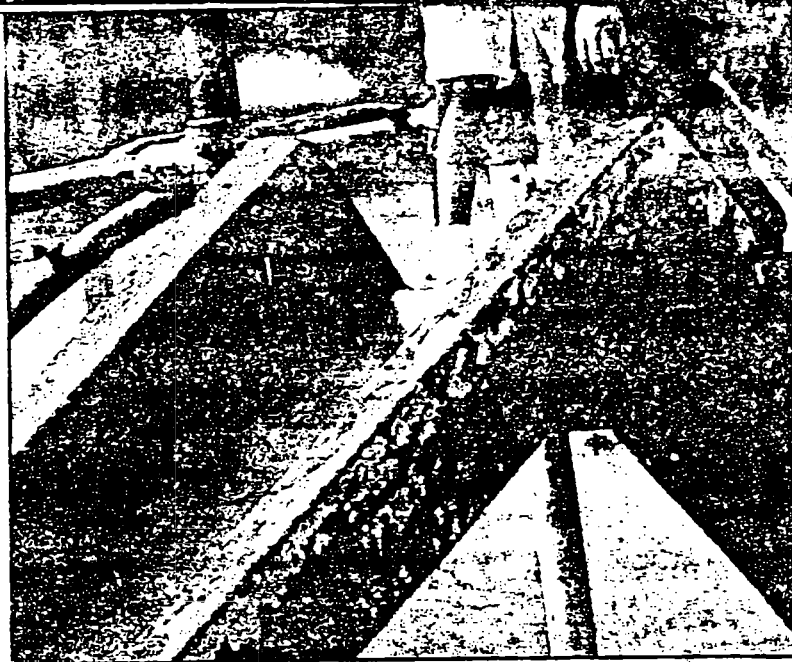
He said in Laredo, there are 2,216 truck crossings per day at the border. But Schwebel disputed the media myth of a transportation gridlock at the border.

In a related matter, Lt. Col. James Arenz of the U.S. Army Corps of Engineers Galveston district, said a \$300,000 section 216 study this coming year to analyze the Gulf Intracoastal Waterway between Corpus Christi Bay and Port Isabel will study rerouting the waterway around Long Island.

There have been complaints about the danger of a sharp curve at Long Island and fears about a collision between cargo vessels and small pleasure craft.

But Arenz said if the waterway is rerouted the City of Port Isabel could be responsible for the cost of dredging the old channel which would no longer be in federal jurisdiction.

Relocating utility and water lines could also cost \$3 million to \$4 million, he said.



Star photo by Keith Medrano

Vanessa Nicole, 6, and Andrew Solis, 4, stand at the top of a slide at Lincoln Lee Elementary School, Lyford, perhaps wondering if this is such a good idea. The children are attending the Head Start Program at the school.

when, I don't know. Of course, we've notified the U.S. Embassy," Munro said.

Seizure of the vessels on Thursday followed what the Coast Guard said was "hot pursuit" into international waters by the Mexican naval vessel *Dragaminas*.

Munroe said the Coast Guard cutter *Kodiak Island* verified the Mexican navy's "hot pursuit" claim after stopping the fishing boats in international waters.

It said the United States recognizes the internationally accepted right of "hot pursuit" in enforcing a country's laws governing waters over which it has jurisdiction.

The Coast Guard said the U.S. boats allegedly were fishing south of the international boundary in Mexican territorial waters in violation of Mexican law when the chase began.

It is the second time a crew from the *Quien Sabe* has been in trouble with the authorities. In August 1991, its crew was one of four cited by the Coast Guard for fishing in Mexican waters. A total of 489 pounds of shrimp was confiscated from the

Goin' South

By David Krapf
Contributing Editor

UNITED STATES

MEXICO

— Existing GIWW
— Feasible Extension
... Possible Extension

Nafta will almost certainly result in increased U.S.-Mexico trade. To handle the increased tonnage, infrastructure improvements in Mexico are needed. A long-term solution would be an extension of the GIWW south of Brownsville, Texas. Most feel construction of a 360-mile stage from Matamoros to Tuxpan, Veracruz, is feasible and a 1,000-mile extension running from Matamoros to central Campeche a possibility.

As ratification of the proposed North American Free Trade Agreement (Nafta) nears, discussion has intensified on how to improve Mexico's inadequate transportation infrastructure to handle the anticipated increase in U.S. trade.

Some talk has centered on an idea first presented in 1905 — the construction of an intracoastal waterway along the Gulf Coast of Mexico. However, while this may be a viable long-term solution, most U.S. transportation officials feel Mexico must first concentrate on improving existing shallow-draft facilities and expanding its antiquated rail and highway systems. The country's lack of a major inland waterway system, coupled with inefficient rail and truck carriage, jeopardizes trade growth.

"Nafta can become a success only if we have an adequate transportation infrastructure to carry these millions of tons of cargo and carry them at freight rates which will keep both our countries competitive with countries outside of Nafta," Vernon Behrhorst, executive director of the Gulf Intracoastal Canal Association (GICA), said in Mexico City earlier this year.

"The present transportation infrastructure is incapable of meeting these future requirements. The objectives of Nafta cannot be achieved with a transportation gridlock," he said.

Behrhorst, who addressed members of Mexico's Academy of Sciences on the relationship between the U.S. inland waterway system and the proposed extension of the Gulf Intracoastal Waterway into Mexico, has had discussions with Mexican

The success of the North American Free Trade Agreement — which hinges on an adequate transportation infrastructure in Mexico — has rekindled interest in the extension of the Gulf Intracoastal Waterway south of the Rio Grande.

port, maritime and economic development officials and the country's Nafta negotiators.

His group has formed a task force to discuss the proposal to build the GIWW extension and to coordinate maximum use of existing transportation systems connecting the two countries in the interim. The group, comprised entirely of U.S. members, held its first meeting in September. Among their concerns are the extent of the Mexican government's support and Jones Act implications.

Currently, barge transport is a foreign concept in Mexico, partly because of the difficulty of developing two-way traffic. The flow of barges laden with U.S. commodities moving south to Mexico is not a concern. The problem lies in the return trip or backhaul, from Mexico.

But increased barge use — ocean-going, through the GIWW or by transshipment to deep-draft vessels — offers favorable economies of scale. Currently, millions of tons of cargo move between Mexico and the United States by expensive — and often limited — truck and rail transport through congested land-based ports and border crossings.

Advantages, costs

Transportation costs could be "reduced significantly" if shallow-draft, oceangoing vessels or barges could be used to link two large production and market areas in mid-America and mid-Mexico by the "waterbridge" that exists today — the Mississippi River system, the GIWW and the Gulf of Mexico, said John Pisani, director of the Maritime Administration's (MarAd) office of Port and Intermodal Development.

"The economic benefits of shallow-draft vessels and barges could permit low-cost access to mid-America on a mutually profitable basis," he said.

Currently, 60 percent of cargo shipped on barges in the United States moves on the Mississippi and the GIWW. And, according to the American Waterways Operators, one gallon of fuel will move one ton of cargo 514 miles by inland barge. This compares to 59 miles by truck and 202 miles by rail. More importantly, a dry-cargo barge's capacity of 1,500 tons is equal to 50 trucks or 15 rail cars. Mexican exporters could realize potential savings of \$2 to \$3 a ton on a 1,500-ton barge load, according to some estimates.

But barge interests are taking a wait-and-see approach to the Nafta proposal, said Behrhorst. In the mean-

time, exporters who transport solely by truck or rail from Mexico City to Guadalajara, north to Laredo, Houston and San Antonio must be more flexible. "They are shipping millions of tons of commodities by rail and truck. They must change their mindset to [accept] water transport," claimed Behrhorst.

Steve Valerius, vice president of Houston-based Hollywood Marine Inc., agreed. "It [the GIWW extension] makes a heck of a lot of sense. We are in the liquid business and Mexico trucks quite a bit of petroleum product. There is a lot of potential for movement by barge."

Valerius, whose company specializes in liquid-tank barges, thinks the GIWW extension is a definite possibility. "If you can get by without a lock at the Rio Grande, it could be feasible in a decade."

Problems loom

Despite the enthusiasm from some quarters, the extension faces many obstacles, including financing, environmental considerations and the need to first improve existing shallow-draft

cargo-handling systems.

A Mexican official put the cost of the proposed 1,300-mile waterway from Matamoros to Cancun at \$750 million to \$1 billion — or about \$577,000 to \$769,000 per mile. Most studies, however, center on a canal of about 1,000 miles running from Matamoros to central Campeche.

The first 360-mile stage, from Matamoros to Tuxpan, Veracruz, would cost an estimated \$200 million — over \$555,000 a mile — and take two to four years to complete, Mauricio Porraz, general secretary of the Mexican Academy of Sciences, said last year. Another factor is operating and maintenance costs, which were about \$13 million for the 1,109-mile GIWW in 1991, according to the Army Corps of Engineers.

The project would also require large amounts of dredging and excavation. Porraz estimated that 127 million cubic meters of dredged material and 166 million cubic meters of excavated material would have to be removed. And these estimates do not include the project's third stage. Also, in the first stage alone, at least six

floating bridges, one rail bridge and three sets of locks may be needed. For the entire project, 33 floating bridges, three rail bridges and 13 locks may be required.

Long-term commitment

For now, the two countries must focus on developing existing facilities and making better use of marine technology and not wait for the GIWW extension to become a reality, said MarAd's Pisani. "It's a long way off. I'm sure there have to be major environmental considerations. It's something that can't be done overnight."

"We support this kind [GICA task force] of a look at it. It's a long-term solution," he said. "The near-term economic attractiveness is serving Mexico directly by deep-draft combination shallow-draft/ocean-going [vessels]."

Anatoly Hochstein, director of the Louisiana State University Ports and Waterways Institute, agreed with Pisani. "It's a very nice dream, a good project for the long term. But we should be more interested in something immediate [such as] the deploy-



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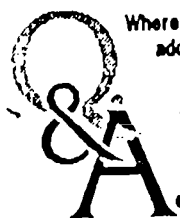
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ment of river-ocean vessels that are widely used in other parts of the world. It doesn't require any [new] investment."

