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Context and Implications for Resolving a Complex Binational Issue: Lining the All-American Canal

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INTRODUCTION

The U.S. government's 1998 decision authorizing the All-American Canal's (AAC) concrete lining has become one of the most complex issues in international water negotiations between the United States and Mexico in the last several years—the fact that it has not been given as much attention by government entities, academia, and public opinion as other issues notwithstanding. This is not the first time both countries face the challenge of finding common ground for resolving their differences on water-related issues. However, the problem that lining the AAC represents, and its consequences for Mexico, are linked to strong interests by a series of public and private parties that seek to ensure access to a scarce resource that has no substitute and faces growing demand. It is this last issue that has to a large extent determined the conditions under which negotiations between the two parties have taken place.

These negotiations are being held in an atmosphere marked by tremendous regional competition and involving several users and entities that seek to ensure their future viability via ensuring access to, and control of, the region's scarce water resources. Moreover,

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these resources are subject to formal delivery agreements among the various jurisdictions. That is, these waters are carefully allocated among each of the two countries' border states—the pressure exerted on the resource manifests as an intense competition among the different entities involved in its management, all of whom are trying to obtain as large an allocation as possible.

Although the lining has been delayed for various reasons, the decision to undertake the project in the first place has not undergone any fundamental change. Meanwhile, negotiations seem to have reached an impasse as a result of the opposing definitions of the problem by each of the parties. However, as this chapter will demonstrate, the Mexican section of the International Boundary and Water Commission (IBWC), *Comisión Internacional Límites y Aguas* (CILA), has given some indication of a potential agreement on the lining and the water losses for the Mexicali aquifer.

Both countries have held fast to their different definitions of the problem, which is understandable, and have held what would seem like opposing postures that would be difficult to reconcile. From the California and U.S. perspectives, these waters belong to them under the allocations set forth in the Treaty on the Utilization of the Colorado and Tijuana Rivers and of the Río Grande between Mexico and the United States, signed in 1944 and referred to as the 1944 Water Treaty. A portion of this water is lost to seepage as it is conveyed through the AAC. In keeping with this definition, the United States can sovereignly decide on the management and allocation of this resource. As a result, U.S. officials have assumed they can move forward with lining the AAC as a method to recover their lost water, and then export it to the Greater Los Angeles Area.

Meanwhile, Mexico's position on this same issue has been based on the fact that stopping the groundwater flow into the Mexicali Valley would violate Mexico's rights (Bustamante 1999). That is, these are waters over which Mexico has created a right by continuous use over a long period of time.¹ As well, Mexico has pointed to the violation of point 6 of Minute 242, which establishes that:

With the objective of avoiding future problems, The United States and Mexico shall consult with each other prior to undertaking any new development of either the surface or the groundwater resources, or undertaking sub-

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stantial modifications of present developments, in its own territory in the border area that might adversely affect the other country.

While it seems Mexico's claim centers on the lack of consultation as set forth in this point, note that its first line establishes the goal of the agreement—avoiding future problems. However, the most relevant aspect, set forth at the end of the paragraph, provides that potential damage to the other country from a particular action should lead to actions to avoid such negative impacts in the future.

Nevertheless, the clarity with which this agreement should have been understood at its signing in 1973 has not been exhibited in putting it into practice. At the time, the aim was to definitively resolve the problem of the quality of water received by Mexico, which had caused serious damage to Mexicali Valley agriculture. Today, Mexico seeks to avoid the damage that lining the AAC would cause the Mexicali Valley from the water loss that would result from it.

So, what was once agreed upon is now interpretable. Not only is the concept of consultation (lack of notification) subject to interpretation—aligned with the interests being defended by each side—but also the substance of Minute 242's point. If these issues are forgotten or cast aside, the agreement set forth in this point of Minute 242 would lose its essence and be left with no force or effect.

However, beyond any legal or doctrinal considerations, or any interpretation made on the point in question, lining the AAC would certainly have a direct effect on the recharge of the aquifer from which agriculturalists in Mexicali Valley's Irrigation District 014 extract their water, subsequently endangering their livelihoods and families. The lining would presumably cause significant damage to the irrigation surface area,² where the water now in dispute has thus far been used.

