

September 25, 2000

**MEMORANDUM OF UNDERSTANDING
CONCERNING THE
PROGRAM OF JOINT GRANT CONTRIBUTIONS FOR DRINKING
WATER SUPPLY AND WASTEWATER INFRASTRUCTURE PROJECTS
FOR COMMUNITIES IN THE UNITED STATES - MEXICO BORDER AREA**

The United States Environmental Protection Agency through its Office of Water (EPA) and Mexico's Secretariat of Environment, Natural Resources and Fisheries (SEMARNAP) through the National Water Commission (CNA) intend to carry out a program of joint grant contributions for drinking water and wastewater system infrastructure projects for communities in the United States - Mexico border area. The grant contributions program would support the implementation of drinking water and wastewater environmental infrastructure projects that are certified by the Border Environment Cooperation Commission (BECC) for possible financing through the North American Development Bank (NADB).

The agencies undersigned observed from their respective participation in the Minute 294 program, the BECC's Project Development Assistance Program (PDAP), along with forecasts prepared by the BECC and the NADB, that funding needs have been identified and quantified for projects that address drinking water and wastewater infrastructure for the short term (0 to 3 years), medium term (3 to 6 years) and long term (6 to 16 years). The needs assessment includes a potential mix of financial resources, including credit and grant components, necessary to construct the projects in the time frames identified. Finally, the agencies noted from past participation in water and sanitation infrastructure project development that the many border communities lack the capacity to obtain loans and require significant non-reimbursable financial assistance to cover the high capital costs. The EPA provides this type of financial assistance in the form of the Border Environmental Infrastructure Fund (BEIF), which is managed by the NADB. CNA is the liaison that will arrange Mexico's financial participation on behalf of Mexico's federal government, the states and municipalities, as well as the water operating organizations necessary for this purpose, in furtherance of operating rules, existing appropriations request practices, and coordination.

The agencies noted that while funding has been made available to enable some short term construction, the performance of further construction in the medium and long terms will extend for an additional 16 years.

The agencies have developed guidelines and procedures for the use of the non-reimbursable funds. The funds are provided by the EPA through the BEIF and may be used in the United States or in Mexico for projects that are certified by the BECC and under eligibility requirements that are established by the EPA. The Mexican funds will be used only in Mexico. In the case of projects in Mexico, the BEIF may supplement funds equal to that amount of grant components contributed by Mexico. EPA and the CNA intend to:

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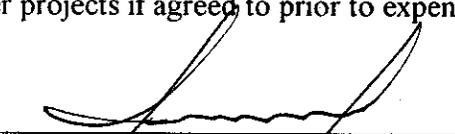
- a) Contribute funds to support development of a water and wastewater infrastructure program in Mexico, in an area within 100 km from the border between the two countries, in a planning time frame of 16 years, subject to availability of appropriation funds and applicable practices of the United States and Mexico.
- b) Seek to incorporate funds, following applicable practices for seeking of appropriations to fund a capital costs program for the following year. In the case of Mexico, apply these terms based on availability of appropriated funds under the terms of coordination agreements between the federal government and federal and state governments, and operating agencies once these are authorized by the federal and state legislatures and the corresponding municipal authorities in order to provide continuity to the projects.
- c) Prioritize development of projects for which Mexican funds may be used provided that:
 - i) Immediate need projects fulfill the EPA project eligibility criteria, except for BECC certification.
 - ii) Master plans as developed in Mexican communities are directed to immediate needs, medium and long term needs of the community.
- d) Hold annual meetings in the third quarter of each year, in which the participants should determine the funding priority the next year. In the case of Mexico, these programs should conform to the corresponding authorization, based on the budget process in effect. Likewise, EPA and CNA should meet annually during the first quarter of each year in order to submit a report of the allocations authorized for the process, as well as those completions or the results of the process from the previous year. The outcomes of the above mentioned meetings should be brought to attention of the BECC, NADB, International Boundary and Water Commission (IBWC) and other parties interested in the program.
- e) Effect their respective investments according to their own budget schedules, but not necessarily simultaneously with that of the other agency, such that a balance is not necessary in a given year. However, the status of the balance and projections to the future should be reviewed and determined at the semiannual meetings between CNA and EPA.
- f) Keep, in accordance to BEIF procedures, a systematic record of the annual grant contributions, an escalation or updating of investments, as well as the criterion for peso-dollar parity, in order to maintain the accounting of contributions by each country and the matching of contributions so that, at the end of the program planning or implementation period, investments between both countries defined as grants are according to the agreement, matching at the border area level.
- g) Establish details for each particular project within the project planning and development framework of BECC and NADB and in accordance with procedures set up for that purpose.

In every case there should be participation by EPA, CNA, BECC and the NADB, and where appropriate the IBWC, and, if pertinent, participation by the concerned state and municipal governments as well as the operating organization.

- h) The CNA is to be the liaison in each project to coordinate Mexico's financial participation on the part of the federal government, state, municipality or operating organization, as appropriate, following for this purpose the operating rules, current budget process and the coordination agreements between the states and the federal government.
- i) The EPA is to make the best effort to seek funding, subject to the United States appropriations process, to allow for contributions up to 50% of the grant component for their design and construction under the following conditions, once water and wastewater projects in Mexico are identified:
 - i The contribution by each country cannot be applied to projects that are not in the program agreed upon.
 - ii The contribution by Mexico may come from federal, state or local sources, but not from debt financing or funds from non-governmental sources. This contribution will be recognized beginning in 1996.
 - iii Either participant may contribute more than 50% for a project, if the other increases its percentage afterwards in other projects if agreed to prior to expenditure.



J. Charles Fox
Assistant Administrator
Office of Water
U.S. EPA



Ing. Guillermo Guerrero Villalobos
Director General
National Water Commission
SEMARNAP