Hochstein said the development of free-trade zones in Mexico is another possibility. Once developed, the GIWW could then be extended 10 or 20 miles into the FTZ. "It doesn't require a huge investment and is more realistic," he said.

For now, shallow-draft cargo vessels that can navigate both inland waters and the Gulf of Mexico are an economical transport mode that should be utilized more, Pisani said. Also, rail-barge operations, like Burlington Northern Inc.'s service scheduled to begin in late fall at the Port of Galveston, Texas, is another alternative. (See accompanying article.)

Pisani said integrated tug-barge systems should also be looked at. "They can easily serve Mexico's Gulf Coast ports by oceangoing barge." He said these systems have never been employed to their full potential. "This is possibly a combination of apathy and lack of market analysis." WB

Rail-barge service to link U.S.-Mexico

An integrated rail-barge service will soon link the United States and Mexico through the Port of Galveston, Texas.

Protexa Burlington International SA de CV (PBI), a joint venture between Burlington Northern Inc. and Grupo Protexa SA de CV, signed an exclusive lease with the port in May. Grupo Protexa is a major industrial, construction and marine services company based in Monterrey, Mexico.

Under the agreement, BN trains will connect at the Port of Galveston with Protexa rail barges bound for the eastern Mexico ports of Altamira, Veracruz and Coatzacoalcos. Once there, Ferrocarriles Nacionales de Mexico, Mexico's national railway system, will distribute the freight cars inland.

PBI was formed late last year, becoming the "first joint transportation venture to facilitate trade by integrating rail and barge services between interior points in Mexico and the United States, and eventually Canada," BN said.

"The PBI system, joined now by the Port of Galveston, essentially allows BN to undertake a strategic and critical role in transportation opportunities between Mexico and the U.S., which in turn gives U.S., Canadian and Mexican transportation customers greater exposure to the North American market," said William E. Greenwood, BN's chief operating officer.

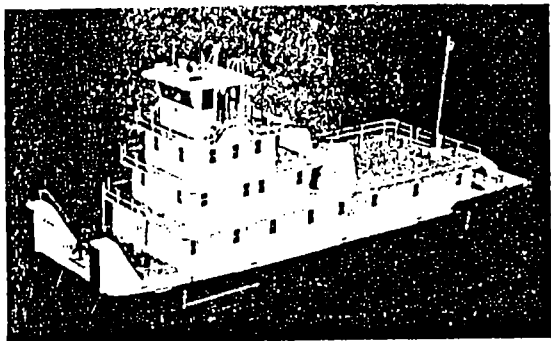
"We are confident that PBI will be able to take full advantage of Galveston's superior rail access and closeness to the open Gulf of Mexico to make this a very efficient link in the new system," said Doug J. Marchand, Port of Galveston's general manager and director.

Galveston was picked because of its proximity to the Gulf and the expected transit time of three-and-a-half to four days to Coatzacoalcos, said BN spokesman Jim Sabourin.

Grain will be the first cargo moved through Galveston, but future shipments may include automobiles and automobile parts, chemicals and consumer products.

The weekly service between Galveston and Coatzacoalcos was to begin in September, but has been postponed to late fall, a result of construction delays at the southern Mexican port located in the Bay of Campeche, said Sabourin.

If volume increases substantially through Galveston, "we would look at other [Gulf] ports" where BN has tracks, such as Houston, said Sabourin. —D. Krapf



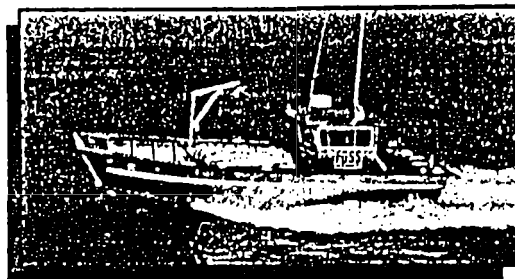
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Few of us would deny that it is important to preserve our national bird for the enjoyment of future generations. Certainly there are other animals and plants that are important to our ecosystem, and we have strong interests in protecting them as well.

It is time, however for serious reflection on the question of endangered species protection.

Have we as a society gone somewhat overboard in our eagerness to maintain each and every species that exists today?

Just how important is the continued existence of the blind salamander, the golden-cheeked warbler, the red-cockaded woodpecker and a wide assortment of invertebrate cave beetles?

All of these are the subjects of expensive preservation efforts. Protection of endangered species is one of those "warm and fuzzy" issues that almost everyone is "for" until they hear the bottom line.

Are you willing to forfeit your job or control of your property in the name of preserving every living thing on the planet?

It could come to that.

For many, it already has.

Can we prevent extinction? We don't really know yet. Should we even try in each and every case? Species go extinct every year, de-

Comment

By Vernie R. Glasson

spite our best efforts. Dinosaurs managed to die out long before humans could become the villain of the story, as so many are eager to cast us today.

The present Endangered Species Act, or ESA, was enacted in 1973. Its purpose was to preserve and enhance the existence of both plants and animals whose existence was threatened.

Since the inception of the act, there have been fewer than five species whose numbers have recovered to the point that they could be removed from the list of the endangered. Here in Texas we have approximately 50 species on the list as actually endangered.

There are another 300 species of either plants or animals about which there is not sufficient data to make a decision. They are listed as threatened or as candidates for listing. ESA protections don't currently cover this group.

A fierce battle is now being waged in Congress between those who seek to modify the Endangered Species Act and those who want to extend and expand it.

The chairman of the Merchant Marines and Fisheries Committee, U.S. Rep. Gerry Studds, D-Mass., is for an expansion of the ESA provisions. He would also like to apply the ESA to those species on which there is not sufficient data to make

“ Protection of endangered species is one of those 'warm and fuzzy' issues that almost everyone is 'for' until they hear the bottom line.

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For many, it already has.

”

a determination.

Studds has introduced legislation to accomplish these ends, and he is seeking co-sponsors for his bill.

Those of us who would like to see modification of the ESA want to strengthen the scientific data requirements prior to listing species. We also want to recognize the rights of individual landowners to use their property. Further, we believe there are ways to expand the numbers of endangered species through economic incentives to landowners.

Our legislation was introduced by U.S. Rep. Jack Fields of Humble and co-sponsored by several members of the Texas delegation, including: Billy Tauzin, Jack Brooks, Charles Wilson, Bill Sarpa-lius, Chet Edwards, Greg Laughlin, Solomon Ortiz, Charles Stenholm, Ralph Hall, Sam Johnson, Lamar Smith and Henry Bonilla.

It is important that people involve themselves in this process. Jobs are being lost, important projects stopped or delayed and progress denied in the name of environmentalism.

We are not suggesting that development must always go forward despite the environmental cost.

We do think, however, that the human species is at least as important as plants and animals.

As it is enforced today, the Endangered Species Act is an extreme law. Missing are economic balance, respect for private property and solid scientific data.

Our Texas congressional delegation needs to give the Fields-Tauzin bill a fair hearing and consider signing on as a co-sponsor.

Vernie R. Glasson is executive director of the Texas Farm Bureau.

P.S. Sue can't go to her home town of Naples, Fla. without taking Hepatitis shots or not eating or drinking in her home town.

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you really think you will get money appropriated and authorized for job retraining and border clean up? Listen to Sen Gramm of Texas. He will only say "we will let free enterprise take care of it!"

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Representative Barbara B. Kennelly
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*Copy of letter sent
to all members of
of delegation*

Barbara;

This letter merely expresses some concerns regarding the North American Free Trade Agreement from a 25 year Connecticut resident whose birthplace and home town is Nogales, Arizona (see attached article). Nogales, a major produce point for winter vegetables and fruits entering the U.S. in hundreds of trucks daily, used to be a small bucolic but cosmopolitan community centered around this industry. I'm saddened when I read articles such as this one describing my community as hazardous to one's health. The Nogales Wash (or arroyo) runs through the center of the community and is laced on both sides by commercial establishments, restaurants, motels, homes, etc. As a toxic sewage dump it affects the entire community. After reading this article, I now have a great deal of anxiety about taking my yearly sojourn to my hometown. What disease might I return to Connecticut with?

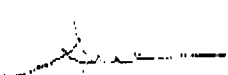
Nogales, Arizona is about twice the size today compared to my childhood days, but Nogales, Mexico is now a large city catering to "maquiladoras", primarily U.S., some Japanese. These maquiladoras have spurred a migration from other parts of Mexico to the border for jobs. Meanwhile, many businesses and jobs on the Arizona side of the line have also moved to Mexico. We must ask why. It's not just for cheaper labor costs, as the Wash attests.

Ambos Nogales (both Nogales, Arizona and Mexico) have a unique Anglo-Mexican border culture. A fence separates the two sides, but the border culture transcends this dividing line and will continue to do so. Our ultimate future, I believe, rests with this acceptance and eventually thinking of ourselves as North Americans, with insensitive "Yankee" diplomacy and exploitation of Latin Americans as something our descendants will read about only in history books. The Mexican migration to the U.S. will possibly speed this North Americanizing process.

However, at this point in time Mexico's population is out of control for the current economic opportunities, and environmental concerns lag far behind. We are all victims of this neglect. The toxic wastes may flow through downtown Nogales, but 1.2 billion pounds of produce in 75,000 trucks cross that border annually---much of that produce with very questionable chemicals ingested by all of us.

A North American marriage is probably in the cards for the future---after all, Anglo-Mexican marriages are a matter of course on the border in many families. A healthy Mexican economy is essential in resolving illegal alien problems, drug wars, and trade issues. I have great admiration for President Salinas, but I'm not certain at this time that we can afford rushing into a free trade pact without careful qualifications. With whatever agreement that is decided upon, one need not be a "crazed environmentalist" or an "environmental wacko" to believe that corporations and governments should work together to ensure the safety of the people in my hometown as well as my current Connecticut neighbors who consume those fruits and vegetables that cross the border on those several hundred trucks every day.

Sincerely:


Sue A. Tyler

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NEW YORK, SUNDAY, MARCH 31, 1991

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Recession and Guilt Pare Dining Trade and Menus

By MOLLY O'NEILL

In the last two years, the euphoric mood for renovation and expansion has nearly eclipsed the happy hour signs in the windows of New York City restaurants. Crowds have thinned in the best dining rooms. Same-day reservations are rarely a problem.

