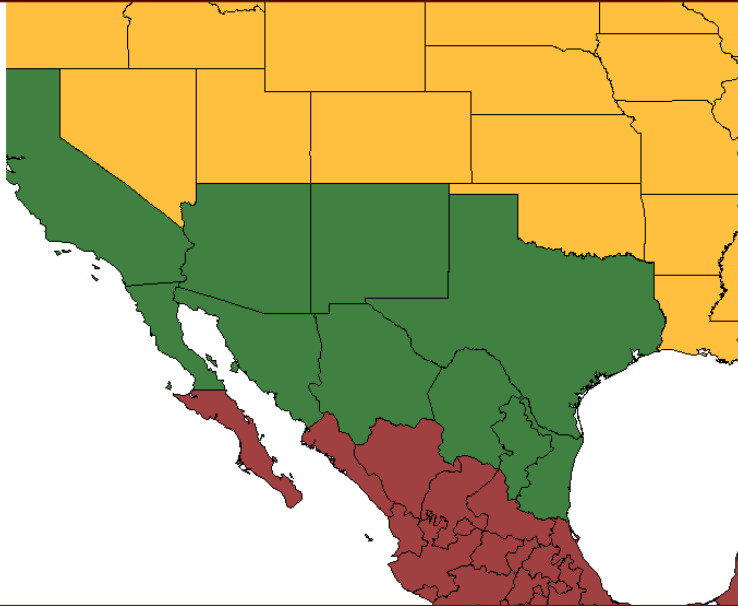


**THE BORDER ENVIRONMENT COOPERATION COMMISSION
(BECC) & NORTH AMERICAN DEVELOPMENT BANK (NADB):
*ACHIEVING THEIR ENVIRONMENTAL MANDATE***



**A Call for the NAFTA-Created Environmental Institutions to be strengthened - not
weakened -- by the U.S. and Mexico Governments**

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I. OVERVIEW OF CURRENT POLITICAL CLIMATE

A. OPPORTUNITY VS. CONTROVERSY

Recently, Mexico and the United States conducted high level discussions on their economic relationship, including trade and development issues along their shared border. The two presidents are also scheduled to meet this September and are likely to again discuss border issues. In particular, it is likely that they will discuss and may offer proposals to change the direction and functions of the border environmental institutions -- the Border Environment Cooperation Commission (BECC)-- and its financing arm -- the North American Development Bank (NADB) -- created as part of legislation parallel to the North American Free Trade Agreement (NAFTA). One option being discussed is the creation of a European-Union model Development Bank among the US, Mexico and Canada. Another option that has been floated by the NADB managers and others is moving several functions of the BECC to the NADB and further expanding the types of projects for which NADB loans can be used, both within the border as well as in interior Mexico.

There are both positive and negative aspects to these proposals. The more positive vision of the first proposal is that all three NAFTA countries could participate in investment to develop more economic and social opportunities for all their citizens. Experience in the European Union has demonstrated that such an investment bank can foster increased standards of living and improve economic opportunity. There are many important issues in structuring such a development bank, including whether and how it might relate to the existing NADB and BECC, and these issues deserve full discussion, debate and public input in all three countries.

The second proposal, on the other hand, would clearly result in a weakening, rather than much-needed strengthening, of the BECC. BECC is the first and only institution to be established under an international trade agreement to take into account and address the social and environmental issues related to free trade in a transparent, participatory and sustainable manner.¹

The BECC has made much progress -- in conjunction with the NADB -- over the last seven years in collaborating and assisting almost 100 communities with more than 140 projects either certified or receiving technical assistance to begin to address environmental infrastructure needs along the US/Mexico 2,000 mile border. Nevertheless, pressing border environmental infrastructure needs still exist due to the enormous increase in industries and people at the border, and more resources to help strengthen the BECC's role will be needed to keep up with the

¹ The BECC and NADBANK were created through a special binational agreement between the U.S. and Mexico ("Agreement Between the Governments of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank"). Signed in 1993, this agreement was parallel to NAFTA, signed in 1992 and ratified in 1993, and the 1993 North American Agreement on Environmental Cooperation, the so-called environmental side-agreement which created the North American Commission on Environmental Cooperation.

demand. If anything, any high-level dialogue between nations should focus on how to strengthen the BECC's unique role in solving shared border problems, rather than on weakening or minimizing that role.

If the dialogue around changing the NAFTA-created institutions is done for political expedience and lacks broad binational public involvement and support, the likely result will be a politically driven, short-term vision which satisfies only certain economic interests with little benefit or long-term quality of life improvement for all citizens in both countries. This result would likely:

1. alienate the US and Mexican citizens along our joint border that continue to suffer serious public health and environmental problems from lack of basic sanitation infrastructure - --problems that are just beginning to be effectively addressed by BECC and NADB;
2. be of grave concern to the broad-based coalition's previous efforts under NAFTA to obtain "fair trade" and recognition—in part through the NAFTA parallel agreements—of the variety of social and environmental issues that must be incorporated as equal components of international trade agreements; and
3. be taken by some as further evidence that trade agreements are designed primarily to benefit multi-national corporations at the expense of people and the environment.

