

Reinventing the International Boundary and Water Commission

With antecedents tracing back to 1889, the International Boundary and Water Commission (IBWC) is the most venerable binational water management agency in North America. Tasked with implementing treaty-based territorial and water agreements, the commission was also the first binational body to tackle border sanitation problems. But as the concept of sustainable development has moved to the fore of debates on water policy, border stakeholders have frequently criticized the IBWC as an institutional dinosaur; a stodgy, brick-and-mortar agency dominated by engineers; intractable, defensive; the agent of central government during a time of decentralized solutions. Recently, however, there have been changes at the IBWC, with new priorities being added to the slate alongside older, sacrosanct ones. With two new presidents in office and a new Commissioner at its U.S. section, where is the IBWC taking its balancing act?

by **Stephen P. Mumme**

Its authority embedded in the 1944 U.S.-Mexican Water Treaty and earlier agreements, the IBWC's formal duties reflect government priorities at the close of World War II—priorities centered on allocating rights to international river waters, mitigating seasonal floods, and dealing with drought emergencies. Ancillary chores such as hydropower generation were tacked on to its mission, as was responsibility for a few nagging binational sanitation problems. The result was a bureaucratic hybrid, a diplomatic body overseen by engineers, officially the servant of the two foreign ministries but politically dominated by the U.S. Congress. Its mandate was decidedly bipolar, consisting of treaty interpretation on the one hand and operational responsibilities—maintaining the border, managing international dams, budgeting use of treaty water, operating hydropower facilities, and developing solutions to binational sanitation problems—on the other.

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These features shaped an agency—two, coordinate agencies, really—whose national sections deemed their front line mission to be the preservation of national water entitlements. With a mandate treaty dividing the waters of the Colorado and Rio Grande, rivers serving the most arid zones of both countries, the IBWC's specified functions are without doubt the most strongly embedded of any binational agency or joint mechanism in play on the U.S.-Mexico border. Changing that mandate has proved beyond the means of any president on either side of the border, singly or in tandem.

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It is this IBWC feature that has been so aggravating to so many environmentalists. The IBWC has a virtual monopoly on agreements dealing with transboundary water management—such agreements must be negotiated through the IBWC. Its lead role is acknowledged in every major binational agreement on border water management, the La Paz Agreement, the Border XXI Program, and by the NAFTA-created Border Environment Cooperation Commission (BECC). Moreover, IBWC joint agreements are technically exempt from domestic regulations in Mexico and the United States.

Since NAFTA, however, the commission's role in managing border water has been increasingly hemmed in by newer binational commitments and agencies whose functions overlap its own. Products partly of frustration with the IBWC's limitations and its failure to respond to border environmental concerns in the 1970s and 1980s, these new programs and agencies address a wide range of health and environmental problems, many of which transcend the IBWC's treaty-mandated functions. Today, with new presidents in both countries and a new U.S. commissioner-designate, it is fair to ask what the commission's role is likely to be—or should be—in the next decade and what reforms, if any, are feasible to enable the IBWC to advance sustainable development in border water management.

Water Quality: Can the Marriage Be Consummated?

In the post-NAFTA era, the commission's role in water quality issues seems almost vestigial, eclipsed by BECC and a mix of domestic and binational programs sponsored variously by one or both of the two governments. Indeed, no other sphere of the IBWC mandate has been so influenced by the surge in environmental concern in the past decade and the evolution of the NAFTA border institutions. The BECC-North American Development Bank (NADB) duo has overseen a proliferation of border water infrastructure projects—over 40 certified to date with plenty more in the pipeline. Of these, the IBWC is now directly involved in planning, building, or managing less than a dozen. The EPA-SEMARNAT Border XXI Program, meanwhile, has focused attention on important technical and process issues like hydrological modeling and training.

At first glance, these efforts seem light-years beyond the commission's old-fashioned, brick-and-mortar approach. But appearances can be deceptive.

A more accurate reading of the IBWC's niche is that it has taken up a supporting role in domestic water infrastructure development while continuing to tackle the core problems attached to its treaty mandate. In terms of water infrastructure, the commission still leads in dealing with cross-border sanitation problems that impact the international boundary. It continues to operate and expand its older international wastewater treatment plants at Ambos Nogales and Tijuana-San Diego, and has overseen the construction of new wastewater treatment facilities in Ciudad Juárez and Nuevo Laredo. It monitors the performance of domestic facilities at Douglas-Agua Prieta, Ambos Naco, and Mexicali, where effluents cross the international boundary. Thus, the commission is still very much involved in wastewater infrastructure development and operations along the border.

The IBWC is also now more intensively engaged in monitoring the quality of water in international streams and rivers than it was previously. A cursory look at the activities of the Border XXI Program's Water Workgroup in 1999 finds the commission involved in 11 of 19 workgroup efforts, ranging from modeling the hydrogeology of Santa Cruz River groundwater to planning wastewater collection in Nuevo Laredo and Matamoros to monitoring the South Bay Ocean Outfall's seawater impact near San Diego.

There is much in the IBWC's work today that is new and different, as well. In keeping with a trend that preceded the NAFTA accords, the commission is now more engaged with other agencies in discharging its functions—a shift most apparent at the U.S. section. Whereas two decades ago the USIBWC had near total ownership of its budget, further development now depends on inputs from a wide range of federal, state, and even municipal partners.