New York City restaurateurs are worried about the piling of corporate expense accounts for restaurant meals in the last few years. They cite the economic recession, which has cut into tourism and entertainment, and the growing number of young families eating at home.

Embarrassment of Riches

But what worries restaurateurs more are customers like Eric Wyka. As he walked to check his car's hair coat before dinner at the Rainbow Room recently, he glanced over his shoulder nervously. "I'd be real embarrassed if one of my friends who's been laid off saw me here," Mr. Wyka, a 40-year-old lawyer, murmured to his companion. "I know, it's not like I go out so much any more, but I feel sort of guilty going out at all."

To restaurateurs, this mood change is scarier than dipping check averages and empty chairs. "We had the good times and now we're deep in guilty times," said David Linderman, who owns the Broadway Grill and closed his second restaurant, Chez Louis, last week to convert it into a less expensive dining room.

Peter Archibald, owner of the

venerable Gage & Toller restaurant in downtown Brooklyn, said a fundamental change is afoot. "Restaurants come and go; that's the business. Good operators survive and adapt," he said. "The frightening thing isn't the drop in numbers or the change in spending. It's the attitude change."

The New York restaurant world has been especially vulnerable to even a slight shift in spending habits. In the fabulous free-spending 80's, new restaurants popped up faster than corn in a hot pan. In building restaurants, the 80's motto was "borrow and spend," and it left many places heavily in debt. Restaurants and operating costs climbed. By 1989, profit margins were so tight that to lose a dozen customers a day could mean not paying the vegetable bill.

"Restaurants throughout the country are taking it on the chin, but the situation is exacerbated in New York City by higher rental percentages and union difficulties," Charles Bernstein, editor of Nation's Restaurant News, a trade journal, wrote last month.

In other parts of the country, rent accounts for 5 or 6 percent of monthly sales. In New York City, a restaurant's rent can eat up as much as 20 percent of sales, even when sales are good. In recent interviews, 35 New York restaurants cited declines in sales of 5 to

Continued on Page 28, Column 1

POWER STRUGGLE IN KUWAIT BLOCKS NEW GOVERNMENT

OLD DIVISIONS DEEPENING

Rulers Face Reform Demands of Merchant Families and Newer Educated Class

By JOHN KIFNER

Special to The New York Times

KUWAIT CITY, March 30 — More than a month after Kuwait's liberation from Iraqi rule, efforts to form a new government here are paralyzed by a power struggle that pits the hereditary rulers, the Sabah family, against an opposition demanding more democracy.

The contention seems historically rooted in the way oil wealth transformed this tiny country into a unique society.

On one level, the opposition demands the restoration of Parliament and is critical of the way the Sabah-dominated Government has performed.

Emergence of New Class

But the struggle also involves efforts by Kuwait's major merchant families to regain the predominance they held before the oil boom that followed World War II, and before the emergence of a new, educated class, without influential families, created by the post-oil era.

Among the Kuwaitis themselves, resentment exists between those who stayed in the country to resist Iraqi occupation and those who sat out the war in comfortable exile. Kuwaiti citizens make up only a portion of the country's population, and only a small minority of these citizens are eligible to vote.

What ails Kuwait is really an oligarchy, movement, diplomats and others say. They add that Iraq's virtual destruction of Kuwait has given rise to harsh questions about the way the country has been run by the Sabahs. Now the questions are resolved could change the country profoundly.

Pressure From Americans

American officials here have been working behind the scenes to press the Sabah family into reform. It is the Americans, particularly the Army civil affairs troops, who are actually administering most of Kuwait. In some cases, American soldiers have intervened

Continued on Page 8, Column 2



Iraq Forces Move to Crush Insurgents

Iraq asserted yesterday that it was succeeding in crushing rebellions as thousands of civilians fled shelter in the northern city of Dahuk. Shiite Muslims in the south disputed the Government's claim that it controlled the city of Karbala, where fighting damaged this mosque. Page 2.

Border Boom's Dirty Residue Imperils U.S.-Mexico Trade

By ROBERTO SINDO

Special to The New York Times

NOGALES, Ariz. — Little more than a muddy creek when it starts flowing down a hillside in Mexico, the Nogales Wash passes by factories, shantytowns and commercial streets before it reaches an invisible line and then suddenly becomes a swirling, stinking foreign policy problem for the Bush Administration.

Where it crosses the border into the United States, the Nogales Wash is laced with toxic industrial pollutants and laden with untreated sewage. A public health emergency has been in force on the Arizona side for six months because the incidence of hepatitis has climbed to 10 times the national average.

Pollution Threatens Trade Pact

The runaway pollution and accompanying health threats can be found in virtually any city along the United States-Mexico border, which has undergone an economic explosion in recent years with the construction of hundreds of highly profitable American-owned factories operating under special trade rules. The American owners pay very low wages to the nearly half a million Mexicans they employ and are not obliged to use expensive antipollution equipment.

The pollution problems have become so grave that they have emerged as a major

the free trade agreement that President Bush wants to negotiate with Mexico as a way to compete economically with Europe and Japan. The Mexican Government's environmental effort is in its infancy, and it is struggling with standards and enforcement.

Influential environmental groups in the United States, like the National Wildlife Federation, and others who oppose the free trade agreement, like the

Continued on Page 16, Column 2

Hunt for Marcos's Billions Yields More Dead Ends Than Hard Cash

By BETH MEYDANS

After a five-year hunt through the courts and banking systems of three continents, the Philippine Government has uncovered yachts and paintings and silver services and a few hundred million dollars, but not much more of the \$6 billion or more Ferdinand E. Marcos is said to have stolen from his country.

As the six-year term of President Corason C. Aquino nears its end next year, a touch of desperation has entered the search and the Government has begun talking of cutting its losses

and making deals with Mr. Marcos's widow, Imelda.

Lawyers and Government officials involved in the search now say it will probably never be known just how much Mr. Marcos, who died in 1986, stole from the Philippines during his 20 years as President. Whatever the total, they say, it is now clear that only a small portion will be recovered.

Chocolate Tab Is \$6,000

Cesar Purisima, a former member of the agency seeking to recover the Marcos funds, the Presidential Commission on Good Government, put the possible total recovery at \$1 billion to \$1.1 billion.

"There is a large gap between what was stolen and what remains," he said in an interview. "If you look at the records you find that on one of her trips Imelda was able to spend \$50,000 on the first day for chocolate. That is the kind of life style that used up the money."

In the Philippines, pervasive confiscations of property, deals with Mr. Marcos's "cronies" scores of civil suits have won the Government about \$100 million in cash and another \$100 million in assets that range from houses and cars to sugar plantations.

In the News News News

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Between Home and Heaven, a Ball Field

By SARA RIEKER

The approach of spring in Washington Heights, the Santa Damasco of New York: People fling open their windows, and into their tenement apartments comes the call of migration, a dozen different variations blasting from speakers in bodegas and record stores and cars cruising Broadway. And they are not ready for baseball.

Every year at about 5, on their way to factory jobs in New Jersey, the neighborhood's Dominican grounds are 10-year-old Manny Ramirez — the star of their own George Wash-



Border Industry's Nasty Byproduct Imperils Trade

(Continued From Page 1)

A.P.L.-C.I.O. have contended that the contamination of the Nogales Wash and other pollution problems along the border are just preview of what will happen across Mexico if tariffs and other trade barriers are removed, igniting a rush to develop new industries and spawn new wastes.

Moreover, Democrats in Congress say they will repeat efforts for a speedy approval of a free trade agreement unless the White House agrees to address environmental issues in the negotiations with Mexico. The White House has not said whether it will.

But in American border cities, even the most committed advocates of free trade admit that existing environmental problems should be addressed before free trade becomes a reality.

"We who breathe the air and drink the water along the border are the first to say we support free trade and that we also want a long-term plan for the environment," said William F. Jeffery Jr., chairman of the Border Trade Alliance, an organization that promotes economic development on behalf of local governments and businesses on both sides of the border.

The contamination along the border runs the gamut from raw sewage to wood sawdust to highly toxic industrial chemicals.

Wide Environmental Damage

Across the Rio Grande from El Paso, for instance, firewood is the chief cash crop and heating fuel for most of the U.S. million residents of Ciudad Juarez. Builders there are burned to skin that make decorative bricks and tiles. Along with pollution from motor vehicles and industry, the smelter from these fires produces an acid cloud over both cities in certain weather.

Perfumery-making plants and steel-plating shops that find environmental restrictions in California now flourish in Tijuana, Mexico, producing toxic wastes from their use of solvents.

Recreational use of the Rio Grande below Laredo, Tex., has long been considered unsafe because its water city in Laredo, Nuevo Laredo, dumps about 20 million gallons of untreated sewage into the river every day.

Much of the development and growth along the border came as a result of the 1983 agreement between the two countries that allowed American companies to set up operations on the Mexican side. The American factories and assembly plants, called maquiladoras, import almost all raw materials and export almost all products virtually exempt from tariffs and other trade restrictions.

Now Mr. Bush wants to go further with the trade agreement, which would cut off all tariffs and trade barriers between the countries. A negative vote by either house of Congress before June 1 would deny Mr. Bush the authority to present the legislation with a completed agreement to be accepted or rejected.

"Along the border we already know what happens when free trade brings rapid economic growth to Mexico," said Mayor Suzanne Ash of El Paso. "We've seen the benefits but we have also seen some very tough environmental problems that are directly caused by that kind of growth."

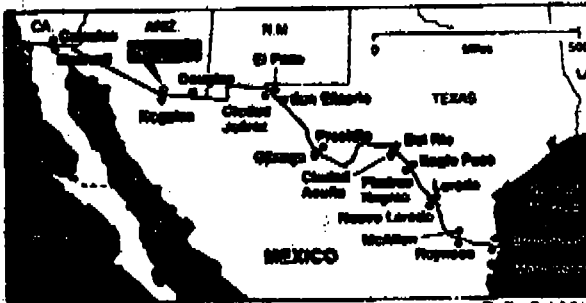
Growth Hummed in 1989's

The American plants grew quickly after the rapid development of the Mexican zone starting in 1983 brought the wage of a Mexican worker down to about 30 cents an hour. Since then the number of maquiladoras has jumped to nearly 1,000 from about 500. They produce almost anything that involves a lot of labor, from car components to desktop computers.

