



**GOOD NEIGHBOR
ENVIRONMENTAL BOARD**

*Presidential advisory committee on
environmental and infrastructure issues
along the U.S. border with Mexico*

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September 8, 2014

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

The binational institutions of the Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB), created through a binational environmental side agreement of the North American Free Trade Agreement (NAFTA), have been instrumental in providing environmental infrastructure development and financing for the U.S.-Mexico border region. The Good Neighbor Environmental Board (GNEB), your federal advisory committee on U.S.-Mexico border environmental and infrastructure issues, has worked closely with both institutions over the years in the development of our annual reports. In these reports, we also have made recommendations for your consideration on ways the two institutions could improve. As such, we submit this letter to you relaying our concerns and recommendations regarding the proposed merger of the BECC and NADB into one institution, as outlined in the July 15, 2014 Discussion Paper, *Institutional Integration of the Border Environment Cooperation Commission and the North American Development Bank* (hereafter *Institutional Integration*).

The United States and Mexico have certainly benefited from NAFTA, with a reported more than \$500 billion in trade crossing the border every year. This was a brilliant cooperative agreement; unfortunately, the provisions to protect the environment have not kept up with the economic boom. The Discussion Paper, *Institutional Integration*, cites several efficiency improvements already implemented by the BECC and NADB. At the same time, however, inefficiencies are used as the basis for merging.

The *Institutional Integration* document states in paragraph 41, “As with every major initiative during their first 20 years of operation, BECC and NADB believe that stakeholder feedback will be valuable in finalizing this proposal for institutional integration. Therefore, the proposal is hereby being released for a 60-day public comment period.” Although we recognize there will be additional efficiencies under a merger (e.g., only one Chief Financial Officer and combined human resources, information technology and other resources), and we have heard that the BECC and NADB currently operate more efficiently than most other development banks, we question whether this proposed merger will undermine the environmental focus that was intended when the two institutions were created. The following are concerns and recommendations of the GNEB.

- Given the environmental infrastructure needs of the border region and the important role the BECC and NADB play, a timeline for both public comment and implementation milestones of a proposed merger should be described.
- The strength of the BECC in the separate but equal arrangement set forth under the bilateral NAFTA side agreement gives the NADB an environmental focus that would not otherwise exist. We have concerns the proposed merger may shift some of that focus, although we applaud the proposed creation of the “Chief Environmental Officer” as a possible means to address that concern.
- The proposal for the “Chief Environmental Officer” is not sufficiently detailed. We would like to see a more thorough explanation of: (a) the selection process for the person who would fill this position; (b) the autonomy of this new position (i.e., how much weight would be given to his or her decisions); and (c) the location of the Chief Environmental Officer (i.e., where would he or she be posted). The budget for this officer

could be affected by the larger bank, so these are additional areas that should be considered in a proposed merger.

- We would like to see assurances that the new institution created by the proposed merger would continue to focus on creating and financing environmental infrastructure. The proposed merger and any resultant weakening of the BECC's technical workforce might drive the new organization to focus more on getting loans out than on improving the environmental conditions in the border region. Consequently, we also would like to be assured that the new institution would have enhanced environmental technical capacity.
- We are very concerned that a new entity, with the bank as the key component, would press to support those very profitable large-scale investment projects that do not serve less profitable and more basic infrastructure areas such as water scarcity, water quality, and stormwater control. Before such large-scale projects are funded, the actual environmental impacts of these projects need to be analyzed and fully measured. As documented by the BECC, border residents need environmental projects to clean up what already-lagging infrastructure and the greater water, wastewater, and solid waste needs caused by NAFTA-fueled economic growth have brought to the border region.
- Stream segments along the border also have water quality problems. In Texas, some of the state's poorest communities are found along the Rio Grande, and the water in the vicinity of these communities has at times been polluted. In Arizona, the border cities of Nogales and Douglas regularly report water quality problems. The New River in California is polluted; despite substantial investment from the BECC and NADB, and although improvements have been made, much work still remains. The independence of the BECC gives voice to those who seek funding options to correct these problems, and the new institution should continue to provide a forum for public participation in the project certification process. The proposed merged institution also should have established review procedures to ensure that the certification objectives are being met.
- The BECC has a well-established tradition of promoting public participation and transparency. However, some GNEB members and stakeholders have had difficulty obtaining information from the NADB. Even though these may be isolated occurrences, procedures to ensure transparency, access to project-specific information for certified

projects, and consistency must be implemented so that the BECC's culture of transparency is not lost within the new institution. The institution could look to other international organizations for examples of transparency and disclosure policies. Steps need to be taken so the proposed merged institution would ensure that stakeholders throughout the U.S.-Mexico border region are engaged and have equal opportunity to take advantage of the full suite of available environmental infrastructure funding.

- Under the revised charter by which the two institutions currently operate, the "state and public representatives" of the BECC-NADB Board of Directors are appointed in such manner as may be determined by each respective country (Chapter 3, Article 2 of the current charter). Three out of the four appointments available for state and public representatives on the BECC-NADB Board are currently vacant and have been for some time. It is untenable that border states and the public do not have a voice in the management of both institutions because of these vacancies. The protocol to appoint these representatives and their length of service should be better defined and implemented right away.
- The chairmanship of the proposed merged institution should rotate among all its members. Currently, only Treasury and Hacienda serve in those capacities.

In closing, we respectfully request that this letter be shared with the BECC-NADB Board of Directors by the end of the comment period on the proposed merger, which is September 15, 2014. We also recommend that when the BECC-NADB Board discusses the comments it has received on this proposed institutional merger, as well as decisions on next steps, every effort be made to open these meetings to the public. In the past, the BECC-NADB Board has made this effort by live streaming of meetings and, given the importance of this proposal, should reinstate this practice.

Respectfully,



Diane Austin
Chair

NOTE: GNEB representatives from federal departments and agencies have recused their organizations from this advice letter.

cc: The Honorable Joe Biden
The Vice President of the United States

The Honorable Michael Boots
Acting Chair, Council on Environmental Quality

The Honorable Gina McCarthy
Administrator, U.S. Environmental Protection Agency