With money comes power, and so for nearly two decades the IBWC's monopoly on planning projects has been eroding. Through the 1983 La Paz Agreement's Water Working Group, and later in Border XXI, the IBWC has been drawn into inter-mestic discussions with a range of federal and state agencies in both countries. Although the commission still has clout and typically takes the lead on matters strictly international in scope, it consistently assumes a support role where domestic developments are concerned.

As a result, today the IBWC is involved in discussions that would have been unthinkable 20 years ago, ranging from the merits of river basin councils to low-cost wastewater treatment alternatives. One need only look at the commission's involvement with BECC, where the two commissioners serve as ex officio members on the board of directors. Under a memorandum of under-

standing between the two agencies, BECC draws on the IBWC's technical expertise on a reimbursable basis. The IBWC, in turn, finds BECC a valuable forum for gauging public needs and demands related to border water management. Where BECC-NADB funding is involved, BECC's certification process is applied to IBWC-managed projects, enhancing their viability and public support. The IBWC, in Minute 304, has determined this arrangement to be treaty-compatible and "complementary to the Commission's ongoing efforts to give preferential attention to the solution of sanitation problems in the border waters." Though not quite a symbiotic relationship, the arrangement has worked out better than expected. Many attribute this to the skilled diplomacy of and close working relationship between recently departed U.S. commissioner, John Bernal, and his Mexican counterpart, Arturo Herrera.

So although it initially resembled a shotgun wedding, the IBWC-BECC alliance is likely to endure. Institutional relationships and cooperative practices built up over the past seven years have produced a practical division of labor around water quality issues that, while less than optimal in the eyes of some stakeholders, satisfies both treaty requirements and the public's demand for water quality infrastructure. BECC leads the way in border water infrastructure provision, while the IBWC lends technical support and takes the lead in situations with a specific trans-boundary water component.

The New Politics of Water Allocation: Drought and Biodiversity

At its core, the IBWC's mandate has been about (to steal a phrase from the title of historian Norris Hundley's book) "dividing the waters" or (as agricultural economist Henry Vaux likes to put it) "securing endowments." It is difficult to find a border issue as controversial as this. Before the 1944 treaty ink dried, well before Bureau of Reclamation estimates of Colorado River runoff were shown to be erroneous, and decades before scientists fingered global warming's threat to regional water stocks, the diplomats who created the IBWC understood that regional water supplies could not satisfy all potential water demands in the border area.

This preoccupation with endowments in a region of scarcity exerts a profound impact on the commission's behavior. Since 1944, virtually every binational water matter reaching the IBWC docket has been vetted for its impact on national endowments. Endowment review underlies the commission's notorious stance on confidentiality, and it figures prominently in the IBWC's greatest chal-

lenges—the Colorado River salinity crisis of the 1960s and 1970s provides a case in point. Until the 1970s the commission's clientele in the U.S. and Mexico was almost wholly composed of traditional stakeholders—today's "water buffaloes"—concerned with defending endowments to the exclusion of other issues.

This, of course, has changed. Environmentalists, economic justice advocates, smart-growthers, and other constituencies for sustainable development are today influential stakeholders in the border water community. These groups want water used differently, envisioning more efficient uses of water resources, better water conservation, long-term forecasting and contingency planning, and reallocations favoring urban needs or nontraditional projects. Though often advocating different uses, these groups share an intense concern with regard to water quality.

The clout of these new stakeholders was reflected in the IBWC's agenda during the 1990s, in which drought management, groundwater management, and ecological preservation figured prominently. However, the IBWC is handicapped here by a treaty that either failed to anticipate many of these problems or underestimated their magnitude. Among the treaty's more glaring omissions: groundwater allocation, mechanisms for sharing waters from lesser streams and rivers, and consideration of ecologically based water needs. The IBWC has reluctantly tackled this new agenda, mindful to anchor its activities in the treaty and sensitive to the risks of appearing to advocate changing the law of the rivers.

Drought. Sustained drought in much of the border area over the past decade has driven this issue to the forefront of the agency's concerns. Though the 1944 treaty provides a formula for rationing Rio Grande and Colorado River waters in times of drought, it is deficient in many ways. Its failure to define the operative phrase "extraordinary drought" is a major weakness that, at minimum, politicizes and delays the implementation of drought mitigation procedures. The IBWC has little discretion to initiate drought proceedings, the treaty's application to tributary streams is debatable, and there is no provision for long-term structural adjustment to climate changes.

Even so, some modest progress has been made. In 1995, in response to urgent conditions on the Mexican side of the Rio Grande, the IBWC—with the Texas governor's consent—negotiated Minute 293, an emergency water loan to Mexico to meet municipal needs. Though its provisions are largely circumstantial, Minute 293 at least sets

WEB SOURCES:

Comisión Nacional de Agua
www.cna.gob.mx

DOI Border Coordinating Committee
www.cerc.usgs.gov/FCC

U.S.-Mexico Water Treaties
www.ibwc.state.gov/FORAFFAI/treaties.htm

Bureau of Reclamation Lower Colorado Office
www.lc.usbr.gov

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a limited precedent for water sharing to meet the most critical needs of border residents. It also provides for regional cooperation regarding water conservation between the two countries and encourages binational data sharing on water availability between federal and state agencies.