On the outskirts of Nogales, a cluster of the plants sits on a hilltop. Big, box-like buildings, they do not have any windows or cooling towers because they are used for assembling components rather than manufacturing parts or processing raw materials.

Over the hill, the most industrial architecture gives way to ramshackle dwellings fashioned from cardboard and strips of wood taken from the plants' trash bins. These are the homes of maquiladora workers. Many of them, many who have migrated from Mexico's agricultural regions in search of steady pay.

In about a dozen stacks the



Runaway pollution can be found in virtually any city along the United States-Mexican border. Hundreds of American-owned factories operate under special trade rules in Mexican border cities, where expensive anti-pollution equipment is not required.

cardboard that once contained polystyrene shavings. Written on the cardboard walls are warnings that the former contents could release hazardous fumes.

"This is some of the best stuff because it is real thick and keeps the rain out," said Juan Rosas, standing outside a two-room structure that served as home for him and five relatives. All had worked in the plants. Their waste supply was stored in a 55-gallon drum that was also refilled from the plants. A bright yellow and orange label identified its former contents as a fluorescent

could happen all over Mexico if a free trade agreement produces the same kind of fast development with no real attention to human needs.

Behind Mr. Rosas's home was one of the communalouthouses used by residents of the shantytown. A little ditch from the outhouse led to a bigger ditch that flowed to a creek in the bottom of a ravine that flowed into the Nogales Wash, a stream that grows in size with the seasons. While many Mexican border towns have no sewage treatment plants, Nogales has one, but it is bypassed by the shantytowns of illegal squatters.

After crossing the border, the Nogales Wash is contained within concrete embankments as it flows through the center of Nogales, Ariz. High concentrations of human wastes in the wash are blamed for the hepatitis epidemic that produced 30 cases and many suspected cases last year, said Patrick Zurich, deputy director of the Santa Cruz County Health Department.

Contamination in Aquifer

Some of the cases involved people who had direct contact with the water where it flows through a popular recreational area outside of town or by child drown who stumbled on the embankments. Others apparently involved eating establishments and supermarkets along the wash where films carried the disease from the water to food.

More ominous, Mr. Zurich said, is the contamination of an aquifer that runs on both sides of the border. Numerous houses and commercial establishments draw water from private wells tapping into the aquifer, he said, including several large warehouses where fruits and vegetables imported from Mexico are laid down and prepared for shipment throughout the world. In October the wells in these warehouses were declared public water supplies by the county, requiring that they be chlorinated.

Sewage becomes a foreign-policy problem.

San solvent whose vapors are fatal if inhaled.

The starting wage for a maquiladora worker is about \$2.00 per hour, or about \$27, for a 40-hour week. More-experienced workers receive as much as \$4.00 per hour, or about \$47, in addition to fringe benefits like a subsidized lunch.

Cristina Domene, a public health specialist at the College de Sonora, a research institute, who has conducted numerous studies in Nogales, had this to say about the situation: "In the course of just a few years the maquiladoras brought the industrial revolution and all that goes with it to a region that was completely unprepared for it."

"In the short term this is a positive development because a job is better than no job and because living conditions where these people came from were also terrible. In the long term, though, what happened in Nogales

and lived regularly.

Cirilo Juarez dumps all of its raw sewage into a canal that parallels the Rio Grande. In 1989, the incidence of hepatitis from contaminated well water is so acute that a recent study in the town of San Elitria, Tex., showed that everyone had been exposed to hepatitis at least once by the time he or she was 30 years old.

Human wastes are not the only troublesome substances that have seeped from the Nogales Wash into the aquifer, Mr. Zurich said.

Last year, government and private health experts on both sides of the border reportedly tested water supplies in the Nogales area and found widespread contamination by suspected or known carcinogens normally found in industrial solvents.

Although only a few samples showed unsafe levels of contamination, the results showed that the pollution was spreading through the aquifer, said Dick Kamp, director of the Border Ecology Project, a research and policy study organization that participated in the water study. It seemed to originate in the industrial zone of Nogales, Mexico, where there are many Mexican-owned workshops as well as the American plants.

"This is the most extensive study of water pollution done anywhere along the border," Mr. Kamp said, "and what it shows is that we have a problem but that so far we don't know the source of it or its full scope."

More than 1,000 American-owned plants generate hazardous waste but only 30 percent of those have complied with Mexican rules requiring them to file information on how they handle these wastes, according to a report issued last November by the Secretary of Urban Development and Ecology, the Mexican Government's equivalent of the Environmental Protection Agency. Only 10 percent of the plants using toxic materials could show that they had disposed of wastes properly, the report concluded.

Mexico's rules governing the use of hazardous materials went into effect only in 1988. Most of the regulations are just as strict as they are in the United States, but standards for specific substances and the enforcement mechanisms are still being established.

"The U.S. isn't able to handle hazardous wastes efficiently and so you can't expect it of Mexico where this problem is just now being addressed," said Joe King, president of the Meridian Corporation, a company based in El Paso that specializes in waste disposal on both sides of the border.

"Protecting the environment has become a political priority in Mexico," Mr. King said. "It has popular support. But the infrastructure is totally missing, and building it will involve astronomical costs and a lot of time."

Columbia Teacher in Line for U.S. Education Post

By ROBERT D. McFADDEN

Diana S. Ravitch, an author and teacher of history and education at Teachers College at Columbia University who has written for many years about education in America, will be nominated this week as one of the top candidates to the new Secretary of Education. Government officials said yesterday.

The officials said the 50-year-old Ms. Ravitch would be named to succeed Christopher T. Cross as Assistant Secretary for research and improvement. The appointment, which would require Senate approval, is one of several expected to be announced shortly by Lamar Alexander, who became Secretary of Education two weeks ago.

Speaking on the condition of anonymity because the appointment has not been formally announced, officials said Mr. Ravitch would work closely with him on ways to improve the nation's public schools.

Ms. Ravitch, reached at her home in New York yesterday, would not comment on the appointment, which was first reported yesterday by The Washington Post. She acknowledged only that Mr. Alexander had contacted her recently.

John Smith, a spokesman for Mr.

retary planned "to put people in place as quickly as possible," but he declined to discuss the names of possible appointees or the timing of announcements.

The Post said Mr. Cross, who has been the assistant for research and improvement since 1989, was considering "several leadership positions on the new team," including one as the official in charge of Federal aid for students.

Ms. Ravitch, the author of 10 books and 200 articles for magazines, newspapers and academic journals, has been for many years a leading commentator on educational trends and change in public education.

She has often criticized curriculum and programs that provide inadequate grounding for public high school students in literature and history. One of her best-known books, published in 1983 by Basic Books, was "The Troubled Crusade: American Education, 1945-1980," an examination of public education in the postwar era.

What Don't They Know?

Ms. Ravitch and Chester E. Finn Jr. were the authors of a 1987 study, published by Perennial/Harper & Row, "What Do Our 17-Year-Olds Know?" which concentrated on what high school seniors at that time did not know. Mr. Finn was Assistant Secre-

provement from 1985 to 1988.

Ms. Ravitch is also the author of "The Great School Wars: A History of the New York City Public Schools," which appeared in 1974, and "The Schools We Deserve," in 1983, both by Basic Books, and "The American Reader," which was published last year.

In some recent writings, Ms. Ravitch has opposed proposals for special schools and programs that would attempt to enhance esteem among minority students by segregating them. She has said such programs would fail to provide adequate academic training and might increase racial and ethnic tensions.

Ms. Ravitch, who was born in Houston, received a bachelor's degree from Wellesley College in 1960 and a doctorate from Columbia University in 1975. She had been an adjunct professor at Teachers College of Columbia University since 1975. She was a Guggenheim Fellow in 1977-78.

Ms. Ravitch is a director of the Woodrow Wilson National Fellowship Foundation and a trustee of the New York Public Library. Her marriage to Dr. Ravitch, former chairman of the Metropolitan Transportation Authority and a candidate in the 1988 Democratic mayoral primary in New

In your information on source background.

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Tyler Helps Protect Returning Desert Storm Troops

One evening in August 1990, Joe Tyler, Western Massachusetts Office, was doing what almost everyone else in America was doing—watching CNN coverage of Operation Desert Shield. That evening, Tyler listened as a reservist lamented the fact that his employer had terminated his health insurance because he would now be covered by the military health plan. Tyler wondered, "What will happen when that soldier comes back to work?" Tyler discovered that if employers discontinued employees' health insurance coverage while they are engaged in active military duty, and if their insurance carriers refused to reinstate their original policies, then these employees could be faced with a big problem upon their return. Namely, they could now be subject to new underwriting rules, waiting periods, increased premiums, etc. However, thanks in part to

Tyler's curiosity, Congress corrected the situation retroactively so that returning reservists would not have any problems getting their coverage reinstated.

Tyler's efforts involved a series of steps and some background investigation. He was already aware that certain federal acts protect the rights of full-time military personnel and reservists. One such act is the Veteran's Reemployment Act. Even though this act ensures that any person returning from service in the U.S. Armed Forces is to be "reemployed without loss of seniority," it also states that these persons "shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence..."

This is where Tyler discovered the loophole: "The hole in the act," he says, "is in the use of rules for 'leave of absence or on furlough,' because this means that a lot of people, when they get back

to work, could be subject to pre-existing conditions clauses, a new waiting period, or even declination, which could make it very difficult for them to restore their previous coverage." Tyler set out to mend the situation.

His first step was to make sure New York Life was doing the right thing, which was to have a provision that backed active duty reservists in EPI plans. He contacted Executive Management Consultant Don Pittman of the EPI Division, and together they worked on getting the company to develop a clause that would correct this problem. As a result, on December 10 an Agency Communication informed agents that when an employee returns from active duty, the employee (and dependents, if applicable) would have a no-hassle restoration of his/her coverage—no probationary period, no evidence of insurability, and no pre-existing conditions clauses. "The concept was one of no loss/no gain...whatever your



situation was before being called up, whether you had dependent coverage or not, that's what you had when you got back," Tyler says.