At the heart of the differences of opinion lies the fact that any solution proposed by the parties must be satisfactory for both and avoid a negative impact on Mexicali Valley growers. In this sense, this chapter analyzes the problem and proposes that the only likely means to overcome the impasse in negotiations is by integrating other elements of the water-management problem in the region. The

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current negotiation scheme offers few possibilities, given the asymmetry that characterizes the relationship between the two countries (Sánchez 1990). However, recent history shows significant progress in binational environmental cooperation, and it would be in this arena that the issue of lining the AAC could find a mutually agreeable resolution.

This chapter has three parts. The first is a general overview of the problem, based on a contextualization of the relations established among different public and private entities created for accessing and controlling water in the region and beyond. The second section focuses on the perception in certain Mexican political spheres of the lining of the AAC. Finally, some of the possible means of resolving the conflict are discussed and some overall conclusions offered.

THE BORDER AND THE WATERS OF THE LOWER COLORADO RIVER BASIN

The conflict between the United States and Mexico over the AAC lining is nothing more than a reflection of the tension created by the intense competition among water users in the Lower Colorado River Basin, particularly between California and Arizona. As well, it brings to light the water quality problems of the Mexicali-San Luis Río Colorado area.

Under the Colorado River Compact, California's allocation from the Colorado River is 4.4 million acre-feet per year (MAF/y). However, because Arizona and Nevada did not use their allocations for many years, California used their water, thus exceeding its own allocation by at least 800,000 AF/y. But in 1968, after 20 years of intense lobbying before Congress and the U.S. Department of the Interior, U.S. President Lyndon Johnson authorized the Central Arizona Project (CAP)³.

Since the mid-1900s, CAP had been a strategic goal for the most politically influential Arizona groups. Designed to convey 1.5 MAF/y of Colorado River water to central and southeastern Arizona, CAP was the product of a long struggle by Arizona to secure its access to Colorado River water and was for a long time a source of dispute with California. Even back then the competition between these states for Colorado River water was keen. But, although the

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original CAP project was meant to convey water for agricultural use in Central and Southeastern Arizona, the urban demand imposed by the growth of cities such as Phoenix led to modifications⁴ to meet the needs and demands of an urban dynamic that had not originally been considered. Thus, the water from CAP became primarily an urban-use resource. It now counts 80 large users among its customers, 75% of which are municipal and industrial users, 13% are irrigation districts, and 12% are tribal nations (Central Arizona Project 1997). Municipal and industrial customers are allocated just more than one-third of the water from CAP (555,031 AF/y) (Central Arizona Project 1997).

Construction of CAP finished in 1993 and with it began the diversion of water allocated to Arizona. California counts this diversion as a loss of water it had been using for a long period of time, water that had met the growing demand in Southern California cities, particularly Los Angeles and San Diego. During this same timeframe, the federal government mandated that California reduce its dependence on Colorado River water so that by 2002 it could return to its allocated level of 4.4 MAF/y. These decisions were seen by California as a threat to its future water supply.

California is feverishly seeking a future water source, especially to serve Los Angeles and San Diego. Northern California has a greater abundance of water, much more than the eastern portion of the state. However, voters rejected a proposal to transfer water to Los Angeles from the San Joaquin Valley and the Sacramento River in a 1982 referendum. The fact is, both CAP and the rejection of water transfers from Northern California have created a state of anxiety among those drafting regional water policies.

Framed by this trend, water management agencies in urban areas have begun searching for alternative future supplies. The San Diego County Water Authority and the Imperial Irrigation District signed an agreement in 1998 for the transfer of 200,000 AF/y for a 45-year period, with the possibility of expanding the agreement for an additional 30 years at the end of the 45-year term (SDCWA No Date), effectively ensuring San Diego's water supply for the remainder of the 21st century.

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It was this same spirit that developed the proposals to line the All-American and Coachella Canals (the Coachella is also in Imperial Valley). All these water saving and transfer projects aim to replace some of the water lost by California to CAP (Hayes 1991) and are linked to Plan 4.4, which was created to comply with the mandate to reduce dependence on Colorado River water. The Metropolitan Water District and the Imperial Irrigation District agreed to line a 30-mile stretch of the AAC and a 38-mile stretch of the Coachella Canal, contributing part of the overall cost so they could contract with the federal government for 55 years for the purchase of the rights to the water saved (Hayes 1991).

