



WATER RESOURCE LEGISLATION IN BOLIVIA: Finding common ground by sharing information and internationalizing the debate

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1. INTRODUCTION:

Water issues have always dominated the political landscape of the Bolivian Inter-Andean Valleys. Initially the concerns were about water for agriculture however, more recently growing human and industrial needs have added fuel to the political fire. Whereas traditional ideas about water rights and then colonial legislation served as the basis for water regulation in the past, a more comprehensive and updated perspective is needed today. The most recent Ley de Aguas in Bolivia was passed in 1906 and it is based on the Decreto Supremo of 1876.

Currently, water is not only in much greater demand, but the model for developing its use has changed. In Bolivia, the government is trying to entice major capital investments to build a modern infrastructure and is therefore privatizing many services (telephone, railroad, and electricity). However, creating a concession for a moving resource like water is very complicated. Previous laws and traditions are still enforced and must be accommodated and, because water is a limited resource, legitimate conflicts of interest must be resolved in an acceptable manner. Moreover, from a technical standpoint, water is a resource that is still not completely understood. For example, drilling into the aquifer provokes acrimonious debate and recriminations while efforts to monitor and understand the size and recharge rate of subterranean water resources are limited.

The lack of communication between the Bolivian executive and legislative branches of government and the people of the Inter-Andean Valleys over water rights reached the breaking point this year. Aguas de Tunari, a multinational company that had recently obtained the sole rights to supply Cochabamba with its drinking water, took possession of the existing potable water infrastructure and immediately informed people that their rates would go up--before making any improvements in the system whatsoever. Riots ensued and ultimately the Government was obliged to break the contract with the company, rewrite Law

2029 (Ley de Agua Potable y Alcantarillado Sanitario), and promise a more open debate in the future.

Recovering from this calamity and developing an open debate on water issues is a crucial next step. This debate is one that will be of particular interest to USAID due to its projected investment in agricultural development in the Bolivian mesothermic valleys (e.g., MAPA project and the "Fondacion de Valles"). Before any organization, private or public, agrees to make long term investments in these valleys, they will have to know what the rules are that govern water allocation, and how to petition for access to this strategic resource.

2. BACKGROUND:

The Commission for the Integrated Management of Water in Cochabamba (Comision para la Gestion Integral del Agua en Cochabamba -CGIAC) is currently a group of ten institutions, both public and private that are involved with water management issues in Cochabamba (see Table 1). The Commission began functioning in June of 1998 with the assistance of CONDESAN (Consortium for the Sustainable Development of the Andean Ecoregion), a regional program of the International Potato Center (Lima, Peru). The Commission was founded with the objective of initiating an open dialogue on water issues, and bringing to the table the best technical and research information possible. For the past few years, water issues and misinformation had been dominating all local rural development discussions.

Subsequently, with a grant from the Canadian IDRC, the Commission developed the novel idea of conducting a public workshop on water issues that would attract political and popular participation, followed by an electronic forum that would permit more in depth debate, as well as regional and international participation. The public debate was held on Feb. 23 and 24th, 2000 in Cochabamba and approximately 150 people participated in the six working sessions. Following each presentation, there were two commentaries and then open debate.

The Electronic forum started in late February and ended on April 15th. 188 people registered for the forum (104 from Bolivia; 30 from Peru; 14 from Ecuador; 8 from Colombia, 3 from Chile and 10 others with a range of international addresses). It is also interesting to note the breakdown by institutional affiliation (75 from NGOs; 38 from Universities; 34 participants from Bolivian Agencies; 12 from International agencies; and 29 from private e-mail addresses). For those people that missed the conference, all the major presentations can be accessed on the WEB (www.cgjac.org). A hard copy of the proceedings will be available in mid-July.

Certainly the recent events concerning Aguas de Tunari and Law 2029 (Ley de Agua Potable y Alcantarillado Sanitario) has both soured the atmosphere, and

made it even more crucial that a non-partisan commission like CGIAC should exist. It was very obvious from the over 50 comments posted that much of the debate emanates from one or both of two sources: competition for water; and/or lack of information. **What is being proposed in this project is to expand CGIAC, whose initial focus was on Cochabamba, to CGIAB (Comision para la Gestion Integral del Agua en Bolivia), with a national focus. The Commission will build on its current electronic communications experience (electronic forum, construction of a web page) to increase national participation in the water debate and to enrich the discussion with international contributions.**