Much more needs to be done, of course, but this classic apportionment issue has already put the IBWC in the hot seat, making solutions more elusive. Last year, irate Texas state congressmen pushed through a joint resolution demanding that Mexico immediately repay its water debt. The commission's response, controversial Minute 307, commits Mexico to a payment schedule to partly satisfy the debt. In a deft bit of diplomacy, the IBWC's commissioners persuaded the governments to "work jointly to identify measures of cooperation on drought management and sustainable management of this basin." Still, it is clear that the national posturing seen in the run-up to Minute 307 helps little in working out long-term binational solutions to climate-induced scarcities.

Groundwater. Though groundwater concerns were neglected in the 1944 treaty, the IBWC has had a partial mandate to explore mechanisms of binational cooperation regarding transboundary groundwater since the salinity crisis first drew attention to the problem in the late 1960's. Minute 242, signed in 1973, charged the commission with monitoring groundwater withdrawals in the San Luis Rio Colorado-Yuma area and required the two governments to inform each other of any new developments that might affect the other party. Minute 242 also contemplated the need for a comprehensive agreement addressing groundwater.

Although a comprehensive groundwater agreement has proven elusive, the IBWC has moved in the past decade toward mapping and monitoring critical groundwater areas along the border. The La Paz/Border XXI Working Group, has drawn attention to the urgency of getting a handle on groundwater extractions in highly interdependent areas like El Paso-Ciudad Juárez. The La Paz process also spawned binational resource management models, like the EPJAZ Joint Air Quality Task Force, that may be adapted to manage transboundary groundwater in urban areas. While factfinding and diplomacy still move along at a trickle, some agreements may gel in the next decade based on initiatives now underway. Unfortunately, unilateral measures now in play are sure to hinder progress in other localities.

Biodiversity. Biodiversity preservation is hardly new on the IBWC's agenda, though it has gained greater purchase over the past ten years. In

the 1970s, the Environmental Impact Study provisions of the U.S. National Environmental Policy Act forced the USBWC to reckon with this issue; by 1976, the first serious binational pressure to address this type of problem arose in relation to smelter contamination of San Pedro River waters. The commission's lackluster response helped draw national environmental agencies more directly into border environmental management via the 1983 La Paz Agreement.

The IBWC's reluctance to act on biodiversity issues certainly tarnished its reputation. Its stodginess traces partly to one of the principal anachronisms of the 1944 water treaty: its failure to recognize habitat preservation or environmental uses of treaty waters while privileging navigation and hunting. Overappropriation of treaty waters is the core problem, however, since biodiversity protection demands attention to in-stream flows as well as to water quality. Building consensus for modification of the treaty's in-stream flow regime may very well be the toughest political challenge the commission currently confronts.

We need look no further than the Colorado River Delta for evidence of this challenge. In the past decade, the delta has gained prominence on the agendas of major conservation groups and government agencies alike. The delta provides critical habitat on the Pacific flyway and sustains a rich melange of aquatic life in the upper California Gulf. Despite zero water allocated for this purpose, its vitality exists due to highly saline brine discharge from U.S. and Mexican irrigation projects and periodic surge flows down the river's main stem. However, recent U.S. policies upstream aimed at settling interstate water claims threaten to reduce even these meager resources. Any conceivable solution for delta restoration and maintenance thus requires some reallocation of existing entitlements.

In 1998 the IBWC set up a task force to study the delta and ascertain its water requirements. The commission moved cautiously to formalize the process late last year with a binational agreement on a conceptual framework for U.S.-Mexico cooperation in delta restoration analysis. That agreement, Minute 306, while delta-specific, links IBWC biodiversity activities to the 1944 treaty and provides a basis for further efforts in this area. In the case of the delta, it calls for "joint studies that include possible approaches to ensure use of water for ecological purposes" in the delta "based on the principle of equitable distribution of resources."

Despite this positive development, the IBWC can do little if upstream stakeholders steadfastly hoard their entitlements. Recent studies show that

WEB SOURCES:

Arizona Water Resources Research Center
ag.arizona.edu/AZWATER

Center for Environmental Resource Management
www.cerm.utep.edu

Colorado Water Resources Research Institute
cwri.colostate.edu

New Mexico Water Resources Research Institute
wri.nmsu.edu

Texas Water Resources Institute (TWRI)
twri.tamu.edu

as little as just 32,000 acre-feet of water annually—about half that saved from a controversial project to staunch seepage from the All-American Canal—may be sufficient to restore the delta's ecology. Under Minute 306, if this figure stands, half the amount would come from the United States. Thus far, U.S. up-basin states adamantly oppose any such concessions; their stance on the issue, in turn, has led the U.S. Bureau of Reclamation to adopt a similar posture.

Diplomacy and Domestic Politics: Are the Two Compatible?

Underlying the IBWC's reputation as a secretive agency with a penchant for hoarding vital data on border water dynamics is its diplomatic mandate. Constituted with a diplomatic brief at a time when federal governments dominated the border policy stage, the IBWC's national sections adopted a classic diplomatic stance aimed, in the case of treaty water issues, at establishing binational consensus and avoiding undue politicization of water agreements.