Instead, proposals should be analyzed with the following principles in mind—principles that were used in creating the BECC/NADB system in the first place:

- Transparency of decision-making;
- Effective mechanisms for informed public participation;
- A system of checks and balances between physical project development and financing; and
- Accountability to ensure environmental, social and economic sustainability of projects.

B. SUMMARY OF RECOMMENDATIONS

Overall, there is a need to strengthen the BECC's ability to assist, and NADB's ability to provide lower cost loans, to border communities in their environmental infrastructure needs, including

1. Increase contributions to BECC's operating budget.
2. Continue and increase Environmental Protection Agency (EPA) border infrastructure construction grants program currently administered by NADB;²

² These funds are currently administered by the NADB under the BEIF (Border Environment Infrastructure Fund). If it improved the efficiency of the BECC certification process, some or all of these funds could be transferred to the BECC itself. Nonetheless, this report does not recommend taking this action unless there is sufficient public

The BECC & NADBANK: Achieving Their Environmental Mandate

3. Continue and increase Environmental Protection Agency (EPA) grant funding for BECC's Project Development Assistance Program (PDAP).
4. Give the BECC and NADBANK's newly adopted expanded mandate program sufficient time and resources to be implemented prior to considering any changes to the binational agreement which created the two institutions.
5. Provide resources for BECC to coordinate border wide regional strategic plans for assessing border environmental infrastructure, financing needs, master planning and helping communities identify their priorities.
6. Implement NADB's changes to its current financing policies and interest rates and consider additional measures to make loans even more affordable.

discussion of the transfer and some assurance that the BECC had the financial expertise to determine the level of grant funding and would be better able to leverage additional grant and loan monies.

II. BACKGROUND OF BORDER CHALLENGES LEADING TO CREATION OF BECC/NADB

The border region is providing enormous economic benefits for certain industries and sectors in both Mexico and the United States. Nevertheless, many border communities still lack basic sanitation infrastructure necessary to ensure that their residents have potable water, wastewater treatment plants, or solid waste facilities. The reasons for this infrastructure deficit are many, but they include lack of tax and fee mechanisms to channel a portion of the benefits of increased trade to border communities, low wages and high poverty levels and the lack of reinvestment by industries (largely US companies) in border communities. This infrastructure deficit has resulted in serious environmental and public health problems. Basic sanitation infrastructure is a necessary building block of any healthy community, providing for economic and social opportunities, and a decent quality of life. Other critical border needs such as housing, healthcare, schools, businesses, roads, and electricity, are difficult if not impossible to develop without these basic infrastructure needs being met first.

Given the border's economic nexus for Mexico and the United States, it is imperative for both countries to continue, and in certain areas increase, the resources needed to help the border communities catch up with and get ahead of their rapid growth over the past 20 years. The infrastructure needs due to trade, industrial development of the border, and resulting booming populations, combined with the relative poverty of the border areas are so great that they can only be overcome with continued financial investments and assistance during this decade.

The only existing truly binational US/Mexico institutions that can accomplish these infrastructure goals are the BECC and NADB established under legislation parallel to NAFTA. To effectively carry out their mandate, these institutions need sufficient political support and resources -- especially grant resources -- from both countries.

III. CREATION OF THE BECC/NADB

A. ENVIRONMENTAL AGREEMENT TO ADDRESS BORDER NEEDS

The BECC and NADBANK were created by a parallel agreement to the 1993 North American Free Trade Agreement (NAFTA).³ There were both real needs – the enormous environmental infrastructure deficits along the border – and political reasons – gaining the support of key border congressional and senatorial representatives for NAFTA – for establishing the agreement. The agreement states in its preambular language that the Governments of the United States and Mexico are: **”convinced of the importance of the conservation, protection and enhancement of their environments and the essential role of cooperation in these areas in achieving sustainable development for the well-being of present and future generations”** and **“recogniz(e) the need for environmental infrastructure in the border region, especially in the areas of water pollution, wastewater treatment, municipal solid waste, and related matters.”** In addition to the environmental infrastructure needs, the Agreement also addresses the need for “community adjustment and investment” in the United States and Mexico for those communities adversely impacted by NAFTA.

B. ORIGINAL BORDER INFRASTRUCTURE PRIORITIES

The BECC, established in Chapter 1 of the Agreement, was given the mandate to “help preserve, protect and enhance the environment of the border region in order to advance the well-being of the people of the United States and Mexico.” In carrying out its purpose, the BECC can “assist states, localities, public entities and private investors” in:

- “coordinating ... repairing, developing, implementing, and overseeing environmental infrastructure projects in the border region, including the design, siting, other technical aspects of such projects”,
- “analyzing the financial feasibility, environmental aspects, ...social and economic benefits”;
- “organizing, developing and arranging public and private financing,” for these border environmental infrastructure projects: and
- “certify(ing) .. applications for financing to be submitted to the North American Development Bank, or other sources of financing that such certification, for environmental infrastructure projects in the border region.”⁴

BECC was instructed to give preference to environmental infrastructure projects relating to water

³ Agreement Between the Governments of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank, 1993.