3. CURRENT SITUATION AND GENERAL OBJECTIVES:

In reality, the "cart is in front of the horse". A specific law for potable water has been passed (now called 2066), while the more general "framework" law for water regulations is still in draft form (version #32). This results in the complicated situation. A law that actually covers many issues beyond drinking water has been newly written while older, fragmented, and often contradictory laws that cover many of the competing the uses of water are also in force (Ley de Aguas, 1906; Codigo Civil, Codigo de Minería, Ley de Hidrocarburos etc.) As a result, the project must have multiple objectives that include participating in the current debate but also keeping the focus on the larger, general law dealing with the allocation of Bolivia's strategic water resources. **The overall goal of this project is to expand the debate on water legislation in Bolivia so that decision-makers (Bolivian Parliament), university academics, NGOs, ministry technicians, as well as the end users of water resources (rural and urban citizens) can be aware of the issues and make their opinions heard.** While clearly only a small segment of the Bolivian population will participate in the electronic exchanges, the participating organizations (government ministries, NGOs, universities, International Agencies) have a tremendous capacity to share the information and solicit feedback. In addition, the project will work with other mediums, like radio, information update leaflets, Sunday supplements, encounter groups and rural workshops to expand information gathering and participation.

4. SPECIFIC OBJECTIVES:

To reach our overall goal, five specific objectives have been identified.

- 4.1 Build CGIAB (Comisión para la Gestión Integral de Agua en Bolivia) into a major national force that strengthens political and technical participation in the on going debate about water resources. If the Commission becomes a recognized forum for discussion of water issues, future funding should be assured.

- 4.2 During the first phase, the Commission will help to promote a clear understanding of the contents of the recently approved Ley de Agua Potable y Alcantarillado Sanitario (Ley 2066) and facilitate an informed debate on the associated statutes.
- 4.3 During the first phase, the Commission will help conduct a discussion on both the existing legislation that affects water allocation in Bolivia and on the “framework” legislation for all water resources and their uses.
- 4.4 Facilitate the process of information exchange between the State (Executive and Legislative branches) and civil society on water issues.
- 4.5 Help civil society to play an active role in the development and protection of Bolivia’s water resources. By helping to inform society about current national legislation, by helping to synthesize and clarify the debate, and by introducing experiences from other countries into the discussion, civil society will be more empowered to participate, non-violently in the water debate.

5. ACTIVITIES:

To achieve these objectives the project will consist of a series of four types of activities.

5.1 Building CGIAB.

The first task will be to convert the Cochabamba focused CGIAC into a national forum for water issues. To do this, five activities will be undertaken:

- Travel to other Departmental capitals to increase the membership in the Commission and participation in debates;
- Improve the WEB site to serve as a water legislation documentation center and kiosk for publishing events dealing with water issues;
- Create a Water Watch based in La Paz that will monitor legislative developments concerned with water issues and report on them in Newspapers and on the Web
- Develop a list server with Bolivian and International addresses of participants in the water debate
- Conduct focal group meetings to clarify the positions of different stakeholder groups

5.2 Carrying on the Electronic Discussion:

The heart of this project is to strengthen the on-going debate on water legislation via electronic discussions and a web page.

- Publish government legal documents and pertinent literature supplied by participants on the Webpage;
- Organize a continuing discussion that will focus on the following four themes:
 - Informing the Bolivian public about the newly passed Ley de Agua Potable y Alcantarillado Sanitario (Ley 2066)
 - Participating in the debate on the contents of each of the seven statutes of the new law (see table 2);
 - Uncovering and opening to discussion the pertinent parts of existing legislation that affects water allocation decisions; and,
 - Helping to structure the debate on the new framework legislation for water resources in Bolivia (Ley General de Aguas).
- The quality of these discussions will be maintained by organizing focused discussion sessions, regularly systematizing and summarizing current legislation proposals or positions, and by inviting national and international commentary.

5.3 Expanding the socialization process:

In addition to electronic communication, CGIAB will work with a number of other types of media:

- A series of short radio shows that will be broadcast by journalists during their weekly shows;
- The Commission will edit a Sunday supplement (8 pages) that will "popularize" key issues in the water debate;
- The Commission will publish (electronically and in hard copy) a two page (4 sides) "Information Flash" every two weeks. This will update discussion participants, parliamentarians and the international community on legislative initiatives in La Paz and new developments.
- The Commission will develop a one-day "travelling workshop" on water issues that will be invited by departmental authorities to promote information sharing and participation in the water debate.

5.4 Political Impact:

To ensure that the results of these activities are heard and used by decision-makers, the project considers one of its major clients, the Bolivian Parliament.

- The Commission will ensure that the 130 person Bolivian parliament and international community is invited to participate in the electronic discussions and will receive the fortnightly Information Flash leaflet.
- The Commission will prepare two volumes of a "Dossier de Agua" that includes in hard copy key documents on the web page. These will include

annotated excerpts of existing legislation, as well as a synopsis of the differences between positions of different stakeholders.

Figure 1 is an effort to capture the primary activities and functions of CGIAB in schematic form.

6. EXPECTED RESULTS:

We envision the water legislation debates in Bolivia to run for several years. This start-up project will help build a foundation for future activities. Nevertheless, we expect the following measurable results by the end of this funding.