This water savings and transfer policy, however, is highlighting the competition that has historically existed between California and its neighbors, Arizona and Mexico, for Colorado River water. The competition now involves Phoenix and Los Angeles, metropolitan areas with large water demand, and pits urban users against agricultural users.

Meanwhile, the region's water scarcity in the face of a growing urban demand gives this competition peculiarities worth noting, given the environmental impact they have on the lower portion of the Colorado River Basin. For example, urban demand in Southern California and Baja California comes mostly from areas outside the watershed's limits (except for Mexicali), which means these cities located at considerable distances from the bed of the river become significant water importers. This translates into a net loss of water for the watershed, with its corresponding environmental impact, because the river receives no return flows after the water is used in these far away places.

Although the demographic dynamic is not an entirely new phenomenon, and neither is the growing demand for water imported from the Colorado River, the fact is the growth in demand in a region characterized by the scarcity of the resource can become, and is in fact becoming, a source of binational tension and conflict. The resolution will require determination and imagination. The growth dynamic reached by the urban systems demanding water from the Colorado is a relatively new phenomenon,⁵ and it is difficult to

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fathom San Diego, Tijuana, and Ensenada having the same dynamics without the water they receive from the Colorado, on which they depend to a significant degree.

Urban development in the Southern California (mostly San Diego) and Baja California coastal region has been possible only with the import of large volumes of water from the Colorado River. The region's growing water demand on both sides of the border is actually outside the limits of the Colorado watershed, which means the imports cause a net loss of the resource and a significant environmental impact for the ecosystem from which the water is taken.⁶

Taking this trend into account, and given that the water in dispute is extracted from binational watersheds, substantial modifications have been suggested to the current water management schemes in the border region. The goal is for these management schemes to evolve into binational cooperation models that will overcome potential conflicts and benefit the residents of both countries (Nitze 2002).⁷ The basis for such a model is Elinor Ostrom's (2000) proposal regarding "the commons," in which cooperation is the center of the process for using shared resources to avoid competition over appropriations and ensure its future viability through their protection (Ostrom 2000).

Obviously, an effort like this requires a different institutional framework than what has prevailed for the binational management of resources whose sources are traversed by political boundaries that limit the jurisdiction of laws and governmental action. The state-centric vision that has characterized border management by the United States and Mexico is not keeping pace with changes in cross-border relations, where the intensity of exchanges and interactions on both sides of the border have woven a network of multiple interinstitutional contacts and exchanges relating to water policy (Blatter and Ingram 2000).

In this sense, the last decade has borne witness to notable changes toward environmental cooperation, with laudable participation from the agencies created in parallel to the North American Free Trade Agreement (NAFTA) and a substantial increase in crossborder contacts and exchange, both on a social level and between government entities. In spite of this progress, the sovereignty approach on which the clamors over water appropriation and management are sup-

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ported persist on both sides of the border, as if nothing has changed. However, it is important to note that the recurring and prolonged droughts in the region, as well as the growing water demand, have caused concern in the United States and Mexico, leading both governments to turn their gazes toward reaching greater cooperation as a means of achieving efficient water management objectives. This would require better coordination, a common policy on watersheds and surface and groundwater, and joint planning for medium and long term use of resources, as well as investments and mutual assistance for resource conservation.

MEXICO'S OFFICIAL POSITION ON LINING THE AAC

Although the U.S. government's decision to line the AAC has been communicated to Mexico since 1976, the Mexican government's response has been cautious—or low-profile—in spite of its opposition to the project's implementation. Discussions on the issue have been limited to academic circles. The Mexican Senate, though, because of its dealings in matters of foreign policy, has more eloquently voiced its opposition. However, the lack of information passed from the Mexican government to other public agencies and the public at large has limited the ability of other entities to publicly take a position on the matter. This is what Baja California Senator Norberto Corella was referring to when he spoke of public officials in charge of executive-branch agencies hiding information from the Senate.