Times are different. Not only is the IBWC's agenda less dominated by allocation problems, but the political context has changed as well. New stakeholders are now involved in debates over border water management, and informal mechanisms of cooperation now exist that eclipse the centralized approaches of the past. Along with a heightened emphasis on water quality, new policy objectives have emerged, such as institutional accountability, greater public participation, and a programmatic emphasis on the basic human needs of border residents. Enmeshed now in Border XXI and BECC, the IBWC can no longer dominate the water agenda or sidestep grassroots politics. Fewer issues can be solved top-down.

Although skepticism may still be in order, these changed dynamics have already begun to reshape the commission. Since 1994 its national sections have stepped up public relations activities, fielding new personnel to respond to inquiries and deal with the public. Both sections established environmental offices in the 1990s, and the USIBWC's environmental staff tripled from 4 to 12 between 1990 and 2001. Though the IBWC still holds its facts close to the vest, the public now has greater access to some of its data. All agency minutes and most IBWC reports are publicly released and are web-accessible. Mexican commissioner Arturo Herrera has gone so far as to argue that the IBWC should become a one-stop technical information port for border water resources, publishing regular updates that are publicly accessible, just as it now does with its storage and release data.

Even the commission's identity is changing. Under John Bernal's guidance, the USIBWC developed a new strategic plan, which states—in what is certainly a first—that the commission now aims “to provide environmentally sensitive, timely, and fiscally responsible boundary and water services, while applying sustainable development principles.” The plan's preamble statement of organizational values speaks about performance, people, and process—the latter emphasizing openness, teamwork, and participatory goal setting in a bottom-up fashion. In matters of substance, the plan commits agency water managers to “a visionary United States-Mexico environmental policy ... in a manner that is responsive to stakeholders.” The two sections are exploring a Minute that would consolidate these values.

Whether the commission will now incorporate these values remains an open question. Environmentalists are justifiably suspicious of the agency's centralizing norms and practices; as veteran observer Helen Ingram puts it, the IBWC is still “essentially a closed shop.” The 1944 treaty is still there, exposing the IBWC to the slings and arrows of its traditional stakeholders—irrigation districts, state and federal water agencies, and basin states' policy committees—who have historically shaped its institutional practices.

It now falls to the commission's managers—in the U.S. case, former El Paso Mayor Carlos Ramírez, whose appointment is still unofficial—to consolidate recent IBWC reforms and deepen its institutional transformation. The commission's operational functions must be ably discharged while it attempts to grapple with new needs: establishing a binational groundwater management regime, arriving at equitable responses to prolonged drought, cementing its role in environmental protection, establishing new protocols for involvement in transboundary environmental impact assessments, and partnering with the NADB, BECC, and other agencies to develop financially viable and environmentally sustainable water infrastructure projects. What sort of success the IBWC will have on these fronts remains to be seen. What is certain is that the commission will be pressed to work more transparently and more politically, crafting multistakeholder coalitions in support of binational agreements. ■

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Guidelines For International Calls

To call Mexico from the U.S., dial: 011-52 (city code) + the number

To call the U.S. from Mexico, dial: 001 (area code) + the number

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Assists border communities to implement environmental infrastructure projects by offering technical assistance and certifying projects for North American Development Bank (NADB) or other institutional financing. Primary focus is on water, wastewater, and solid waste management.

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Responsible for administering and protecting Mexico's national waters.

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A decentralized agency of SEMARNAT. Undertakes scientific studies, works to develop and facilitate the transfer of new technologies, and lends technical and training assistance in the areas of water management, conservation and restoration.

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This binational organization was created to apply the provisions of boundary and water treaties and to settle disputes through a joint, international commission at the border. Its website includes border maps, treaty information, personnel contacts, and project/program information.

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International financial institution established under NAFTA with the purpose of financing environmental infrastructure projects on the border.

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Partners with communities along the river basin to protect and sustain their environment, economies, and social well-being, and works to develop a non-adversarial process for promoting dialog and nurturing consensus on water-related issues among its diverse constituents.

Río Grande/Río Bravo Basin Coalition Mexico Office

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Joint effort of five organizations committed to protecting San Diego's bays, beaches, and ocean water quality from sewage, storm drain discharge, and other threats. Issues online reports and information on toxins.

Southwest Environmental Center (SWEC)

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Works to protect and restore the stretch of the Rio Grande between Elephant Butte, NM, and Presidio, TX/Ojinaga, Chih., and advocates against dependence on Rio Grande water for regional urban growth. Also collaborating with the IBWC to restore riparian habitat in the Las Cruces, NM, area.

Texas Center for Policy Studies (TCPS)

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 Website: <http://www.texascenter.org/>

Collaborates with other statewide organizations on issues of water resources planning. TCPS examines water management of the Rio Conches basin, as well as the potential for restoring a stretch of the Rio Grande from Fort Quitman to Big Bend National Park. Also part of a binational effort to protect the economic value of the Laguna Madre coastal wetlands system.

United States-Mexico Foundation for Science (FUMEC)

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 Fax: (525) 524-0140
 Email: fumeceweb@prodigy.net.mx
 Web: <http://www.fumec.org.mx/>

Binational nonprofit organization promoting scientific and technical cooperation concerning water issues on the border. Programs address water and health along the border, technological innovation support for water utilities, and clean water in small communities.