⁴ Agreement, Chapter 1, Article 1, Section 2.

pollution, wastewater treatment, municipal solid waste and related matters. BECC could also consider projects outside of the border region “upon finding that the project would remedy a transboundary environmental or health problem.”⁵ Finally, BECC was also allowed to expand beyond these types of environmental infrastructure projects -- with agreement of the Mexican and United States Parties -- and has recently done so with the so-called “mandate expansion”.⁶

C. NADB ROLE IN FINANCING ENVIRONMENTAL INFRASTRUCTURE PROJECTS

The North American Development Bank (NADB) was created in the same agreement “**to provide financing for projects certified by the BECC, as appropriate, and at the request of the Commission [BECC], to otherwise assist the Commission in fulfilling its purposes and functions.**” In addition, NADB was also given the purpose to provide financing for community adjustment and investment in both the U.S. and Mexico. To do so, NADB was provided with both paid-in capital -- \$225 million to be contributed equally by both governments over a four-year period -- and 2.25 billion in callable capital, which cannot be used directly for loans or grants. Up to 10% of the paid-in capital can be used for loans, grants and guarantees for the community adjustment and investment programs, while the remaining 90% is earmarked for loans and loan guarantees for the environmental infrastructure projects certified by BECC. However, much of the NADB’s paid-in capital by both countries for loans--as well as its \$ 2.25 billion in callable capital--has ironically been idled as poor border communities with overwhelming basic sanitation needs cannot afford the loans, even when coupled with grant subsidies up to 50% of the project construction costs.

Hopefully, however, the recent expansion of the BECC/NADB mandate to other types of environmental infrastructure projects as well as several new proposed but yet to be implemented financing programs announced by NADB will provide greater opportunities for private sector involvement and partnerships with the public sector in meeting border infrastructure needs, thereby increasing lending and repayment opportunities for the NADB. While the types of public infrastructure under the expanded mandate should require less grant subsidy support, the heavily grant-dependent water, wastewater and solid waste projects—while benefiting from presumed greater net earnings from the anticipated NADB loans to other infrastructure—would continue to need substantial construction subsidies from both governments in order to “buy down” any NADB loan component. Additionally, pressure continues for the NADB to lower its overall interest rates for poor border communities in order to utilize its financing to carry out the original purposes of the agreement. In partial response, NADB has announced it will initiate a “value lending” program with \$50 million of its paid-in capital being available at lower interest rates (*See Section VI, 6 for discussion*).

⁵ Ibid.

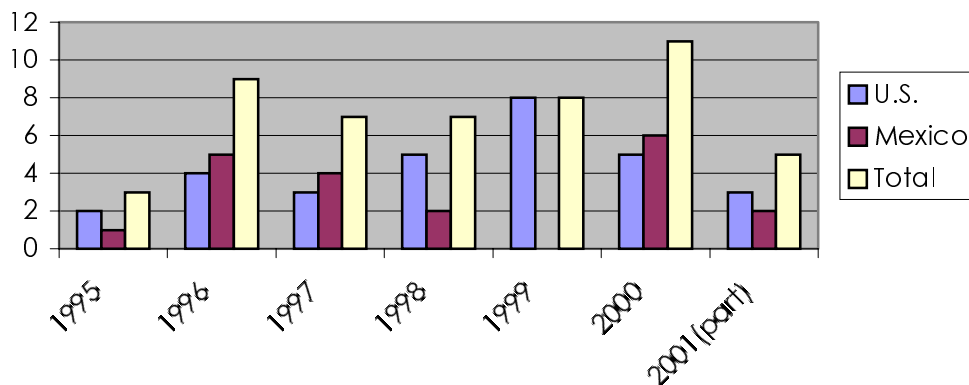
⁶ BECC, Board Decision 032/100 “Resolution of the Board of Directors Expansion of Projects to be Considered for Certification,” December 11,2000; NADB Resolution 2000-10, “Expansion of NADB Sectors of Activities”, approved 11/16/00, Washington, D.C.

IV. BECC/NADB PROGRESS TO DATE

A. PROJECT TECHNICAL ASSISTANCE, DEVELOPMENT, AND CERTIFICATION.

Since late 1994, BECC has certified 49 (29 U.S./20 Mexico) environmental infrastructure projects, and the NADB has financed or is working with the sponsors to finance 40 of these projects, largely through construction grants funded by EPA's border monies. **These projects represent an estimated investment in border infrastructure projects to date of some \$1 billion dollars and will bring infrastructure services to more than 6.45 million people.**⁷ Of these projects, 7 have been constructed, 21 are under construction, 21 are under design, 2 are in the bidding process and 2 are being redefined. The number of certified projects jumped in 1999 and 2000 as more grant monies from EPA became available. Substantial, measurable progress on border "cleanup" will be advanced within the next several years when all of these certified projects are constructed and operating.