He also helped Congress to see the potential ramification of the problem and hoped he could be a facilitator in helping to resolve questions and problems between private insurers' concerns and Congress's concerns in setting public policy. Surely, most people would either not have the courage, the will, or even the know-how to approach

Congress, but Tyler understands government affairs. He not only has a master's degree in political

science and public administration, but he has also worked on a mayor's staff, with a governor's staff, and he and his wife, Sue, a high school U.S. history teacher, have even covered national political conventions and the Watergate scandal as a freelance radio news team.

Tyler contacted the staff of the Senate Veterans' Affairs Committee and got involved in making sure Congress dealt with this problem. Tyler participated by providing assistance and advice in helping to draft a section for a bill that would correct the problem. The bill was rushed

through the current session of Congress, and it was signed by President Bush on March 18—right before the reservists started coming home.

"I hope now the reservists that are coming back from active duty are going to return to a situation in which they didn't realize there was a problem in the first place," he

says. "I think this is a fine example of corporate America as well as the government wanting to do the right thing by getting a problem solved before a lot of people even knew it existed." Tyler is also grateful he had a chance to help make a difference: "I saw a problem and did something about it. Anyone can make a difference, you just have to get off your duff and do something." He also said, "Never discount your background of varied experiences. You never know when these different experiences can be of service to people."

EC-PAI-DA

July 16, 1993

THE NAFTA PACKAGE: FUNDING NEEDS AND OPTIONS¹

Introduction

This paper sets forth our pragmatic estimate of the environmental funding needs associated with the NAFTA package and sets forth options that would satisfy our concern for secure and adequate funding. Part I considers the following needs: (1) operation of a North American Commission on the Environment ("NACE"); (2) environmental infrastructure in the border areas; (3) border cleanup, *i.e.*, removal of existing contamination; and (4) conservation projects in Mexico. Funding for these items will be referred to collectively as "NAFTA funding." Part II of the paper evaluates preferred alternatives for meeting those needs. Appendix A sets forth more detailed and additional estimates of funding needs. Appendix B shows how one option might meet those needs under varied economic assumptions.

We have not included certain environmental or partially environmental funding needs in this paper because of limited information on those needs, uncertainty as to whether such needs are already covered by other sources (such as multilateral development banks and state and local governments), and/or questions whether Mexico needs or seeks funding from its NAFTA partners for such needs. The needs not covered here are (1) regulatory and enforcement costs and (2) infrastructure with both environmental and non-environmental benefits (*i.e.*, increased capacity at border crossings that generally facilitates transportation and trade, but also reduces exhaust emissions from waiting vehicles).²

Executive Summary

Funding Needs

Assuming that NACE would require a professional staff of 100 or 250, we project an annual operating cost (for all three parties) of \$29 million or \$73 million, respectively.

We estimate that environmental infrastructure, such as sewage treatment plants and drinking water supply, on both sides of the US-Mexican border will cost approximately \$7.6 billion for the first decade of NAFTA (1994 through 2003).

The major areas of uncertainty that could represent substantial costs are (1) costs for

¹This analysis was prepared by Alan Nessman for the National Wildlife Federation and the Environmental Defense Fund, in consultation with Defenders of Wildlife, National Audubon Society, The Nature Conservancy and the World Wildlife Fund.

²These needs are addressed in a funding paper being prepared by the Sierra Club.

cleanup on the Mexican and Canadian sides of the border and (2) environmental funding needs associated with the US-Canadian border. Any funding solutions must address such uncertain needs.

Basic conservation needs throughout Mexico, *i.e.*, preservation of natural areas, wildlife and biodiversity, could be addressed through a "Green Fund" that would generate \$5 million annually out of an initial endowment of \$75 million.

Funding Options

We recommend the use of a leveraging mechanism, such as the proposed Border Environment Fund or North American Development Bank, to fund environmental infrastructure needs. These mechanisms maximize the benefits achieved through government spending while placing much of the spending burden on infrastructure users. Assuming a relatively conservative leveraging ratio³ of 3:1, \$7.6 billion in environmental infrastructure (first decade needs on the US-Mexican border) could be financed with \$253 million per year from both governments.

A fee on imports (crossing one or both borders) is a possible source for capitalizing the leveraging mechanism and funding other environmental needs because (1) it could be "dedicated" through the bilateral or trilateral agreement permitting the fee; (2) it would provide a new source of funds; and (3) accordingly, it would not increase the federal deficit (although it would affect the prices of some goods). Leveraging would allow the fee needed to cover environmental needs to be quite small. For example, assuming 3:1 leveraging, a fee of 0.4% on imports between the US and Mexico could cover known environmental needs on that border, while leaving room to cover uncertain future costs such as cleanup.

Earmarking a portion of tariffs prior to their phase out is an alternative to a cross border fee but it has several disadvantages. It is not a "new" source of funding, earmarking is difficult to achieve, and the revenue would decline to zero in 15 years.

An earmarked increase in corporate taxes is another possible means of initially capitalizing the leveraging mechanism. It would not target the beneficiaries of free trade as precisely as a cross border fee or tariff earmarking. But corporations are better situated to adapt to, and benefit from, economic dislocations caused by NAFTA than are individual taxpayers.

³"Leverage" is used here to refer to the amount of infrastructure financed through bonds per government dollar of government spending. Thus, a 3:1 leveraging ratio means that \$3 million in infrastructure can be financed with only \$1 million in government funding budgeted.

Part I: Funding Needs

A. NACE

The amount of funding necessary to operate NACE depends on what responsibilities it undertakes. This paper assumes that the extent of NACE's duties will be proportional to its staff size. We have considered budgeting for two sizes of NACE, a small Commission with a professional staff of 100 and a larger Commission with a professional staff of 250. Budgeting is extrapolated from the budget of an institution analogous to NACE, the International Joint Commission ("IJC") between the US and Canada. Based on the per capita costs of IJC, with a greater allowance for travel and outside experts, we project a budgeting requirement of \$293,000 per professional staff, or \$29.3 million for a NACE with 100 professional staff and about \$73 million for a NACE with a staff of 250 (total funding from all three parties). (See Appendix A, section 1 for more details on this estimate.)

B. Infrastructure on the borders

1. The US-Mexican Border

Trying to assemble totals for this type of environmental infrastructure is an effort to add apples and oranges. The numerous existing estimates cover different geographic regions, time frames, infrastructure types, etc. The following are fairly comprehensive estimates from which we derived our estimate of \$6.3 billion for the first decade. Other estimates are found in Appendix A.

A. State of Texas Estimates. These figures are revised upward from those released in Spring 1993. We have not listed the state's estimates for hazardous waste and air quality because those are private sector and/or regulatory costs. (See Appendix A, Section 2 for a discussion of additional Texas estimates.)

Wastewater	\$1,607 (million)
Drinking water	716.3
Solid waste	90.0
Total	2,413.3

B. The International Boundary and Water Commission ("IBWC") issued a September 1992 estimate, prepared by the US Army Corps of Engineers, for wastewater treatment and collection in 10 major Mexican border cities. The estimate is \$2.48 billion for construction costs through 2008 and \$992 million for operating and maintenance costs through 2010. The

estimates do not include the cost of land in Mexico or collection systems other than trunk lines. On the other hand, the estimates figured the cost of more expensive secondary sewage treatment. According to OMB, Mexican law requires only primary treatment, which is considerably cheaper. Even if not required under existing Mexican law, treatment plants along the border should include secondary treatment in order to protect border water quality. In addition, it appears that construction costs were based on construction in US sister cities. The State of Texas, however, assumed that costs in Mexico were generally only 60% of those across the border in Texas.

C. A rough 10 year total for environmental infrastructure

Based on certain available estimates, we have done a rough extrapolation of total environmental infrastructure costs on the US-Mexican border, arriving at a figure of \$7.6 billion for the first decade of NAFTA (1994 through 2003). We used that time frame because funding needs and sources become highly speculative after that point.

For US funding, we have started with Texas' estimate of approximately \$2.4 billion in infrastructure needs through 2010 and adjusted them for needs through 2003. We have then assumed, based on the breakdown of top three and top ten infrastructure costs by the Border Trade Alliance (see Appendix A, Sect. B.2), that Texas needs account for about 60% of US needs along the Mexican border. This provides a total of about \$3.28 billion for the US. For Mexico, we have started with the IBWC's late 1992 estimate of approximately \$3.5 billion in sewage treatment needs until 2005 and adjusted that for the 1994 through 2003 time frame, as was done for Texas. Based on Texas' estimates, sewage treatment should be 66% of total costs for environmental infrastructure,⁴ giving a total of \$4.3 billion through 2003. The total for both sides of the US-Mexican border is \$7.6 billion. (See Appendix A, Sect. B.2 for a more detailed discussion of this estimate).

2. Infrastructure and Resource Needs on the US-Canadian Border.

We are aware of no figures for infrastructure needs on the US-Canadian border, although there appear to be some outstanding needs, such as for sewage treatment plants on Vancouver Island to reduce impacts in Washington State. In addition there are other natural resource problems on the US-Canadian border that may require funding, such as mitigation of acid rain impacts, restoration of salmon fisheries degraded by logging and mining along

⁴This figure does not account for the cost of pollution control equipment on border power plants owned by the Mexican government, for which we have not seen a total cost estimate. For just one set of such power plants, Carbon I and Carbon II, which affect air quality in Big Bend National Park in Texas, the costs are estimated at \$500 million. Washington Post, June 22, 1993. In the US, air pollution control equipment is generally a private sector cost since most power plants and factories are not government owned. If costs for air pollution equipment on all border power plants (and perhaps PEMEX facilities) owned by the Mexican government were to be included in NAFTA environmental funding, this would substantially increase funding needs, although we have seen no estimate of the magnitude of those costs.

the Inside Passage, and Arctic impacts due to oil and gas development in Alaska and the Northwest Territories.

C. Cleanup on the borders

This paper uses the term "cleanup" to describe the removal or remediation of contamination already in the environment, typically the remediation of hazardous waste sites. We understand that there are also problems with non-hazardous solid waste sites, *i.e.*, open garbage dumps in Mexico, although we expect that the predominant share of cleanup costs will go to the much more expensive remediation of hazardous waste sites.