Websites**Law of the River**

http://crwua.mwd.dst.ca.us/profiles/lor/lor_prof.htm#twm

Provides an overview of the history of interstate and international agreements regarding diversion and allocation of the waters of the Colorado River.

Pacific Institute

<http://www.pacinst.org/>

Conducts research and policy analysis in the areas of environment, sustainable development, and international security. Current projects include analysis of water demand management in California, Colorado River Delta-Upper Gulf of California restoration, and restoration of the Salton Sea.

Udall Center for Studies in Public Policy

U.S.-Mexico Border Environment Project
<http://udallcenter.arizona.edu/programs/border/border.html>

Has maintained an active research agenda focusing on environmental issues throughout the U.S.-Mexico border region—including transboundary urban water management, the role of public participation in environmental decisionmaking, the evolution and functioning of the NAFTA environmental institutions, and border water issues.

"Water Conflict in the Borderlands"

<http://www.us-mex.org/borderlines/1999/bl57/bl57.html>

This July 1999 edition of borderlines reports on water conflicts in the U.S.-Mexico border region.

Western Water Policy Review Advisory Commission (WWPRAC)

<http://www.den.doi.gov/wwprac/>

The Commission has reviewed water resources problems in the 19 U.S. western states, existing institutional arrangements, the legal regime, and the responsibilities, authorities, and programs of federal agencies with direct water resources management responsibility.

border briefs

A Marshall Plan for the Border?

President Bush has repeatedly expressed his desire to improve relations with Mexico and pay greater attention to the border. U.S. Rep. Silvestre Reyes, D-El Paso, House Minority Leader Rep. Dick Gephardt of Missouri, and two other Texas congressmen are asking him put his money where his mouth is. They have crafted legislation they hope will put \$10 billion of federal money into health, infrastructure, and justice programs along the U.S.-Mexico border, a region that Reyes says has been neglected and grossly under-funded.

At a March press conference Reyes introduced the act and announced hearings to focus on programs to improve the lives of the more than 12 million people living near the border. He said he wanted to raise important questions about funding disparities in the region.

"Why does a hospital in San Antonio or Austin receive more to care for a newborn than a hospital in El Paso or Brownsville? Why are taxpayers along the border ... in the poorest of communities in the nation ... asked to foot the bill for the federal government and pay for the cost of incarcerating undocumented immigrants?" he asked.

On May 30, Rep. Reyes, Rep. Gene Green, D-Houston, and Rep. Ciro Rodríguez, D-San Antonio were in El Paso listening to testimony from local and state officials on myriad health and environmental problems along the border, from increasingly scarce water supplies, to disparities in Medicaid funding that are forcing some doctors to leave the area. There was consensus that the region desperately needs a massive infusion of cash to tackle serious social and environmental problems on the border. Many argued that the North American Free Trade Agreement has exacerbated such problems in the area.

The legislation proposed by Reyes and his colleagues, titled the Border Economic Recovery Act, could be introduced to Congress as early as June. The plan, referred to by some as a Marshall Plan for the border, asks for \$100 million during the next five years for hospitals on the U.S.-Mexico border, roughly \$20 million per year in assistance for border colonias, and \$280 million annually for transportation projects.

"We need the Bush administration to become engaged and continue to fund programs of importance on the border ... like BECC, the North American Development Bank, the Border Environmental Infrastructure Fund, the State Criminal Alien Assistance Program, and the Southwest Border Economic Development Initiative, to name just a few," Reyes said.

But if Bush's budget is any indication, the bill may get a lukewarm reception. The president wants more money to reduce illegal immigration along the border, not for economic development of the region. Bush is asking for \$75 million to hire 570 more U.S. Border Patrol agents in each of the next two years. He's also asked for another \$20 million to buy high-tech surveillance equipment to be used by the Border Patrol.

Give Us Your Privileged, Your Well-Fed, Your Rich and Famous...

The INS has announced that it will start allowing applicants for certain kinds of visas to pay US\$1,000 for priority processing. Rather than waiting months, those forking over the money to participate in the program can expect to have their paperwork processed in 15 days.

During its first phase, the new "Premium Processing Program" will be available for visa applications which apply to a certain set of work categories, including athletes, authors, celebrities, scientists, and some artists. Some business executives and managers in international corporations will also be immediately eligible. So will some temporary agricultural and service workers—although where they'll get the money is anybody's guess.

Mexican Water Debt Repayment: Ni Modo?

Mexican President Vicente Fox is coming under harsh criticism from governors, agricultural organizations, and environmental groups in Mexico for agreeing to repay the country's water debt to the U.S. at a time when water is particularly scarce after seven years of drought. Representatives for Fox and the Bush administration reached

an agreement at the end of March this year for terms of Mexico's repayment of water owed the U.S. under a 1944 treaty on water allocations for the Rio Grande/Rio Bravo. The treaty requires Mexico to release an average of 350,000 acre-feet from six tributaries to the Rio Grande each year, most of which is used in agriculture. In exchange, Mexico is to receive 1.5 million acre-feet of water annually from the Colorado river.

But the severe drought conditions in northern Mexico in recent years, coupled with a growing demand for water due to development along the Mexico-U.S. border—fueled in part by the NAFTA agreement—has led Mexico to accumulate a water debt of 1.4 million gallons since 1992.