Number of Projects Certified by BECC Per Year, 1995 -2001



These 49 projects are using a combination of loans, loan guarantees, grants and bonds to finance construction of the infrastructure. Through December 31, 2000, NADB and the EPA had authorized a total of \$265.5 million in EPA Border Environment Infrastructure Funds (BEIF) grants for 30 water and wastewater projects. In this same time frame, NADB had only made seven loans totaling \$11.12 million, although the NADB is currently working on nine new loan packages totaling \$67 million.⁸ **More environmental infrastructure is now operating or under construction in the border area than at any time in the past** -- a fact that is particularly significant in light of the region's historical deficit of investment in infrastructure, its dramatic

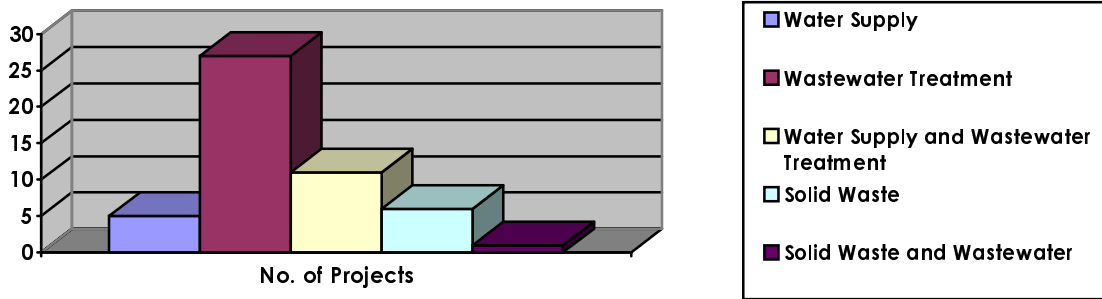
⁷ BECC and NADB, Joint Status Report: December 31, 2000.

⁸ Ibid.

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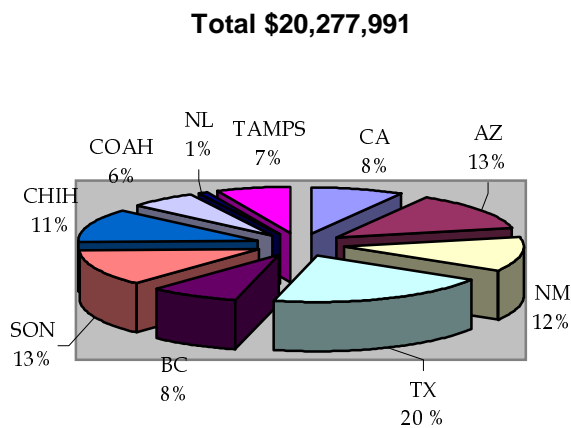
growth, its limited human and financial capacity, and the many challenges inherent in working in a cross-border setting

Type of Projects Certified, 1995 - 2001



Additionally, there are more than 140 community projects in the BECC certification pipeline that are receiving technical assistance. More than \$20.27 million has been allocated by BECC's Project Development Assistance Program (PDAP) and other technical assistance programs for private sector consultants to provide direct assistance to communities (grants funded through EPA border monies for use in water/wastewater projects only and monies from BECC's operating budget for solid waste projects) to aid in the development of 147 environmental infrastructure projects in 101 communities on both sides of the US/Mexico border. In addition, NADB has used interest earnings to institute an Institutional Development Cooperation Program. This program has provided assistance for 93 projects in 64 communities to evaluate the current institutional capacity of utilities, as well as supporting a Utility Management Institute to train utility managers and their staffs.⁹

BECC Technical Assistance in United States and Mexico, 1995-2001



⁹ Ibid.

B. FUTURE NEEDS IDENTIFIED

In spite of the large number of projects certified and under development by BECC over the last seven years, recent estimates show that many billions in overall investment are required in border water/wastewater/solid waste projects to bring the border region up to adequate health, sanitation and environmental standards in the coming years. These resources—a substantial portion of which must come in the form of grants from both countries—are needed to keep pace with the border’s enormous population growth. The border is projected to grow by 100% in the next 20 years and is the fastest growing region in both countries. At this rate, there will be 12 million more people, in addition to the existing 10 million, living in the border region. This phenomenal projected growth, as well as the border’s low per capita income (79.2% of the national US average; excluding San Diego County, it would drop to 61.9%), the economic trade benefits the border generates for both countries, and the importance of US/Mexican relations, combine to make a compelling case for both governments to continue and increase grant funding for such basic environmental infrastructure. This should be combined with lower-interest NADB loan financing and greater involvement of the private sector.