6.1 The CGIAB will develop into an important national actor that will strengthen political and technical participation in the on-going, national debate about water resources.

Quantifiable Indicators:

- Over 400 national and 200 international addresses will be part of the discussion list server.
- The CGIAB Commission will grow from 9 to at least 25 organizations
- A survey at the end of the end of the project will show satisfaction with the services rendered by the Commission.
- The CGIAB webpage will be averaging 1000 hits per month by the end of the project
- A coalition of Government and International agencies will assure continued funding for the Commission.

6.2 Both the law and the statutes of Ley 2066 (Servicios de Agua Potable y Alcantarillado Sanitario) will have been widely discussed in Bolivia and benefit from international input

Quantifiable Indicators:

- A survey will show that parliamentarians found the Information Flashes useful in understanding the issues surrounding this law
- The Commission will get from at least 4 Departments to present information on Law 2066 to local citizen groups.
- Government Agencies and NGOs will download information from the discussions and web page to develop their own teaching materials (verified in survey)
- Reprints of the Sunday supplement will be necessary and radio journalists will request additional radio shows
- International contributors will make at least 20% of the contributions to the electronic discussions.

6.3 The discussion on the framework for the Ley General de Aguas will have been initiated and that the debate will have been enriched with useful international input. The stage will be set for a large, electronically connected, and informed constituency to continue the debate into 2001.

Quantifiable Indicators:

- The Dossier de Agua compendiums will be in the hands of Bolivian Parliamentarians and they will have found them useful (survey results)
- The main issues to be covered in the framework legislation will have been outlined. Examples of how these issues have been dealt with in other countries will be compiled and on the Web.
- The pending debates are so important and the Government and the International community continue to finance the work of the Commission

7. PROJECT PERIOD AND COST:

The first phase of the " Water resource legislation in Bolivia: Finding common ground by sharing information and internationalizing the debate" project be for six months. Our hope is to start the project on July 1, 2000 and conduct it until January 31, 2001.

The project will cost \$70,675- see attached budget and notes.

8. PROJECT ADMINISTRATION AND SUB-CONTRACTING:

The USAID funding will be managed by the International Potato Center in Lima Peru. The CONDESAN program (Consortium for the Sustainable Development of the Andean Ecoregion) will conduct the project. Major sub-contractor will be the Asociación para la Investigación y el Desarrollo Andino Amazónico (AIDAA) in Cochabamba (a founding member of the Commission).

Table 1. Original Members of the Comision para la Gestion Integral del Agua en Cochabamba

- Centro de Investigación y Desarrollo Regional (CIDRE)
- Asociación para la Investigación y del Desarrollo Andino Amazonico (AIDAA)
- Program de Manejo Integral de Cuencas (PROMIC)
- Program Ncional de Riego y Drenaja (PRONAR)
- Centro de Levantamientos Aereospaciales y Aplicaciones SIG para el Desarrollo Sostenible de los Recursos Naturales (CLAS-UMSS)
- Centro AGUA de UMSS
- Laboratorio de Hidraulica (UMSS)
- Fondacion SOLON
- Federacion de Regantes de Cochabamba (FEDECOR)
- Consorcio para el Desarrollo Sostenible de la Ecorregion Andina (CONDESAN/CIP)

TABLE 2: Seven Pending Statutes to Law 2066

- 1) Concesiones, Licencias y Registros.** Procedimiento y requisitos para su otorgación, renovación, revocación y caducidad. Procedimiento y requisitos para la otorgación de autorizaciones de uso para el recurso agua para concesiones, licencias y registros de servicios de agua potable y alcantarillado. Procedimiento y requisitos para la regularización de concesiones, licencias y registros
- 2) Prestación de servicios de agua potable en áreas concesibles (urbanas).**
Características, obligaciones y derechos del servicio en áreas urbanas para los prestadores del servicio y para los usuarios.
- 3) Prestación de servicios de agua potable en áreas NO concesibles (rurales).**
Características, obligaciones y derechos del servicio en áreas rurales para los prestadores del servicio y para los usuarios.
- 4) Tarifas y precios en zonas concesibles.** Formas de cálculo de indexación, categorías tarifarias y procedimientos de medición y cobro en zonas urbanas.
- 5) Tasas, tarifas y cuotas en zonas No concesibles.** Formas y procedimientos para la fijación y cobro de tasas, tarifas o cuotas en zonas No concesibles.
- 6) Infracciones y sanciones de los servicios de agua potable y alcantarillado sanitario.** Para titulares de concesión y para usuarios.
- 7) Uso de bienes de dominio público, servidumbres y expropiaciones.** Requisitos y procedimiento. Expropiaciones y servidumbres voluntarias y forzosas.