Limited information on this issue in Mexico has been disseminated because of the interest (perhaps somewhat belatedly) of northern Mexican border state senators. It has been the legislators of Partido Accion Nacional's parliamentary group who have more forcefully addressed this issue. On April 11, 2000, Baja California Representative Fortunato Álvarez Enriquez proposed before the Mexican Chamber of Deputies Rostrum a resolution asking that the chamber's Border Affairs Commission call the officials in charge of Secretaría de Medio Ambiente y Recursos Naturales (SEMARNAT), as well as those from Comisión Nacional del Agua (CNA, in English

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National Water Commission) and CILA to appear and inform the commission about the AAC lining project and ways to avoid the damage it could cause Mexico.⁹

In response, the Senate called a meeting with officials from the Secretariat of Foreign Relations, CILA, and CNA, "...to become acquainted with the status of measures being undertaken by Mexico to mitigate the effects of the lining of the All-American Canal" (Mexican Senate 2000). The Secretariat of Foreign Relations stated that the legal basis on which the Mexican government has based its opposition is the 1944 Water Treaty and Minute 242, which establishes the right to mutual consultation in decisions that affect the other country (Mexican Senate 2000).

Examining the opinions expressed during that meeting, it can be concluded that the Mexican government does not have an inflexible position or a desire to reject the project outright—indeed, approaches like these could exacerbate the conflict. This is evidenced by the participation of several senators, and in particular Corella, who pointed out that there is a legal basis for the Mexican government to intervene and impede the lining of the AAC, but added that a favorable agreement could be reached, even though the entire project is to be carried out within U.S. territory.¹⁰

In this same vein was the intervention by CILA commissioner Arturo Herrera Solís, who told senators that as early as 1991 Mexico had expressed its opposition to the project because of the negative effects it would have on its territory. He committed to legislators that he would identify joint measures to mitigate impacts, as well as request that mutually beneficial alternatives be sought. One of the options Herrera raised for mitigating the impact of the lining would be for Mexico to receive its water apportionment through the AAC and explore measures to preserve and protect the aquifer, as well as legislate the mandatory recharge of all water surpluses to the aquifer.¹¹

Additionally, the Border Affairs Commission organized a meeting in Mexicali in May 2000 of a broad spectrum of stakeholders including representatives from the main agencies involved, local authorities, water users, and academics from the region.¹² Although there was a tone critical of the U.S. unilateralism and of the interim agreement granting California surplus water from the Colorado

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River, a substantive statement came from the CILA Commissioner, who said the state of California planned to build a new AAC to save more water and to use the old canal to convey water for environmental uses in the U.S. border region. He presented some the elements of the proposal that CILA requested, including:

- That the new canal be used to convey water for delivery to Mexico, which after going through the sediment-control plant would allow Mexico to receive higher-quality water and would eliminate sediment-control costs for urban uses
- That part of the surplus California intends to save be conveyed through the old canal so that water can be allocated to Mexico and seepage be allowed that Mexico can store for later reuse
- Mexico wants to use its water conveyed through the AAC to generate electricity, and the economic benefit of this to be designated as payment for the infrastructure needed by farmers who are affected by the development of the new AAC¹³

The foregoing notwithstanding, according to Baja California Governor Eugenio Elorduy Walther, the Mexican federal government wants the AAC to remain unlined and, by means of a diplomatic memorandum to the U.S. Department of State by the Mexican embassy in Washington, wants to request formal discussions on the topic.¹⁴

It would appear that the arrival of the Fox Administration and the design of a new foreign policy agenda have brought an about-face in how the AAC problem is handled. CILA had seen the lining decision as irreversible and had thus focused on finding potential alternatives for the mitigation of impacts on the Mexican side of the border. However, it never reached the point of discussing a specific proposal to be officially presented to its U.S. counterpart, and thus what the CILA Commissioner had expressed to the senators seemed to be somewhat speculative. But with the Fox Administration now in full swing, CILA has recognized, as expressed by its own officials, that this is an issue that is no longer in their hands and that will be addressed through diplomacy (Pensamiento 2002). This means the Secretariat of Foreign Affairs will negotiate directly with the U.S. government.