Future Water, Wastewater and Municipal Solid Waste Needs Identified in Border Region

Author of Study	Time Period Examined	Estimated Needs in Mexico	Estimated Needs in U.S.	Estimated Total	Name of Study
U.S. Council of the Mexico-U.S. Business Committee, 1993		\$4.5 billion	\$2.0 billion	\$6.5 billion	<i>Analysis of Environmental Infrastructure Requirements and Financing Gaps on the U.S.-Mexico Border, August 1993.</i>
North American Development Bank, 1999	1999-2003	\$603 million	\$541.9 million	\$1.145 billion	<i>U.S. - Mexico Border Ten-Year Outlook: Environmental Infrastructure Funding Projections, Summer 1999.</i>
	1999-2009	NR	NR	\$2.1 billion	
U.S. Environmental Protection Agency, 2001	Short-term (Projects in development)	\$342 million	\$349 million	\$691 million	<i>Status Report on the Water and Wastewater Infrastructure Program for the U.S. – Mexico Borderlands, January 2001.</i>
	Long-term (2020)	\$1.3 billion	\$2.5 billion	\$3.8 billion	
North American Development Bank, 2001	2001 – 2005	\$1.032 billion	\$0.881 billion	\$1.913 billion	<i>U.S. – Mexico Five-Year Outlook: Environmental Infrastructure Funding Projections, 2001</i>

C. CHALLENGES FACED BY THE BECC AND BORDER COMMUNITIES

In addition to meeting border communities needs for basin sanitation projects that will improve residents' quality of life and help communities attract more diverse economic investment, the BECC and NADB are attempting to address other important challenges. These include the need for:

1. **building institutional capacity**, professionalism and training at the local level for proper administrative oversight, planning, and long-term operation of the projects;
2. more **community master planning** to better assess and prioritize needs;
3. fundamental **education of border residents** related to sanitation, health and environment, and the financing of these basic needs through monthly payments;
4. fostering greater **cross-border collaboration** among existing agencies; and
5. ensuring **continuity of local technical and administrative personnel**, especially during changes in local administrations.

V. CURRENT PROPOSALS TO CHANGE THE NAFTA-CREATED ENVIRONMENTAL INSTITUTIONS.

A. CREATION OF A EUROPEAN-UNION MODEL DEVELOPMENT BANK AMONG THE NAFTA COUNTRIES

Response. This general proposal discussed in both countries' media was made by Mexico's new President Fox to President George W. Bush. It has a great deal of merit and potential and could benefit all three nations' citizens if done well. On the positive side, it is a proactive proposal and a natural step in strengthening US/Mexico/Canada relations through development loans for projects in Mexico's interior that both increase its citizens quality of life and economic and employment opportunities, while at the same time creating demand for US and Canadian goods and services, thus providing mutual benefits for all three countries.

We believe it is premature, however, to move toward converting the NADB into this type of development bank. First, we would encourage an analysis of what it would take to achieve a North American model similar to the European model -- including realistic resources and a set of principles and agreements that would govern such an institution. Second, Canada is not a party to the BECC/NADB agreement. Third, NADB's mission to finance needy border infrastructure projects under the agreement has not been fulfilled. Finally, much more public discussion and public input is required in all three countries to determine the specific purposes and operational procedures of such a development bank and the lending capacity that would be required to make a substantial difference.

The proposal to use the NADB in any European-Union like model is apparently being promoted largely due to the fact that only 3% of NADB's paid-in capital has been used for border environmental infrastructure loans.¹⁰ It has been clearly and repeatedly documented that this is because border communities cannot afford the loans -- in part due to NADB's financial policies and high interest rates. It is also a well-established fact that the types of basic sanitation infrastructure needed along the border can only be built with substantial grant subsidies, combined with only modest loans for the poorer communities. Therefore, NADB's loan funds for these important social projects in the neediest border communities have been severely under-utilized in the BECC/NADB framework. However, the answer is not simply to find sponsors of projects in Mexico's interior who can afford to pay back the loans and turn away from these border communities, nor should it be to reopen a highly political trade agreement debate to radically change the NADB's charter while the original social and environmental purposes of that agreement remain unfulfilled.

¹⁰ Through March of 2000, NADB had made seven loans, totaling \$11.12 million, while the total paid-in capital was approximately \$350 million. When fully capitalized, NADB will have \$450 million in paid-in-capital. NADB is also working on \$67 million in additional loan packages with nine certified projects. NADB, Annual Report, 1 April 1999 – 31 March 2000, page 20.

Instead, both governments should live up to the commitments made to border communities under the NAFTA environmental parallel agreement by increasing their contribution of grant subsidies for the projects in the neediest border communities, and by insisting on internal financing policy and interest rate changes by the NADB, as the NADB itself has recently proposed (i.e. lower interest loans, revolving loan funds, high risk pools, etc.)¹¹

B. CHANGE AGREEMENT TO SHIFT FROM ENVIRONMENTAL INFRASTRUCTURE TO ECONOMIC DEVELOPMENT AND MINIMIZE BECC ROLE

Separate from any European Union development bank model, this proposal, being promoted by the NADB General Managers – with at least some support from agencies within Mexico and the U.S. -- would remove two primary functions of BECC—community technical assistance and project development—and place those functions within the NADB.

This proposal apparently also includes expanding the geographical boundary from the US/Mexican border to Mexico’s interior, and would expand the scope of development projects from environmental infrastructure (sanitation and solid projects, air quality, water quality and conservation) to non-environmental infrastructure projects such as airports, bridges, highways and transportation corridors, among other sectors.

More recently, President Vicente Fox has called on the NADB to support projects in migrant-sending regions of Mexico’s interior in an attempt to provide economic development opportunities within Mexico.