Under the March agreement, Mexico has agreed to release as much as 600,000 acre-feet of water by July 31 for the annual cycle that began October 1—roughly 20% of the water owed. But that won't be an easy task, says Ernesto Ruffo Appel, Mexico's federal commissioner for U.S.-Mexico border affairs. He says the government can't cover the full 20% water payment at present because of the severe drought currently facing many of Mexico's northern states, along with the fact that 27 Mexican cities along the border are faced with the possibility of serious water shortages this year.

Agricultural and environmental organizations, along with some governors of northern states, say the administration should have considered Mexico's water needs more seriously before agreeing to pay the debt to the U.S. Deputy Jesus Burgos Pinto, chair of water resources in the Chamber of Deputies criticized the Fox administration's decision as being poorly timed considering continued forecasts of drought.

In Tamaulipas, some farming organizations say the decision to divert water back to the U.S. for agriculture use could cost farmers in that Mexican state as much as 400 million pesos (US \$43.6 million). And while Mexico is paying the United States 740 million cubic feet of water every day, for six hours early every morning the water utility in Nuevo Laredo no longer pumps water in an effort to conserve its scarce supply.

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Activists: Deaths in Arizona Desert Could Have Been Avoided

by Jonathan Treat

The May 23 discovery of 14 dead migrants in the harsh deserts southeast of Yuma, Arizona, has catapulted the issue of U.S. border control policy back on to center stage. Immigrant rights activists in the area, however, say the tragedy should have been anticipated—and could have been avoided.

“I’m shocked by the deaths, but not surprised. The Border Patrol has known that this is exactly what was going to happen. We’ve been saying it for three years,” says Rev. John Fife, a Tucson pastor and member of Humane Borders, a nonprofit group that provides aid to border crossers in distress.

In fact, on March 27, 2001, Humane Borders asked the U.S. Department of Fish and Wildlife for permits to build seven new water stations in the harsh border terrain of the Cabeza Prieta National Wildlife Refuge east of Yuma, Arizona—the same area where the 14 migrant deaths occurred. “Our permits to build the new water stations in the Cabeza Prieta were denied on April 8,” relates Rev. Robin Hoover of Tucson’s First Christian Church, one of the founders of Humane Borders. “It turns out that the 14 men who died last week would have crossed the area where we were intending to deploy water. They would have at least known that there was water to their backs. So we’re quite concerned that we weren’t able to put water there.”

Apparently, now the Department of Fish and Wildlife is also concerned. Their office called Hoover the afternoon of Thursday May 24 to set up a 2-day meeting between Humane Borders representatives, Fish and Wildlife personnel, and Mexican officials to discuss the placement of water stations in the Cabeza Prieta National Wildlife Refuge. Some of the victim’s bodies were also found on desert lands within the Barry M. Goldwater Air Force Range. In January, American Beginning, an immigration service provider in Yuma, initiated negotiations with authorities for permission to deploy water there. Those talks had stalled as well—until May 24.

“Everyone’s been dragging their feet. Nothing’s happened. Then, all of a sudden, we’re being invited into conversations. In the last two days, representatives of elected officials, including Sen. Ted Kennedy, have been contacting us saying we need

public administrators to step up to the plate and do something to avert further tragedies,” says Hoover.

Following a May 31 meeting involving Humane Borders and 11 different government agencies that manage land in southern Arizona, some officials agreed to evaluate expanded options for aiding migrants in distress. Others were less receptive to the idea. According to a report in the *Arizona Star*, Col. Kim Uken of Luke Air Force Base expressed concern that “the placement of water would encourage transiting the range and create a safety hazard for unauthorized transits.” In a related development, on June 5 the Pima County Board of Supervisors voted unanimously to contribute \$25,000 to Humane Borders to help it set up water stations.

Ground Zero in the Immigration Battle

In 1994, the U.S. Immigration and Naturalization Service (INS) initiated Operation Gatekeeper in San Diego. Combining increased use of high-tech surveillance equipment with the construction of new border barriers and stadium lights and a three-fold increase in Border Patrol agents, Gatekeeper made crossing the line in the Tijuana-San Diego corridor exceedingly difficult. As a result, Arizona has become a popular place to make the try. In southern California, Border Patrol arrests have fallen by some two-thirds over the past five years, while arrests in the Tucson sector have more than doubled, to almost half a million in fiscal 1999.

“The Tucson sector of the Border Patrol now has 1,635 officers and about 200 support staff,” says Hoover “This is Ground Zero in the immigration battle.” Indeed, activists say that southern Arizona is starting to take on the look of occupied territory. For example, over the past year the small town of Douglas has endured the construction of miles of new border walls; increased patrols by INS agents mounted on horses and all-terrain motorcycles; and the installation of high-powered stadium lights, portable observation towers, motion sensing devices, remote video equipment, and night vision cameras.