The primary cleanup needs are in Mexico and perhaps in Canada. Contaminated sites in the US should be remediated with monies from Superfund or collected from responsible industries through CERCLA liability. While these are by no means ideal funding sources, they should generally suffice. Where delays in cleanup under Superfund or CERCLA liability are causing transboundary problems, however, it may be necessary to expedite the cleanup with border fee funds, and then recoup them from potentially responsible parties under CERCLA and/or from Superfund.

Our understanding is that Mexico and Canada currently have no analogous cleanup funds or liability schemes, although President Salinas has indicated that Mexico may enact a version of Superfund. We have not seen estimates for the number of waste sites on the Mexican or Canadian side of the border or for the cost of remediating known sites.⁵ We expect, however, that such cleanup costs may prove to be substantial, perhaps rivaling or exceeding infrastructure costs. Any funding solution must allow for that possibility, as discussed in Part II.

On the US side, the Northeast-Midwest Institute estimated in 1989 that it will cost \$2.8 to 3.4 billion to remediate 10 selected "toxic hot spots" in the Great Lakes area.⁶ We do not know whether there have subsequently been problems with prompt remediation of those sites or whether such problems are causing transboundary impacts. EPA has previously identified 450 possible hazardous waste sites on the US side of the US-Mexican border and had initiated remedial action at five sites on the Superfund priority list. EPA and its Mexican counterpart were to begin studies to locate waste sites throughout the border area

⁵The Sierra Club is developing an extrapolation of cleanup costs in Mexico based on the amount of hazardous material that is not returned to the US by the maquiladoras as is required by the La Paz Agreement. Actual cleanup costs, however, may vary greatly depending on a variety of factors including the amount of hazardous waste actually released into the environment; whether those releases are into the soil, surface water, groundwater, etc.; the degree of danger to nearby populations; the level of cleanup required by the Mexican government; and the type of remediation chosen at each site (*i.e.*, encapsulation on site vs. removal and disposal elsewhere).

⁶Cate Leger, *Cleaning Up the Great Lakes Areas of Concern: How Much Will It Cost?* September 1989.

in 1993.⁷ We have not, however, seen information on the status or results of that study.

D. Conservation in Mexico.

We are concerned that Mexico does not have the conservation infrastructure that is necessary to deal with long term natural resource planning and to address the numerous threats to the country's biological diversity -- threats which could be exacerbated by the rapid economic growth associated with NAFTA. Some of these infrastructure needs could be developed with the establishment of a \$75 million "Green Fund" that would generate approximately \$5 million per year for conservation and ecosystem protection in Mexico. (The initial capitalization could come from a cross-border fee, an earmarked portion of tariff revenues or an earmarked increase in corporate taxes.) The funds would be available to Mexican governmental and non-governmental organizations to mitigate impacts of NAFTA-related trade on ecosystems and strengthen protection of critical habitats. Funds could also be used to promote the use of environmental planning, research and monitoring, and to encourage the use of environmentally compatible development.

Part II: Recommended Options

The following options would satisfy our demand for secure and adequate funding for environmental needs. They would also place the burden primarily on the users of infrastructure and the polluters who necessitate cleanup. All of the options described below (1) would require bilateral or trilateral negotiations; and (2) minimize the need for government funding by utilizing a leveraging mechanism.

The options below combine the three leading proposals for leveraging institutions (Border Environment Fund, North American Development Bank ("NADBank") and NADBank run through the Inter-American Development Bank) with three preferred sources for capitalizing the leveraging mechanism, and for funding NACE, cleanup and the conservation Green Fund. Those sources are: (1) a cross-border fee on imports; (2) an earmarked portion of existing tariffs; and (3) an earmarked increase in corporate taxes.

1. Options Initially Funded By a Cross-Border Fee

Option 1A: This option is generally based on the Wyden-Richardson proposal. A cross-border fee on imports between the US and Mexico would initially capitalize a bilateral Border Environment Guaranty Fund or Border Environment Fund ("BEF") for infrastructure funding. The fee would also capitalize a "Green Fund" for conservation projects throughout Mexico. It would also directly fund (without leveraging) cleanup and the US and Mexican shares of NACE.

⁷USEPA, SEDUE, *Integrated Environmental Border Plan for the Mexican-U.S. Border Area (First Stage, 1992-1994)*(undated but apparently 1991) at III-23, V-33, 34.

Description: A cross-border fee on imports between US and Mexico⁸ would capitalize the BEF, a binational finance corporation with bonding authority. The amount of the fee would depend on refined estimates of infrastructure and cleanup needs, and on the degree of leverage achieved by the BEF. Chart 1 in Appendix B sets forth the percentage fee required, based on various assumptions such as the growth of trade and the degree of leveraging possible. Depending on these factors, the fee covering known and anticipated environmental costs might be in the range of 0.1% to 0.5%. The US and Mexico would agree that the cross-border fee, which would otherwise violate NAFTA, could only be collected if used for specified NAFTA environmental needs.

Distribution between the parties. Each party's share would be determined by how much it imported from the other party. According to the most recent statistics available, Mexico would provide slightly more than half of the funding. This is not unreasonable since Mexico appears to require the majority of the infrastructure funding and would receive all of the cleanup and conservation funding.

Infrastructure and the BEF. The BEF would be a bilateral funding institution created and overseen by the NACE and run by a Board of Directors. Infrastructure priorities would be determined by the BEF Board of Directors with ample input from the local communities most affected. The BEF would facilitate the funding of infrastructure by guaranteeing the repayment of bonds issued by public and private financial institutions. Those bonds would be low investment grade bonds (BBB) guaranteed by the BEF but not by the governments themselves. This would allow the greatest amount of infrastructure financing per government dollar (although the cost of financing would be higher than with the high grade bonds used in the NADBank scheme). Where appropriate, the BEF would seek financing participation from state and local governments. Infrastructure bonds would, where possible, be repaid through user fees on the infrastructure. Where such fees were inappropriate (i.e. colonia residents unable to pay for sewage lines) repayment could be sought from state and local governments or other sources. The money currently budgeted by the US and Mexico for infrastructure (approximately \$170 million for FY 1994⁹), which would not be repaid by infrastructure users, could be freed up for other environmental needs related to NAFTA, such as enforcement.

Cleanup. Because sites on the US side of the border can generally be cleaned up through Superfund or through CERCLA liability, the cross-border fee would primarily fund cleanup of contaminated sites on the Mexican side of the border. Where sites on the US side caused urgent transboundary pollution problems, however, cleanup could be expedited by the use of border fee funds that would later be recouped from Superfund or parties liable under

⁸To reduce administrative burdens, the fee could be waived for low value imports, such as those brought in by tourists.

⁹See footnote 4 in Appendix A for a discussion of recent rumors regarding cuts in this latest budget proposal.

CERCLA.

Cleanup in Mexico would be administered by the Mexican government with advice and technical assistance from EPA and oversight from NACE. To maximize cleanup capability, the Mexican government would first seek voluntary cleanup by the potentially responsible industries, using incentives similar to those employed in the US (the opportunity to design a more cost-effective remediation and limited protection from further liability). If border fee funds were required, they would be recouped, to the extent possible, by the responsible or potentially responsible industries through some or all of the following: pollution prevention and cleanup performance bonds, a special levy on Maquiladoras, a Mexican Superfund counterpart (hopefully without the flaws of the original), and liability schemes.

Uncertain costs. The magnitude of some costs, particularly cleanup costs, will not be known for years. (Judging from Superfund experience, for example, it is likely to take many years to identify waste sites in Mexico, determine the extent of contamination, and design and approve cleanup plans.) To account for such uncertainties, we suggest setting the border fee somewhat above that necessary to capitalize the BEF for known needs. As revenue from the fee grows with trade, it will create an increasing pool of funds to cover cleanup and other previously unknown costs. Chart 2 in Appendix B indicates the growth of revenue from projected increases in trade. After 5 or 10 years, the parties could reassess the adequacy of the border fee in light of trade growth and new information on cleanup and other environmental needs.

NACE would be funded by equal shares from each of the three parties. The US and Mexico would pay their shares directly from the border fee. (Because Canada would not participate in the cross-border fee, it would raise its share from other sources.)

The "Green Fund" for conservation projects in Mexico would be capitalized by a payment of \$60M from the cross border fee to reduce \$75 million of existing Mexican debt owed to the Export-Import Bank and/or CCC debt (based on an estimated 80% discount rate for such debt). The \$75 fund thus created would then generate about \$5 million per year for projects by governmental and non-governmental organizations to mitigate impacts of NAFTA-related trade on ecosystems, strengthen protection of critical habitats, promote environmental planning, research and monitoring, and to encourage the use of environmentally compatible development. The Fund should be structured in a manner to allow meaningful participation by NGOs, including representation by local NGOs on its board.

Advantages:

- 1) The border fee would provide a dedicated source of funding for US-Mexican border needs and for NACE because both governments could collect the fee only if used for specified purposes. This would provide additional assurance that NACE

would be able to make objective recommendations unhindered by the concern that its funding might be affected.

- 2) This is an equitable way of funding NAFTA-related environmental concerns. Bonds for infrastructure would be repaid by the infrastructure users and by local communities that benefit from it. Where cleanup is not conducted voluntarily by responsible industries, the costs would be recouped, where possible, from the responsible parties. The initial financing of both items would be by primary beneficiaries of liberalized trade, those businesses that trade across the US-Mexican border.
- 3) The border fee provides growing pool of money for items such as cleanup that are presently uncertain, but are likely to be substantial in the future.
- 4) The BEF would provide a leveraging mechanism that would substantially multiply the amount of environmental projects funded per government dollar spent.
- 5) Because of the BEF leveraging mechanism, the border fee could be so small that it would be difficult for industry to argue that it will have a substantial impact on free trade or put US and Mexican businesses at a competitive disadvantage.
- 6) The BEF would have a clear and focused mission (environmental needs on the US-Mexican border) and would be less expensive because of its limited scope.