Response. This proposal is apparently being promoted under the banner of “greater efficiency.” Promoters argue that NADB, with a mandate to perform *financial* functions under the current NAFTA side agreement vs. *social development* functions, could provide the technical assistance and develop the projects faster than the BECC, thereby utilizing its loan monies more quickly. NADB’s interest rates generally are set at 1% *above* the US market rate and out of reach for the majority of poor border—or any poor—communities. Established as a bank for border environmental infrastructure development needs, NADB has apparently come to the conclusion that it is only affordable to the *commercial* sector and is therefore seeking to direct a large share of its resources away from its intended role of financing public sector water, wastewater and solid waste and other *environmental* infrastructure projects at the border.

We cannot emphasize strongly enough that it is the unaffordability of NADB loans--not inefficiencies in the BECC process--that is the core problem to be solved.

¹¹ NADB, Board Resolution 2000-10 “Expansion of NADB Sectors of Activity” November 2000.

Also, this proposal would virtually negate the purposes for which the BECC was created. It would be reduced to a shell of an agency with no substantive community assistance or project development role, existing merely to hold formal public meetings and presumably rubber-stamp projects that have been developed by NADB with little transparency or real citizen participation. This would reverse progress under the NAFTA side agreement that is embodied in the unprecedented transparent structure and implementation of BECC's project development functions, and instead reshape the NADB to function similar to the operations of an older development bank model, the World Bank.

During the NAFTA environmental side agreement negotiations, however, it was clear that the World Bank model was unacceptable to many of the non-governmental stakeholders and border citizens. -Many of the World Bank's funded projects were highly controversial in the respective developing countries and many infrastructure projects failed, as the Bank lacked the transparency of decision-making, did not consider important social and environmental aspects of projects, and had little or no public participation in development decisions. These identified process weaknesses and lack of project sustainability under the World Bank model, were addressed by the unique and forward-looking components of the BECC model of project development. Under this model, the financing functions of projects (the NADB) take place only *after* projects were developed, reviewed and certified in a transparent process by the BECC.¹²

The more recent idea advocated by President Fox and others to promote community development within migrant-exporting regions of Mexico using NADB funds may have some merit and deserves exploration, especially since NADB is already supporting some community development projects in interior Mexico through the CAIP (Community Adjustment Investment Program).

¹² In fact, many of the reforms now under discussion at the World Bank are focused on improving public acceptance, long-term project performance and sustainability of development projects--exactly the ideas incorporated into the BECC/NADB design.

VI. RECOMMENDATIONS

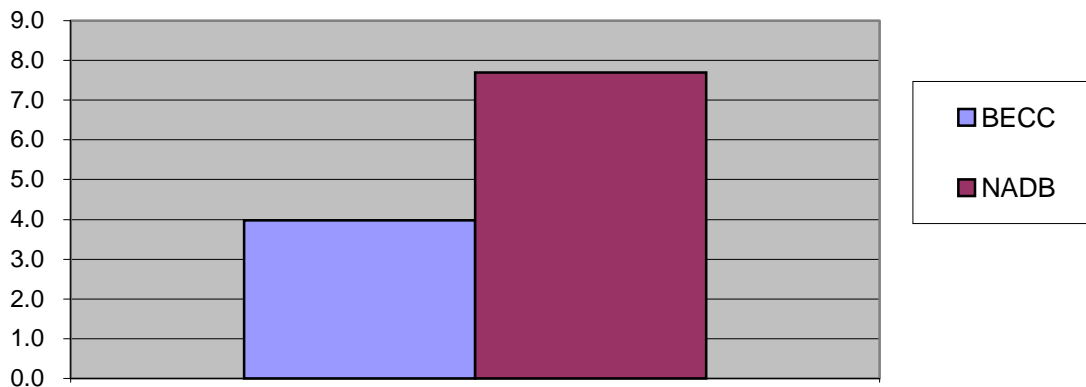
Strengthen, not weaken, the BECC’s ability to assist, and NADB’s ability to provide lower cost loans, to border communities in their environmental infrastructure needs.

Several steps could be taken to strengthen the BECC to enable it to carry out its mandate on behalf of border communities under a model of project development that is transparent, participatory, and sustainable.

1. Increase financial resources to support BECC’s annual operating budget.

BECC’s operational budget for FY2001 is \$3,992,000 and is provided equally by both countries to cover the ten-state, 2000-mile border (60 miles north and south). Given the BECC’s mandate to address border environmental infrastructure needs and the staffing necessary to be responsive and efficient in working with more than 100 large and small under-served communities with few resources and little local institutional capacity, this budget is inadequate. While NADB also has a relatively modest budget, because NADB uses interest on its capital to support its operation budget, it has considerably greater resources than BECC.