At the same time, the harsh conditions in the largely unpopulated stretches of the Arizona borderlands catch many migrants unprepared. Between

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Cabeza Prieta NWR

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continued on p. 10

WEB SOURCES:

“Causes & Trends in Migrant Deaths On the Border, 1985-1998”

Center For Immigration Research

www.uh.edu/cir

INS

www.ins.gov

Recommendations of U.S.-Mexico Immigration Panel

[www.ceip.org/files/pdf/](http://www.ceip.org/files/pdf/M%20exicoReport2001.pdf)

[M%20exicoReport2001.pdf](http://www.ceip.org/files/pdf/M%20exicoReport2001.pdf)

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1998 and 2000, according to INS figures, deaths on the border increased 41%—of all border states, Arizona showed the greatest increase in fatalities, registering four times as many deaths in 2000 as in 1998. In 2000 alone, at least 490 people died trying to cross the international boundary—106 of them in Arizona, and most from exposure or dehydration. Some estimates double that death toll.

Last year, former INS commissioner Doris Meissner told the *Arizona Republic* that her agency knew the crackdown in San Diego would push migrants into the mountains and deserts to the east. The idea, she said, was that they would be deterred from crossing by the harsh conditions there. “We did believe that geography would be an ally to us,” Meissner said. “It was our sense that the number of people crossing the border through Arizona would go down to a trickle, once people realized what it’s like” (08/10/00).

Research conducted by the Center for Immigration Research at the University of Houston has linked shifts in enforcement patterns to increased migrant deaths on the border, and INS critics say the agency should have known that increased

desert it will deter others from trying to cross,” says Fife. “It’s an extraordinarily cynical and destructive policy.”

Cecile Lumer, a migrant-rights activist in the border town of Bisbee, Arizona, agrees. “It’s murder,” she replies flatly when asked about the recent deaths in the desert. “There is a viciousness behind current immigration policy. The only thing that will stop death at the border is when people can walk through the door like a human being.”

Growth Industry

The INS border crackdown has also led many migrants to rely more heavily on smugglers—also known as coyotes, pateros, or polleros—to get across, rather than making the attempt on their own. But crossing the border with a smuggler is no less dangerous—as the recent deaths in southern Arizona illustrate. In that case, the victims were dropped off once in the United States and told they only needed to walk a couple of hours to U.S. Interstate 8. In reality, however, the nearest highway was more than 60 miles away.

The men had little water, and temperatures were running around 115° Fahrenheit. One Border Patrol official estimated that temperatures on the desert floor could have gotten as high as 130° F. Heat exhaustion and dehydration were listed as the cause of death for all 14 victims.

With the U.S. border build-up making migrant smuggling more profitable, smuggling operations have changed, becoming both more organized and more ruthless. Instances of migrants abandoned in the desert and similar acts of abuse are increasingly common on both sides of the border. In late May, for example, Mexican police discovered the bodies of five Guatemalan migrants in the back of a sealed truck in Veracruz. Abandoned by their coyotes, they died of asphyxiation when the air in the trailer ran out.

Enough Blame to Go Around

In a statement made after news of the deaths in southern Arizona broke, U.S. Attorney General John Ashcroft blamed the tragedy on the “lack of moral judgement” and “disregard for life” of the polleros involved. “The actions of these smugglers selfishly risked and ended the lives of 14 people,” he said. “They are to be condemned for putting profits before people.”

Rev. Fife agrees with Ashcroft that the coyotes who left the group of migrants stranded in the desert should be blamed. But, he adds, they aren’t the only guilty parties. “There’s plenty of guilt to go around,”

Humane Borders asked in March for permits to build seven new water stations in the harsh border terrain of the Cabeza Prieta National Wildlife Refuge east of Yuma, Arizona—the same area where the 14 migrant deaths occurred.

fatalities were likely. “We knew this was coming,” Isabel García, Tucson attorney and cofounder of the nonprofit Arizona Border Rights Project, told the *New York Times* recently. “We’ve been forewarning, lobbying, begging, cajoling, protesting, shouting, praying. We’ve done everything to bring attention to this very deadly law enforcement strategy that has been used by the border patrol of driving people into the most remote areas, where they have to know this will occur” (5/24/01).

“I think they [the INS] believe the policy is working and that if enough people die in the

he explains. "A year and a half ago, Alan Greenspan and the Federal Reserve Bank asked the INS to stop employer sanctions for the good of the economy. There have been no INS raids since February 2000. It is an extraordinarily absurd policy that on the one hand you are intentionally made to run a gauntlet of death, but if you make it, you get a free pass, because we need you."

The INS has over 9,000 Border Patrol agents deployed to keep would-be migrants out of the country; INS officials tasked with enforcing immigration laws in the workplace nationwide total just 300.

According to Fife and other members of Humane Borders, many migrants from impoverished communities in Mexico are lured across the border by private Mexican labor contractors working for U.S. businesses. "We have U.S. companies who actually contract people to go to Mexico, advertise jobs, and encourage people to come north," says Hoover. Janssen King, an Albuquerque activist who works with Humane Borders, has seen that dynamic first-hand during visits to Mexican border communities. "People have tattered and torn photocopies of flyers in Spanish advertising jobs in meat-packing plants. They're offering living wages, health benefits, and immigration security for the workers and their families."

Others she meets are in more desperate straits, she says, and would do anything to cross the line and get a job, no matter the risk. "I met an 18-year-old in the plaza of Palomas, Mexico, who was soon going to make his sixth attempt at crossing the border. He told me he had five siblings and a mother at home that he needed to provide for. He said he wouldn't go home, that he would cross the border to help his family—or die trying."