Disadvantages:

- 1) A cross-border fee is a tax on trade and would discourage trade.
- 2) The BEF would not address environmental needs on the US-Canadian border.
- 4) The BEF would not address social and development needs.
- 5) The BEF would not tap the large source of revenue found in US-Canadian trade.
- 6) Because the BEF would not issue the bonds itself, but would guarantee the bonds other bond issuing institutions, funding in Mexico may be limited by the lack of developed bond institutions and markets there.¹⁰
- 7) It is our understanding that customs is already generally required to determine the value of all imports crossing the border, even those that are not subject to tariffs. There may, however, be a greater burden involved in collecting the fee, as opposed to

¹⁰See 1992 Report of the International Committee of the Environmental Financial Advisory Board of the USEPA, Feb. 10, 1993 draft, at 4-8.

merely gathering statistics.

Option 1B: Same as Option 1A but the bilateral BEF would be replaced with a trilateral North American Development Bank encompassing environmental problems along the US-Canadian border, and social and development needs.

The cross border fee would be trilateral under this option, covering trade between all three parties. Because of the much larger volume of US-Canada trade, as opposed to trade across the US-Mexican border, a far larger quantity of funds would be available and/or the fee could be set at an even smaller percentage.

Funding Distribution between the parties. Based on the latest trade data available, approximately half of the border fee would be collected by the US, one third by Canada, and the remainder by Mexico.¹¹

The NADBank would be run by a Board of Directors selected by the three governments in proportion to their capital contributions. The Board would select an Oversight Group representing environmental groups, local governments, labor and other pertinent interests. The Bank would provide for a transparent process to facilitate the involvement of such interests in its decisionmaking.

Environmental infrastructure (and other projects funded by the NADBank) would be financed by bonds issued by the Bank itself (as opposed to mere guarantees by the BEF). The Bank would seek to achieve the highest bond rating possible in order to have the lowest priced financing. Unlike the BEF, the Bank would fund projects in Canada, and projects to address NAFTA impacts in the interiors of the three countries to the extent that funds remained after border needs. Bank proponents predict that it will be able to employ leveraging as high as 10:1 or more, but OMB is skeptical, noting that the European Bank for Reconstruction and Development had only about a 3:1 leverage ratio.

Cleanup. Because the cross border fee would be trilateral, it would be appropriate to use it to fund cleanup needs on the Canadian, as well as the Mexican, side of the border.

NACE. Because the fee would be collected by all three NAFTA parties, the NACE contribution of each party would come from the cross border fee.

The Green Fund would be the same as under Option 1A.

Advantages:

¹¹The NADBank proposal by Raul Hinojosa-Ojeda and Steven Davidson does not contemplate capitalizing the Bank through a cross border fee. Instead, it proposes that 60% of the capitalization come from the US, which is slightly higher than the US share as determined by share of imports.

--See Advantages 1-5 (cross border fee and leveraging) for Option 1A.

-- It would have a broader mission than a BEF, addressing Canadian needs, social problems associated with development, and, to some extent, environmental and socio-economic problems in the interiors of all three countries.

--The larger flow of trade across the US-Canadian border could be tapped for funding.

--Involving Canada is also likely to improve the leveraging mechanism's bond rating by spreading the risk to across another wealthy country.

Disadvantages:

--Because of the broader agenda of the Bank, it will require substantially more funding than the BEF, unless that difference is made up by greater leveraging capability.

--Environmental projects will have to compete with non-environmental projects for financing.

Option 1C: Same as Option 1B but the NADBank would be run through the Inter-American Development Bank, with an adjustment to the IDB's charter to allow funding for projects in the US and Canada. In most respects, the setup, advantages and disadvantages would be the same as for the regular NADBank proposal in Option 1B. The few differences are discussed below.

Advantages:

--This may allow a substantial increase in the leveraging capability of the NADBank.

--The use of an existing international institution may simplify the negotiations necessary to create the NADBank.

--If worked properly, the increased local and citizen access to the decisionmaking process of the NADBank may trigger similar reforms throughout the IDB.

Disadvantages:

--Some in the environmental community are concerned that the problems that the IDB shares with other multilateral development banks, such as lack of sensitivity to environmental concerns, lack of transparency, and non-responsiveness to local concerns, will be carried over to the NADBank.

--This may require certain changes in or amendments to the IDB charter in order to allow financing of projects in the US and Canada.

2. Options With Primary Funding From An Earmarked Portion of Tariffs That Are Being Phased Out.

Options A through C above could be initially funded by earmarking a portion of tariffs that will be phased out over 10-15 years. Because the US tariffs are at lower levels than those of its NAFTA partners, the US would have to earmark a larger portion of its tariffs if funding were to be contributed equally by the parties.

The main problem with these options is that tariff revenues are not new funds, they are already spoken for. Every dollar earmarked for NAFTA funding would have to be taken from other programs, increase the deficit or come from new taxes. In addition, Congress is reluctant to earmark funding. Finally, tariff revenues are a declining source of revenue that is scheduled to disappear completely. This is less of a problem *if* the leveraging mechanism can be fully capitalized prior to the phase out of tariffs, but alternate funding would have to be found for the ongoing costs of cleanup and operating the NACE.

3. Options With Primary Funding By An Increase In Corporate Income Taxes.

Options A through C above could receive primary funding by earmarking a portion of an increase in corporate income taxes. This would provide a large funding pool that could be dedicated, assuming that earmarking is possible. It could be implemented just domestically or bilaterally or trilaterally. Based on our understanding that the three parties have similar corporate rates, the same increase in the rates of all parties involved would result in the US paying the predominant share of NAFTA funding, because of its substantially larger economy.

While this would not precisely target the beneficiaries of increased trade, it would target some of the primary beneficiaries of NAFTA. It would also be more equitable than reliance on general revenues which burdens the average taxpayer (while many corporations can shift their operations to take advantage of the economic shifts caused by NAFTA, the average taxpayer cannot).

Appendix A: More Detailed and Additional Funding Estimates for NACE and Infrastructure

A. NACE

The amount of funding necessary to operate NACE depends on what responsibilities it ultimately undertakes and the extent of its involvement with respect to each of those responsibilities. For example, most proposals contemplate that NACE would investigate citizen complaints concerning specific instances of lax enforcement of environmental laws. Budgeting for this task will depend on how many investigations NACE conducts annually and the extent of those investigations (*i.e.*, examination of existing data, or on-site inspections, hearings and independent testing).

This paper handles that issue by assuming that the extent of NACE's duties will be proportional to its staff size. We have considered budgeting for two sizes of NACE, a small Commission with a professional staff of 100 and a larger Commission with a professional staff of 250. Budgeting is extrapolated from the budget of an institution analogous to NACE, the International Joint Commission ("IJC") between the US and Canada.¹ The US budget for its section of the IJC, which has a professional staff of 15, is approximately \$3.6 million. Because it will be operating continent-wide, we expect that NACE will have a significantly larger travel budget than the IJC, which is focused on a single border. Also, while the IJC pays about \$0.5 million for US Geological Survey technical consultation, we expect that NACE would have higher per capita technical consultation requirements given the broad array of tasks and issues with which it will be involved. Accordingly, we assume that NACE would require twice the per capita travel and consultant expenses of the IJC. This provides a budgeting requirement of \$293,000 per professional staff, or \$29.3 million for a NACE with 100 professional staff and about \$73 million for a NACE with a staff of 250. These figures are for total funding from all three parties.

B. Environmental Infrastructure on the US-Mexican Border

The greatest number of infrastructure estimates are for Texas, including the state's estimate of just over \$2 billion for purely environmental infrastructure, as discussed below. New Mexico has estimated \$300 million in total infrastructure but we have not yet seen a breakdown of what proportion are environmental costs. As to the other two states on the Mexican border, we have heard (from a source that did not wish to be cited) that the total estimates for all infrastructure needs, not just environmental, are \$1 billion for California and only \$50 million for Arizona.

¹We have not seen a detailed breakdown of the budget for the International Boundary Water Commission ("IBWC") which would allow us to use that for a cost estimate. We also attempted to get budget figures for a larger analogue, the UN Commission on Sustainable Development. Unfortunately, those figures were not available and we were told that it would be difficult to determine since many items of the CSD budget may not be separate from the general UN budget.

1. EPA

According to the 1992 Report of the International Committee of the Environmental Financial Advisory Board (Feb. 10, 1993 Draft), EPA has estimated that water, wastewater and solid waste disposal projects along the Mexican side of the border will cost between \$5 and \$7 billion. No time frame is given for this estimate. We have not been able to obtain further information from EPA regarding this estimate.

2. Border Trade Alliance, 1993

The estimates below are for infrastructure projects that could be initiated in the near future. It is prioritized according to the 3 most important and 10 most important projects for each of the 14 border communities along the US-Mexican border. The final category appears to include all priority projects sought by those communities. In 1992 BTA released an estimate five times higher for total infrastructure (approximately \$5.7 billion) but that was scaled back in the more recent report to numbers that were deemed more politically feasible (just over \$1 billion for total infrastructure).

	top 3 projects	top 10 projects	"total cost" projects: all projects deemed priority needs
Texas	100	145.5	418.6
New Mexico	13.1	13.1	13.1
Arizona	6.4	15.45	15.65
California	49.3	63.2	63.2
Total	168.8	237.95	510.55

3. State of Texas Estimates.

a. Most recent estimates.

The figures below are from about June 1993. They are not provided in the detailed format of the Spring 1993 estimates discussed below. For example, we have seen no breakdown of needs according to time periods (i.e., short term, long term).

wastewater	\$1,607 (million)
drinking water	716.3

solid waste	90.0
total	2,413.3

b. Estimates from Spring 1993.

The following two charts are derived from *Environmental Infrastructure Along the Texas Border*, Spring 1993 (subject to revision). The first chart provides a comparison to the numbers listed above for public infrastructure costs.

wastewater	\$1,070 (million)
drinking water	717
solid waste	108
total	1,895

The second chart provides a breakdown by time frame and includes amounts for hazardous waste and air pollution which we have not considered because they are private sector and/or regulatory costs. The figures listed for Mexican needs are, in some cases, based on an extrapolation from Texas numbers rather than an evaluation of existing infrastructure and needs.

	immediate <u>1994-1995²</u>	medium term <u>1996-2000</u>	longer term <u>2001- 2010³</u>	total
Texas	907(million \$)	378	742	2,027
Mexico (along Texas border ¹)	534	1299	353	2,186
Total	1,441	1,677	1,095	4,213
Annual Amount	720.5	335	109.5	---

²No time frame is given for the "immediate" infrastructure needs but we have assumed that the proper time frame is from the beginning of 1994 (the target implementation date for NAFTA) until the beginning of the next time frame in 1996.

