

1996

The North American Development Bank

Alfredo Phillips

Follow this and additional works at: <https://scholar.smu.edu/lbra>

Recommended Citation

Alfredo Phillips, *The North American Development Bank*, 2 LAW & BUS. REV. AM. 40 (1996)
<https://scholar.smu.edu/lbra/vol2/iss2/6>

This Article is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in Law and Business Review of the Americas by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

The North American Development Bank

by Alfredo Phillips

The creators of the North American Development Bank were responding to a drastic and urgent need for environmental infrastructure that has existed in the U.S.-Mexico region for many years. Several of you were present at the creation of the Bank and its sister organization, the Border Environmental Cooperation Commission (BECC), then they were constructed within the negotiations over the North American Free Trade Agreement.

Because the need for environmental infrastructure in the border region was so well-known and so well-catalogued, it may have been expected that it would be a simple matter for the Bank to begin immediately to lend to projects on both sides of the border that were in desperate need of financing. In fact, the Bank will no doubt be prepared to support several small and medium size projects in several communities along the border in 1996. However, after nine months of actual operations and hard lessons, we have come to the conclusion that it will be a more difficult process than originally expected for the Bank to engage in substantial lending operations in the short-term. At this stage in its evolution, the success of the Bank must be measured by more than the amount of lending it accomplishes. For while there are many interesting ideas for projects in the border region, there are few projects that have been adequately analyzed and developed for presentation to and financing by the Bank or other sources of funds.

In order to address this fact, we have formulated specific policy initiatives that must be spearheaded by the Bank, on both sides of the border, in order to make the Bank's founders' vision of a border region with adequate water supply, waste water treatment and municipal solid waste infrastructure for all its present and future generations a reality.

First and foremost, rather than wait for a sponsor to present a project to the Bank, the Bank must become a force for planning and development of projects from their very inception. The Bank, along with the BECC, must help shepherd projects through the BECC certification process so that they are in a better position for financing from the Bank after certification. In this process, the Bank must encourage communities to engage in long-term planning with respect to their water supply, wastewater and municipal solid waste infrastructure needs. Prior to the Bank's formal participation in a project of any size (especially in heavily populated areas that are substantially below standards), it must be demonstrated that the project fits into the strategic or master plan for the particular community's utility system. Wastewater facility planning, construction, and rate collection must be carried out in complete coordination with the relevant area's potable water supply development and distribution.

Community and private sector participation are essential for the accomplishment of the Bank's goals. The BECC certification process fosters the participation of local groups in the analysis of projects to be carried out in their communities. Politically and financially, most communities will support the development and expansion of an integrated water/wastewater system if it is perceived as fundamental to health and economic well-being. However, this essential long-term, coordinated approach has not been a hallmark of the projects that have been informally suggested for BECC certification and Bank

financing. The dedication of governmental resources to assist communities with these planning efforts is fundamental to the success of the Bank in this area.

Second, the Bank must become a force for rationalization of the allocation of government and private sector resources to projects in the border region. The Bank's role as an investment banker was recognized at its creation, but the importance of this role has become more apparent over time. For example, federal government grants are essential to the success of marginally financeable projects. There must, however, be some reconsideration of how such funds should be targeted, and we are discussing some specific suggestions with Treasury, EPA, Hacienda and SEDESOL. The Bank is in the best position to help coordinate the use of these resources with those available from the private sector and local government sources. Furthermore, as an international institution dedicated to assisting sustainable development, the Bank can induce efficient cooperation not only between the two countries, but also among local governments, communities, and private sectors from both sides of the border, as well as from other areas.

Third, the Bank must become a force for certain structural changes that are essential to the long-term success of projects. In addition to the integration of water/wastewater planning, development and administration, other key structural changes are essential to effective lending by the Bank. For example, local independent public utilities with the power to act directly must be created.

Fourth, in order to achieve its objectives, the Bank must become a force for the development of creative and less conventional financing tools, such as co-financing, asset securitization, syndications, and loan guarantees. The judicious combination of financial resources from other public and private sources for any given project will allow for greater spreading of risks and more favorable financing terms. This new approach to project finance may require projects to seek funding from capital markets, and shall require the pricing of loans based on the projects themselves and on market conditions. Infrastructure projects are long-term commitments and require close follow-up of the project's operation and maintenance during the life of the loan.

Finally, and perhaps most importantly, Bank management must be a force for innovative thinking with respect to finding solutions to the environmental infrastructure financing needs of the border. The hedging mechanism established by the Government of Mexico is an example of such thinking. Likewise, we are currently exploring the possibility of establishing mechanisms that would be dedicated to the financing needs of the smallest, poorest communities on the U.S. side of the border.

We have benefitted during our first months of operation from the dedication of many individuals. Management appreciates the continued support and commitment of Board members and their staffs to make the second year of the Bank's operation a success for border communities and their citizens.