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If this change is true, and negotiations have indeed been elevated to the federal level, it would mean the Mexican government is convinced that the negotiation route previously followed was not the most efficient one. It would be the responsibility of this secretariat to convince the U.S. government not to line the AAC, something that seems extremely difficult, considering the U.S. Bureau of Reclamation (BOR) announced construction would begin in 2003 in light of an investment of \$200 million (Pensamiento 2002).

Although the execution of the project has been delayed time and again, there has been no indication that the decision will be rescinded definitively¹⁵ or that the project will be modified. On the contrary, BOR officials have made it clear that the decision is final, given that these are U.S. waters and are not subject to the 1944 Water Treaty. However, they have acknowledged that the execution of the project will damage wells on the Mexican side of the border and in that regard have expressed a willingness to discuss claims.¹⁶

The foregoing demonstrates that negotiations are at an impasse and that the problem is back to square one, where positions are rigid and there is little willingness by the parties to change their points of view and reach an agreement. Keep in mind that water issues have gained ground on the bilateral agenda, but in recent years have become more complex in the relationship between the two countries, due to Mexico's delay in paying back water from the Rio Grande to the United States. The fact that the Fox Administration's Secretariat of Foreign Relations has taken up negotiations directly is indicative of a repositioning of the Mexican government's definition of the problem.¹⁷

LINING THE AAC AND OTHER MEASURES

As discussed in the preceding section, CILA had assumed lining the AAC was a *fait accompli*, and thus proposed potential alternatives to mitigate or avoid impacts on the Mexicali Valley aquifer. It is not clear whether any of these measures had been discussed with IBWC, and therefore, nothing is known about any progress on the acceptance of these proposals by the United States. Some of the proposals seem logical and would not entail great sacrifices by the parties, particularly if the current canal will convey water for environmental

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uses. This means it would eventually convey water allocated to Mexico at a newly agreed upon point of delivery, and as a result part of the water would seep into the aquifer and avoid damage to growers. Another possibility would be for Mexico to receive higher-quality water as a compensatory measure for the damages lining the canal would cause the aquifer. Nothing has been said about measures to mitigate impacts on the farmers who use this water.

At the same time, to date the parties have analyzed only the direct benefits and damage lining the AAC would cause. They have not examined the problem within the context of overall problems in the region stemming from overexploitation of the Colorado River—the project to rescue the Colorado Delta and the one to protect the Salton Sea are not seen as interconnected with the lining of the AAC.¹⁸ These two projects are essential for maintaining ecological balance in the Lower Colorado River Basin and protecting biodiversity in these ecosystems. Fresh water is absolutely necessary to preserve the minimum conditions for survival (Asociación Ecológica de Usuarios del Río Hardy-Colorado, A.C., et al. 2001).

This partial, unilateral vision by California and the Los Angeles and San Diego water utilities has remained unchanged throughout the process. On September 25, 2003, the San Diego County Water Authority and Imperial Valley agricultural users reached an agreement to transfer 200,000 AF/y for 75 years, at the same time SDCWA accepted the 77,000 AF/y for 110 years offered by the Metropolitan Water District. This water would come from savings after lining the AAC.¹⁹ Concurrently, then-California Governor Gray Davis signed laws supporting the transferring of water from Imperial Valley to San Diego. Although these legal provisions allocate resources for restoring the Salton Sea, nowhere do they mention the Colorado River Delta as an affected user, nor do they make reference to the impact on Mexicali of lining the AAC, whose cost will be covered by the San Diego County Water Authority in return for the transfer of the saved water.

Additionally, as part of the border remediation program supported by binational cooperation proponents, significant investments have been made to clean up the New River (Río Nuevo) in Mexicali and to treat the wastewater it conveys to avoid environmental and public health problems on both sides of the border.

