



Public Policy Review

by Sharon Megdal

Front-Row View of Federal Water Lawmaking Shows Process Works

U.S. – Mexico Transboundary Aquifer Assessment Act pondered, passed and signed



Otto von Bismarck reportedly once said, “Laws are like sausages, it is better not to see them being made.” I am not sure what to make of this remark since lawmaking, not sausage making, is my interest. It is an interest that recently broadened when I had the privilege of testifying before the Water and Power Subcommittee of the House Resources Committee on the United States-Mexico

Transboundary Aquifer Assessment Act. This bill, numbered S 214 in the Senate and HR 469 in the House, gained final approval in the wee hours of the 109th Congress and was signed by the President on December 22. My previous involvement in lawmaking had been at the state level.

The program’s purpose is to provide state, national and local officials with information to address pressing water resource challenges in the U.S.-Mexico border region. As finalized, the act authorizes the Secretary of the Interior, through the U.S. Geologic Survey, to collaborate with the states of Arizona, New Mexico and Texas, the country of Mexico, and others to conduct hydrologic characterization, mapping and assessments of priority transboundary aquifers. For Arizona, the two priority transboundary aquifers established in the legislation are the Santa Cruz River Valley and San Pedro aquifers. The program is authorized for ten years.

Working on obtaining Congressional approval of this bill was a learning experience. I had once provided written testimony to a Congressional subcommittee, but I had not previously had the opportunity to provide oral testimony.

The acting USGS director and I were the only witnesses. Some unexpected, tough questions came up at the hearing regarding the bill’s connection to the Colorado River and the treaty with Mexico. The Subcommittee chairman held the bill to allow additional comments. Through the assistance of staff to Senators Kyl and Bingaman, respectively, amendments to address multiple concerns with the bill’s language were developed.

In contrast to sausage making, which must be a very messy business, I was participating in a carefully crafted lawmaking process involving compromise and clarification to achieve agreement and support.

As a witness on the bill, I first provided written testimony and then was given a few minutes to present oral remarks at the hearing. The oral remarks were not expected to be the same as the written testimony. I emphasized the importance of the bill by making the following points.

I testified that the transboundary aquifer assessment program will assist federal, state and local officials address critical water resource challenges in the U.S.-Mexico border region. The act will build the scientific foundation for addressing daunting and acute

water resource issues. The program also will serve as a catalyst bringing together the human capital and financial resources necessary to characterize transboundary aquifers. The resulting increased understanding should help resolve many of the currently unquantified — and therefore unresolved — water resource issues.

I emphasized the importance of water to the growing, arid Southwest, especially along the border where population continues to grow rapidly on both sides. Water resource issues become more complex and acute along the shared border where understanding aquifer characteristics is critical to the human health and economic vitality of this region. Along the border many and varied interests need to cooperate and participate to address water issues.

I told how the modeling and data base developed as part of the program will address important water quantity questions including those associated with salinity and toxins. Further complicating border water issues are the different water quality standards and the physical relationship between surface water and subsurface flows associated with transboundary aquifers that raise special challenges.

I also told the subcommittee that the program authorized by this bill will meet a critical need by establishing a partnership of federal, state and local governments, university researchers and others to provide scientific information on transboundary aquifers.

I informed the committee that the need for additional scientific information on water resources is well recognized. For example, in fall 2004, the 85th Arizona Town Hall concluded that “[to] avoid crisis management, Arizona must engage in long-term planning based on good science and data collection that should be made widely available throughout the state.” Town Hall participants were calling for sound science and data as well as the dissemination of the information to avoid crisis. The program authorized by the bill envisions the partnerships necessary to accomplish these tasks.

I noted the widespread support for the bill from governmental and non-governmental entities. In addition, a 2005 United States-Mexico Border Governors Conference declaration emphasized the importance of the program by calling for a collaborative work program that includes “the permanent exchange of data and information regarding surface and ground water along the border...”

Passage of the act demonstrated once again that water policy making is a bi-partisan exercise. All recognize the need for sound information to develop good water policies to ensure needed water supplies to accommodate the rapid growth of the border regions. Funding for this newly authorized program is needed, and the hard work of obtaining federal appropriations now begins.

The University of Arizona’s Water Resources Research Center and its sister centers in New Mexico and Texas are expected to work closely with USGS and collaborators on developing this program. I thank those who helped us get this far and look forward to working on implementing this legislation. ■