BECC 2001 and NADB 2000 Operating Budget for Environmental Infrastructure Functions (millions U.S. \$)



In spite of its very modest operation budget, BECC, after a not-unexpected rocky start (given the peso crash and the difficulty of establishing new binational institutions), now has an effective and efficient operation employing only forty binational staff with solid experience and good binational working relationships with border communities. Weakening the BECC role would result in a waste of the time, energy and public monies spent to reach this level of operations after starting from scratch. Relatively modest annual increases above the \$3.99 million in

BECC's annual operating budget, however, will leverage the progress achieved to date and result in a more effective and efficient process, which, in turn, will ultimately result in meeting more border environmental infrastructure needs. (The U.S. Congress originally authorized annual budget spending of up to \$5 million per year for the U.S. share, which if matched by Mexico would reach \$10 million per year and be more realistic given the enormous expectations for BECC.) Mexico and the U.S. might also consider increasing the U.S. portion of BECC's operating budget, without decreasing Mexico's contribution, given the larger U.S. economy and resources.

2. Continue and increase EPA border infrastructure construction grant program currently administered by NADB

EPA's pre-NAFTA border program provided direct construction grants to U.S. border communities for water and wastewater projects. In 1996, this program was transferred from EPA to the NADB for administration and has been the major source of construction monies for BECC-certified projects. Through December 31, 2000, NADB had earmarked \$265.5 million in BEIF grants for 30 of the 44 projects, while \$11.12 million in loans were made available to seven projects. However, the grant monies (averaging \$75 million per year) are at risk of being reduced or even eliminated by the US Congress in two years. They must not only continue, but must be increased if basic sanitation infrastructure needs of the border are to be met. For example, a NADB study found that at least \$100 million per year in grants for the next 8-10 years is still needed to help with the construction of water and wastewater projects (See *US-Mexico Border Ten-Year Outlook -- Environmental Infrastructure Funding Projections*, NADB, 1999). A more recent study by NADB cites the need for approximately \$136 million per year in BEIF funding requirements during the 2002-2005 period.¹³

Also, the BEIF funds are earmarked for potable water and wastewater projects and *cannot* be used for BECC's other top priority—solid waste projects. This has resulted in far fewer solid waste projects certified than are needed for the border. While both BECC and NADB have increased technical assistance monies to solid waste projects in recent years, these programs cover only planning and design and do not cover the costs construction. A strong case can be made that the BEIF grant monies must be increased beyond the \$100 million – or \$136 million -- per year to address the solid waste sanitation border needs

Finally, consideration should be given to the administrative transfer of these EPA border construction grant monies to the BECC in the event the NADB's focus shifts away from public water, wastewater and solid waste projects to predominately private sector projects. Since grant subsidies are critical for the public projects, such a transfer might ensure a continuing focus on these basic sanitation infrastructure priorities and enable the BECC to better leverage those grants funds with other financial institutions and programs and at the same time help to

¹³ NADB, *U.S. – Mexico Border Five-Year Outlook: Environmental Infrastructure Funding Projections (2001 – 2005)*, 2001.

streamline the process. Nonetheless, such a transfer of EPA border grant funds under the BEIF program from the NADB to the BECC would need to be done in a public process and need to take into account NADB's financial experience, expertise and ability to combine and leverage the grants with loan funds.

3. Continue and increase EPA grant funding for BECC's Project Development Assistance Program (PDAP).

One major function of the BECC is to provide technical assistance, by giving communities grant funds to hire private sector consultants for development of infrastructure projects. These development activities include: master planning, preliminary and final design, environmental studies, technical assessments of appropriate technology, institutional capacity building and training, project value engineering (cost-reduction) studies, operation and maintenance programs, community participation, and project sustainability reviews. Like EPA's border construction grant monies, EPA's contribution to BECC's technical assistance program (PDAP) is absolutely critical. A total of \$30 million has been granted to the BECC for the PDAP between FY 1996 and FY 2001, averaging \$5 million per year.¹⁴

It is clear that without this assistance, border communities would simply not be able to develop technically, environmentally and financially feasible projects. These BECC-administered and distributed technical assistance grant funds must be *continued* and *increased*. And, as is the case with the construction grants, these EPA technical assistance monies are only for water and wastewater projects -- not for solid waste. Therefore, there is a continuing critical need for technical assistance grants for solid waste projects which would necessitate a minimum annual increase of approximately \$1-3 million beyond the PDAP monies appropriated for water and wastewater projects.

4. Give the BECC/NADB's "expanded mandate" program sufficient time and resources to be implemented prior to any changes to the NAFTA environmental side agreement.

In November and December of 2000, both the BECC and NADB Boards adopted resolutions expanding their original mandate beyond the priorities of water, wastewater and solid waste projects.¹⁵ This response was in reaction to federal, state and local governments, public, non-government organizations, academic institutions and private sector interest in: (1) utilizing the NADB loan monies currently languishing due to inability of many border communities to repay such loans; and (2) expanding the original mandated infrastructure priorities to include a wider

14. The monies were distributed as follows: FY 1996 -- \$10 million; FY 1999 -- \$10 million; FY 2000 -- \$2.5 million; FY 2001 -- \$8 million. NADB, *U.S. - Mexico Border Five-Year Outlook: Environmental Infrastructure Funding Projections (2001 - 2005)*, 9.