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Eventually, Mexico could reclaim this water and use it differently, such as for environmental uses and aquifer recharge, and thus maintain static levels in the wells while improving water quality. However, a reduction in its flow in U.S. territory could have a negative impact on the Salton Sea, so specific provisions would be necessary if the problem is to be addressed integrally and jointly, reaffirming the idea of fully adopting a water management model in the region in accordance with the interdependence of the ecosystems currently fragmented by the intense intervention of both societies.²⁰ Several non-governmental organizations and research institutions on both sides of the border have made progress on proposals to build a framework for the joint, integral management of the ecosystems of which the water in dispute is a part. Thus, it is the political arena that lacks approaches to cooperation and mutual concession that could result in better management, from the environmental perspective, as well as in greater social and institutional stewardship.

CONCLUSION

The pressure being exerted by water demand on the Lower Colorado River Basin is a factor that exacerbates the binational differences and conflicts surrounding this resource. Over the years, the United States and Mexico have found ways to resolve conflicts. However, the margins within which each government operates are ever narrower, given that the objective of those involved in the complex bidding for water is to obtain the largest volume possible, and that the game takes place under conditions where all the water is already allocated. As a result, pressure is exerted upon those areas and sectors of consumers who have relatively larger water allocations or volumes (such as the agricultural sector), with the aim of introducing water savings and transfer policies. In the case of the border region, this could lead to potential collateral effects and implications on crossborder water relations.

Additionally, the lack of a binational relationship that transcends the unilateralist approaches anchored in national sovereignty postures, as in a state-centric model, have led to fragmented, contradictory policies even within the countries themselves. Thus, there is a disconnect between the AAC-lining project, the Salton Sea

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Preservation project, and the Colorado Delta project, all of which are located in the same area and should therefore be approached with a policy that provides more congruency to the goals of each of the individual projects. To this add the signing of an interim agreement that apportions Colorado River surplus waters to California for a 15-year period beginning in 2002.

The arrival of a new government in Mexico in 2002, with a more prominent foreign policy agenda and with perspectives of leaning on the “democracy bonus” to negotiate with the U.S. government, led to the Secretariat of Foreign Relations directly assuming control of the AAC lining issue, removing it from CILA’s purview. However, several factors, including the U.S. protesting Mexico’s historical water debt with Texas, have shown that democratic legitimacy was not enough to ensure a successful negotiation with the United States. At the same time, the Mexican Senate has disapproved of the method the Mexican government used to address the binational subject of water. The legislators now express doubt and reservations as to how the Fox Administration has handled these types of problems and accuse the president of favoring U.S. interests. This has made finding a solution to an already difficult situation even more complicated.

Seeing the complexities of the AAC lining problem and the difficulty in arriving at a solution, the question is, Does an avenue for resolving the conflict even exist? Surely one must, but it is more likely found in incorporating all elements of the ecosystem from which the water is taken and adopting a different approach to cross-border water management. In this regard, society on both sides of the border has made greater strides than governments. Finally, the agreements reached by stakeholders within California (namely, the water utilities) and the laws signed by the California governor to support water transfers from the Imperial Valley to San Diego (including lining the AAC) indicate that resuming negotiations has become more complicated for Mexico, given that actions to that end have already been taken by California, with the support of the U.S. Department of the Interior.

ENDNOTES

¹ On this matter, a thesis by Albert Utton is frequently quoted that states international precedent would support the right acquired by Mexico as the user of the disputed water during more than 25 continuous years, thus leading to the loss by proscription of the Imperial Valley Water District's rights. But he also recognizes how difficult it would be to reach a resolution in court, due to a lack of international treaties and agreements regulating the use of groundwater. See Bustamante (1999) and Utton (1991).

² There is no agreement as to the surface area that would be affected by lining the AAC, indicating that more studies and data are needed to more precisely assess the magnitude of the impact on the agricultural sector in the area. Hayes (1991) speaks of 13,500 hectares, as does Calleros (1991), Navarro Urbina, however, quoted by Cortez Lara and García Acevedo (2000), speaks of 19,200 hectares. CILA Commissioner Arturo Herrera Solís refers to 1,200 hectares (Mexican Senate 2000). It is 9,200 hectares according to Senator Norberto Corella, who quotes Operations Management for Irrigation District 014 (www.pansenado.org.mx/Debate/cona000406a.html). Member of the Chamber of Deputies Fortunato Alvarez Enríquez (www.gaceta.cddhcu.gob.mx/Gaceta/2000/abr/20000412.html) uses this same figure. Mendoza (2002) states that the surface area irrigated with water extracted from the ground in that part of the irrigation district is 70,000 hectares.