³The figure on page 2 of the report indicates that the "longer term" funding is for 2006-2010 but this would leave a five year gap between the intermediate term and longer term time frames. A review of Table 3 indicates that the longer term begins in 2001.

4. Other Estimates

A. Sewage Treatment and Systems

- \$3.3B for 10 Mexican border communities through 2010. US Army Corps of Engineers estimate for IBWC, Sept. 1992.
- \$720M water and wastewater for colonias in Texas through 2010. IBWC.
- \$2.01B on wastewater and water for Texas border counties for the next 50 years. Texas Water Dev. Bd.

B. Drinking Water

- \$675M for Texas water supply through 2010. IBWC.

C. Hazardous Waste

- \$36M for physical facilities, personnel & equipment to handle hazardous waste response and containment for Texas side of border. Texas Dept. Commerce, Oct. 91

5. An Extrapolation of Total Funding Needs for the US-Mexican Border.

Based on certain available estimates, we have done a rough extrapolation of total environmental infrastructure costs on the US-Mexican border, arriving at a figure of \$7.6 billion for the first decade of NAFTA (1994 through 2003). We used that time frame because funding needs and sources become highly speculative after that point.

For US funding, we have started with Texas' estimate of approximately \$2.4 billion in infrastructure needs through 2010 and adjusted them for needs through 2003. Texas' Spring 1993 breakdown of costs by time frame (see above) suggests that funding needs through 2003 would be about 82% of the total. 82% of 2.4 billion is \$1.97 billion. We have then assumed, based on the breakdown of top three and top ten infrastructure costs by the Border Trade Alliance (see above), that Texas needs account for about 60% of US needs along the Mexican border. This provides a total of about \$3.3 billion for the US.

For Mexico, we have started with the IBWC's late 1992 estimate of approximately \$3.5 billion in wastewater needs through 2010. We have included the roughly \$1 billion in operating and maintenance costs to account for the IBWC's non-inclusion of costs for sewer collector systems (other than the main trunks), the cost of land in Mexico, and sewage needs outside of the 10 major border cities. We believe that these missing items may also be made up for by the fact that the IBWC construction estimates appear to be based on US costs, instead of lower Mexican costs. We have then adjusted the estimate for the 1994 through

2003 time frame, as was done for Texas (assuming that 82% of total needs would be in the first decade) for a figure of \$2.87 billion. Based on Texas' estimates, sewage treatment should be 66% of total costs for environmental infrastructure,⁴ giving a Mexican total of \$4.3 billion through 2003. The total estimate for both sides of the US-Mexican border is \$7.6 billion.

6. Money already budgeted for the US-Mexican Border Plan: environmental infrastructure and total

	1992 (\$million)	1993	1994	total
US funding clearly for environmental infrastructure	104.6 actual	82 actual	90 previously proposed ⁵	276.6
US total commitment	138.1 actual	211.1 actual	221 previously proposed	570.2
Mex. funding clearly for env. infrastructure				245 proposed
total Mexican commitment				446.3 proposed

From the numbers above, the joint contribution of the US and Mexico that is clearly devoted

⁴This figure does not account for the cost of pollution control equipment on border power plants owned by the Mexican government, for which we have not seen a total cost estimate. For just one set of such power plants, Carbon I and Carbon II, which affect air quality in Big Bend National Park in Texas, the costs are estimated at \$500 million. Washington Post, June 22, 1993. In the US, air pollution control equipment is generally a private sector cost since most power plants and factories are not government owned. If costs for air pollution equipment on all border power plants (and perhaps PEMEX facilities) owned by the Mexican government were to be included in NAFTA environmental funding, this would substantially increase funding needs, although we have seen no estimate of the magnitude of those costs.

⁵We have heard rumors that the latest budget proposal would budget \$35 million to complete the Tijuana/San Diego wastewater project, leaving other border projects in a larger pool to compete with non-border needs. In the earlier proposal reflected here, approximately \$40-45 million in funding for the San Diego wastewater project was supposed to switch from federal funding to state revolving loan funds in FY 1994.

to environmental infrastructure would be about \$172 million for 1994. By comparison, Texas' estimates indicate annual environmental infrastructure costs, *for the Texas/Mexico border alone*, of over \$700 million annually for the next two years; \$335 annually for the period from 1996-2000; and \$109.5 annually for the years 2001-2010.

Appendix B: Estimates of Actual Funding Under Option 1A.

This appendix employs relatively crude economic assumptions to project the size of a bilateral border fee needed under Option 1A (US-Mexican import fee capitalizing a Border Environment Fund¹) depending upon varied economic assumptions. Chart 1 shows how different leveraging ratios affect the size of a cross border fee necessary to fund NACE and \$7.6 billion of environmental infrastructure needs we have estimated for the US-Mexican border during the first decade. Chart 2 takes the 3:1 leveraging ratio from Chart 1 and shows the amount of extra money for cleanup that an assumed 11% growth in US-Mexican trade would generate over the first decade.

Chart 1 - Border Fee Percentages Based On Various Leveraging Ratios - Does Not Cover Cleanup - Assumes Trade Remains Constant During First Decade of NAFTA.

Assumptions and Limitations:

Only for the first decade of NAFTA (1994 Through 2003).

No adjustment for inflation.

Very conservative assumption that trade does not increase after the first year of NAFTA. Assumes US-Mexico trade grows at 11% annually from the 1991 level (last year for which figures were available) of approximately \$65B until 1994 and then stays at \$89B for the rest of the decade. The 11% growth rate is a rough average of the International Trade Commission estimates that exports from the US to Mexico will grow at 5.2 to 20.1% and exports from Mexico to US will grow at 3.4 to 15.4%.

Assumes environmental infrastructure needs for both sides of the US-Mexican border would be \$6.3B over first decade or \$630M per year. Annual cost of NACE is assumed to be \$29M/year (100 professional staff) .

No "revolving" of money in Border Environment Fund ("BEF"), *i.e.*, there is no payoff of initial bonds available to fund new projects later in the first decade.

Assumes no attempt to fully capitalize BEF for needs beyond first decade, *i.e.*, the BEF would continue to need capitalization after first decade to cover the needs of following decades.

¹We have not yet done estimates for a NADBank (Options 1B and 1C) because we do not yet have estimates for the non-environmental infrastructure needs that the Bank would cover or for the environmental needs on the US-Canadian border that would also be encompassed by the Bank. We understand that estimates for at least some of these items will soon be released.

Leveraging Ratio	Annual capital for infrastructure	ann. infra. + \$29M/yr for NACE	Border Fee Needed
1:10	\$76M	\$105M	0.12%
1:4	190	219	.25%
1:3	253	282	.32%
1:2	380	409	.46%

Chart 2 - Funds Available For Cleanup Assuming 0.4% Fee, 11% Trade Growth and 3:1 Leveraging Ratio

Assumptions and Limitations are the same as for Chart 1, except:

Border Fee set at 0.4% of value of US-Mexican imports.

Assumes US-Mexican trade would grow at 11% annually.

BEF would achieve 3:1 leverage ratio. (This ratio is used because it is approximately what was achieved by the analogous European Bank for Reconstruction and Development.)

NACE would cost \$29M/year to operate. Annual costs for NACE and environmental infrastructure would be \$29M and \$253M for a total of \$282M (see chart 1).

Green Fund to be fully capitalized in first 3 years with \$20 million for each of those years.

year	US-Mexican trade volume in \$billion @ 11% growth	revenue from 0.4% fee (in \$ million)	funds remaining for cleanup (revenue minus \$282M and minus an add'l \$20M for Green Fund in 1st 3 yrs)
1994	\$89B	\$356M	\$54M
95	99	396	94
96	110	440	138
97	122	488	206

98	135	540	258
99	150	600	318
2000	166	664	382
2001	185	740	458
2002	205	820	538
2003	228	912	630

NOTE TO KATIE FROM DAN
RE: BORDER INITIATIVE DEPUTIES MEETING
7/19/93

Aing -
FUI
- Dan

Background

I talked to Ken Thomas (State/OES) regarding the options laid out in the OMB paper for today's Deputies meeting. He said that, although he thought Rivlin did a good job in pulling together the paper, there are a couple problems: 1) that there really wasn't as reported a consensus around option "1.B." or the parallel financing mode; and 2) that State's preferred option ("1.A.") wasn't correctly portrayed.

As presented in the OMB paper, both options 1.A. and 1.B. are based on expanding the role of the IBWC. State would like to see a **new institution** that would take over some of the duties (and all of the capital) of the IBWC, but Ken emphasized that he thought it needed to be something new. Transparency and openness to the public are big issues for the NGOs and a problem with the way the IBWC is currently run. The new institution would have to do better in this regard. (This approach could address one of the concerns raised by CEA -- that the folks on the Hill that we need to sell this to are not likely to be big fans of the IBWC.)

The issue with parallel financing is that (according to Ken) it doesn't bring in the capital markets and is still focused on each country taking care of the issues only on its own side of the border. This doesn't get at the need for a regional approach to cut across jurisdictions (which was emphasized by local officials from both Mexico and US at the recent San Antonio conference).

CEA seems to be interested in pushing Option 2 (the NADBank or IDB window). While this too would be a new institution, Ken points out a couple issues: 1) political -- Congress is not likely to approve funding in the \$b's range for a new development bank; 2) still inconsistent with regional approach -- since the IDB can't lend to the US, it will still be limited by jurisdictional lines. One could design a new type of development bank with expanded powers, but Ken wonders if we are going to make something new why bother.

Ken said that he thought Bentsen was in favor of just tweaking the IBWC, but could support the "new institution" approach.

Recommendation

While I think there are some good arguments for the NADBank approach, I am leaning toward the State recommended new Option 1.A. I believe that the regional / new institution approach is the right one, and that the political realities of starting a new development bank make that option a non-starter.