15 NADB, Board Resolution 2000-10, "Expansion of NADB Sectors of Activity", November 16, 2000 and BECC, Board Decision 032/100 "Resolution of the Board of Directors Expansion of Projects to be Considered for Certification," December 11, 2000.

variety of border environmental infrastructure needs.

While water, wastewater and solid waste will remain the top priorities for BECC, other types of environmental infrastructure projects can now be considered for certification. These include: (a) matters related to the three original priorities such as hazardous waste cleanup, water conservation projects, water and wastewater hookups for housing, water recycling, reuse and waste reduction projects; and (b) other types of environmental infrastructure such as those projects that improve air quality, public transportation, energy efficiency, as well as projects that improve municipal planning and development and water management.

The BECC and NADB jointly sent a letter in February 2001 to hundreds of interested federal, state, and local governments, academic institutions, NGO's and private sector entities in both countries discussing the expansion and soliciting project ideas. More than 40 responses outlining suggestions for more than 150 large and small projects were sent back in response. After reviewing and analyzing these suggestions, the BECC board presented several proposed "pilot" projects under the expanded mandate at its June meeting that had the potential to secure NADB loans, including a light rail system in Tijuana, improvements in border crossing in Yuma, Arizona, and an air quality project for Ciudad Juárez. While these and other projects are in the preliminary stages, they have the potential at least of borrowing directly from the NADB, while contributing to a better quality of life for border residents.

Since one of the driving forces behind adoption of the expanded mandate was to broaden categories of environmental infrastructure to better utilize the NADB loan funds, -- the newly adopted mandate expansion program must be given time and adequate BECC operational resources to be implemented and work. The NADB Board Resolution on expansion specifically "instructs" the NADB management "to develop programming to finance environmental infrastructure projects that qualify as 'related matters' .. and projects in additional sectors" and "to develop programming to finance environmental infrastructure projects that are located outside the border region, to the extent permitted by the Charter."

In summary, the newly adopted expanded mandate has been favorably received by both governments and the border communities, is in process and needs more time for implementation.

5. Provide resources for BECC to coordinate border wide regional strategic plans for assessing border environmental infrastructure needs and financing, regional and community master planning, and assist community prioritization of projects.

A variety of local, state and federal agencies dealing with border issues have identified the need for a comprehensive strategic border planning effort, identifying the binational BECC as ideal for coordinating this effort. To date, none of the agencies and institutions with environmental responsibility have developed a comprehensive strategy to identify overall border environmental infrastructure needs, the communities' ability to develop needed infrastructure, the available resources, and measurable outcome objectives. Working with all government and non-

government stakeholders along the border, BECC can assist in gathering information to help in assessing infrastructure needs and funding sources, including an analysis of each region's ability to fund projects through grants, loans or both, identifying need for community and regional master planning, and helping communities prioritize infrastructure projects. Without such a framework it is difficult to see how the gap between what is needed and what exists will be closed. (See GAO report, March, 2000). Funding for such a coordinated effort would range from \$1-2 million dollars to cover the original priority areas of water, wastewater and solid waste.

6. Implement NADB's changes to its current financing policies and interest rates and consider additional measures to make loans even more affordable.

Many communities, non-government organizations, states and federal agencies -- notably the U.S. General Accounting Office (GAO), as well as the NADB itself -- have recommended lower cost-financing mechanisms that make funding more affordable to border communities for environmental infrastructure. Without some changes in NADB's interest rates and the development of other financing tools, the bulk of NADB's paid-in capital of \$450 million will not be tapped for any substantial loan portions, as evidenced by the less than \$11 million, or 3%, use of this capital for loans to date.¹⁶ **GAO has specifically recommended that Congress direct the U.S. Secretary of Treasury to work with Mexico's Treasury Department to amend the NADB charter to address this.**¹⁷

In fact, the NADB Board recently authorized several new financing programs to attempt to make their capital more affordable.¹⁸ First, they have authorized a "Value Lending" program, which will receive up to \$50 million from the Bank's paid-in capital, permitting the Bank to "extend loans to environmental infrastructure projects in the areas of water, wastewater and solid waste at lower interest rates than under its regular lending program." This could be an important mechanism to help finance needed sanitation infrastructure in poor border communities and must be given an opportunity to be set up and implemented to see if adequate. Secondly, the recently created Solid Waste Development Program dedicates approximately \$1 million of NADB's budget to fund design and related studies "needed to develop and construct solid waste projects," although there are no grant subsidies available to help with the actual construction of any of these public solid waste projects. Finally, the Board also is allowing NADB management to invite individual equity investments in environmental infrastructure projects using some of its "undesignated retained earnings" which could facilitate increased private investment in such projects. The U.S. and Mexican governments should give sufficient time for these three NADB programs to be implemented and explore other internal mechanisms to make greater use of NADB's loan monies before proposing any far-reaching changes to the binational agreement.

¹⁶ Again, currently the paid-in capital stands at \$348.75 million. Full capitalization is expected by 2004.

¹⁷ U.S. General Accounting Office, US-Mexico Border - Despite Some Progress, Environmental Infrastructure Challenges Remain, GAO, March 2000.

¹⁸ NADB, Press Release, November 27, 2000.