³ "Central Arizona Project is designed to bring about 1.5 million acre-feet of Colorado River water per year to Pima, Pinal and Maricopa counties... It is a 336-mile long system of aqueducts, tunnels, pumping plants and pipelines and is the largest single resource of renewable water supplies in the state of Arizona" (Central Arizona Project 1997).

⁴ In 1977, the Arizona Water Commission, in a letter to the U.S. Secretary of the Interior, announced recommendations for CAP water allocation to municipal and industrial users (Central Arizona Project 1997)

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⁵ From 1940 to 1990, Mexicali's population increased 2,209%, Calexico's grew 198%, Tijuana's grew 4,138%, and San Diego's grew 764% (Castro 2002).

⁶ Although there are legal provisions in both countries restricting water extraction to the point where it competes with and endangers species and ecosystems, thus far neither has been very strict in overseeing and enforcing their respective legal precepts. (Nitze 2002).

⁷ Several papers from academics have suggested the possibility of reaching cooperative methods and binational agreements to achieve proper, sustainable water management or for restoring the degradations of the ecosystems caused by the overexploitation to which they have been subjected. The proposals have been generally based on the idea of "the commons." See Pitt, et al. (2000), Brown and Mumme (2000), Michel (2000), and Nitze (2002).

⁸ In fact, it was Corella who brought the issue before the Senate Rostrum during an intervention on May 6, 2000, before the purportedly imminent beginning of construction to line the AAC. During his intervention, the Senator proposed a resolution asking the Secretariat of Foreign Relations to send a diplomatic memorandum to the U.S. Embassy requesting that the lining of the AAC not begin as scheduled, and second, to ask Secretaría de Medio Ambiente y Recursos Naturales (SEMARNAT) to appear before the senators and say whether it had been consulted about lining the AAC, per the provisions set forth in the corresponding international treaties. www.pansenado.org.mx/Debate/cona000406a.html

⁹ www.gaceta.cddhcu.gob.mx/Gaceta/2000/abr/20000412.html.

¹⁰ www.pansenado.org.mx/Boletines/bole801.html.

¹¹ Ibid.

¹² www.senado.gob.mx/comunicación/boletines/2001/b26mayo.html.

¹³ Ibid.

¹⁴ In that same regard, an article by Angélica Enciso in a Mexico City newspaper states that in 2001, the Mexican Office of Foreign Affairs sent a diplomatic memorandum to the U.S. government, but that the evaluation period is over and lining the AAC is now a reality. In the same article, a regional representative of CILA is quoted as saying that the issue is in the hands of the Secretariat of Foreign Affairs. The article appeared in the April 15, 2002, edition of *La Jornada*.

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¹⁵ The lining was scheduled to begin in 2003, but was postponed again, according to statements by Engineer Leonel Vizcarra Ojeda, Director General of the Baja California State Water Commission, before the State Congress in October 2002.

¹⁶ This is according to an article by Angélica Enciso in the April 15, 2002, edition of *La Jornada*.

¹⁷ It is worthwhile to note that the pressure exerted by the U.S. government on Mexico for payment of its water debt, and the activism adopted by the Mexican government in its foreign policy, have created notable differences within the Mexican Senate, including differences in interpretation of the 1944 Water Treaty, which in some ways could be reflected in Mexico's position before the United States in negotiations for resolving water issues, including lining the AAC.

¹⁸ The Pacific Institute Report on the Salton Sea establishes that it is part of a larger regional ecosystem and therefore its restoration must be compatible with broader, long-term efforts to restore the Colorado River Delta and the Upper Gulf of California eco-region. (Cohen, et al. 1999).

¹⁹ This is according to an article in the September 26, 2003, edition of the *San Diego Union-Tribune*.

²⁰ Cohen, et al. (1999) have stressed the critical relationship between water flows in the region and AAC lining, New River remediation, and Salton Sea restoration projects. All are connected by the chain of responses to the water-transfer agreements between IID and some Southern California urban areas.

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