Border Communities Offer Aid to Migrants, Question U.S. Policy

Humane Borders was started last year in reaction to the growing number of migrant deaths in the parched southern Arizona desert and the increased militarization of the region. Members of the coalition began meeting with representatives of the Border Patrol last year to express their dismay over INS policies and to explore ways to save the lives of migrants along the 2,100-mile U.S.-Mexico border. They also began to take more direct action.

"We talked together and pointed to the problem: death in the desert. And we said, 'That's wrong'" Hoover explains. "We asked what we could do in order to change that, and one of the first things we decided to do was explore lifesav-


ing measures in the desert. And we came up with a novel idea—put water in the desert."

Humane Borders set up its first relief station on December 12 last year, placing water jugs along with food and clothing underneath a 30-foot-high flagpole flying a 3x4 foot blue flag with the group's symbol, water pouring out of the Big Dipper. Since then, the group has received permits from the National Park Service and the U.S. Department of the Interior to build another two more permanent water stations in Organ Pipe Cactus National Monument—with two water tanks holding a total of 130 gallons in the southern station and three tanks with a total of 190 gallons in the north. Eventually, Humane Borders plans to install as many as 800 water stations along 200 miles of border desert.

Group members argue that the U.S. approach to immigration policy has to change. First, they recommend legalizing migrant workers already in the United States. Next, they'd like Washington to take up President Fox's offer of a guest worker program that would allow migrants legal entry into the country to fill the abundant jobs being offered them. Finally, they think the government should increase the number of visas granted to Mexicans.

Despite expressing his "deep sadness and condolences" over the 14 migrant deaths in Arizona, President Bush is not backing away from established U.S. border policing policies. On the campaign trail, Bush raised eyebrows for his gentle rhetoric regarding undocumented border crossers, but his budget proposal would increase the number of Border Patrol agents by 1,140 over the next two years. If his request is approved, the total increase of 5,000 agents mandated by the 1996 Illegal Immigration Reform and Immigrant Responsibility Act of 1996 will be achieved, with over 10,000 agents on the rolls. Currently the U.S. spends as much as \$2 billion a year to stop migrants from crossing the border.

Ray Borane, the mayor of Douglas, Arizona, agrees that U.S. immigration policy needs to change. "It is clearly a failed policy. It's completely misguided. And it's hypocritical, because the government isn't really interested in keeping workers out. The businesses that hire them have too strong of a lobby," he says. "And it's a policy that is causing death, suffering, and heartache to a lot of families."

Remembering a day in 1997, when he witnessed the recovery of the bodies of eight migrants who had drowned in a Douglas storm drain, Borane adds: "Unfortunately, it takes tragedies to put pressure on people to change policy." 

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Miscellany and FYI

The 8th Regular Session of the NAFTA-created Commission for Environmental Cooperation will be held June 27-29 in Guadalajara, Mexico. For more information visit www.cec.org or call (514) 350-4314.

The Mexican Institute of Labor Studies and Investigation, the Centre for Policy Alternatives in Canada, and the Economic Policy Institute have issued a report assessing the economic impacts of NAFTA. "NAFTA at Seven" is available at www.epinet.org.

The San Antonio Branch of the Federal Reserve Bank of Dallas is sponsoring a conference titled "the Road Most Traveled: Texas Trade Corridors in the New Economy," to take place at the Omni San Antonio, August 3, 2001. For more information visit www.dallas-fed.org and click on "events."

The Texas Center for policy studies has released a new report that calls for strengthening the binational border institutions, creat-

ed as part of legislation parallel to NAFTA, in order to continue environmental infrastructure in development along the 100 kilometer border region. Titled "The BECC and NADBank: Achieving Their Environmental Mandate," the report is available in English and Spanish at www.texascenter.org/bordertrade/envmandate.htm.

The Udall Center at the University of Arizona recently published a report by border expert Mark Spalding titled "European Union Elements, Institutions, and Fair Trade Provisions: Application of the European Model for North America?" For more information, email the center at udallctr@u.arizona.edu or call (520) 884-4393.

The United States Section of the International Boundary and Water Commission (USIBWC) has released to the public three reports providing a chemical analysis of wastewater at various sites in Tijuana. To access the reports, visit www.ibwc.state.gov and click on "What's New" or call (619) 662-7600.

The University of Texas-Pan American will be holding a U.S.-Mexico Border Summit in Edinburg, Texas, August 22-24, 2001. Information available at: www.bordersummit.com.

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borderlines

VOLUME 9 · NUMBER 6 · JULY 2001

Editor: George Kourous

Writer: Jonathan Treat

Production: Tonya Cannariato

ISSN: 1065-1411

POSTMASTER

Send change of address information to:
IRC · Box 4506 · Albuquerque, NM 87196-4506

GENERAL INFORMATION

borderlines is produced by the Border Information and Outreach Service, a project of the Interhemispheric Resource Center. Funding is supplied by the Ford, Kellogg, and Charles Stewart Mott Foundations.

SUBSCRIPTIONS

Individual subscriptions are \$12 per year in the United States, and free on a limited basis in Mexico. Institutional subscriptions are \$20 per year. All subscriptions in other countries add \$5 to the cost. Email borderlines@irc-online.org or call (505) 842-8288 to subscribe.

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