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Mobilizing Across Borders: The Case of the Laguna San Ignacio Saltworks Project

Mark J. Spalding

ABSTRACT:

This analysis outlines a successful binational campaign to protect critical grey whale habitat by using the rule of law in Mexico to hold the state and its representatives accountable to their constituencies, and thus to stop an industrial saltworks project in Baja California Sur, Mexico. Beginning with a review of the facts of the dispute over an industrial saltworks development at Laguna San Ignacio; then tracing the role of binational cooperation in the Campaign itself; and highlighting the ten most important coordinated actions taken by the binational coalition; followed by analysis of the outcome in light of the cooperation. An afterward will discuss the rule of law in relationship to the land easements recently put in place to further protect the lagoon. The Laguna San Ignacio campaign is one of the best case studies of the challenges and successes of cross-border, cross-sectoral, and cross-disciplinary collaboration.

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Mobilizing Across Borders: The Case of the Laguna San Ignacio Saltworks Project

Mark J. Spalding

This paper outlines a successful binational campaign to protect critical gray whale habitat by stopping an industrial saltworks project in Baja California Sur, Mexico. Beginning with a review of the facts of the dispute over an industrial saltworks development at Laguna San Ignacio; then tracing the role of binational cooperation in the campaign itself; and highlighting the ten most important coordinated actions taken by the binational coalition; followed by analysis of the outcome in light of the cooperation. The Laguna San Ignacio campaign is one of the best case studies of the challenges and successes of cross-border, cross-sectoral, and cross-disciplinary collaboration. At issue was an interpretation of Mexican law: Do the regulations governing the administration of the Vizcaíno Biosphere prohibit this type of development?

BACKGROUND

This paper makes use of a case study of a rejected solar saltworks, which a joint venture had hoped to build on the shores of Laguna San Ignacio, Baja California Sur, Mexico, a site lying within the boundaries of Latin America's largest biosphere reserve, "El Vizcaíno," formed by presidential decree in 1988 to protect, among other resources, gray whales because of its use by gray whales of Laguna San Ignacio to spend the winters and calve their young. Specifically, as proposed by Exportadora de Sal (ESSA), a joint venture of Mitsubishi Corporation¹ (49%) and the Mexican government (51%), the new saltworks would have created a massive 116-square-mile industrial landscape of evaporation ponds, a million-ton salt stockpile, fuel and water tanks, a 1.25-mile long pier with a shipping dock and conveyor belts running from crystallization ponds to the pier's end, workshops, headquarters buildings, and the facilities necessary to support 200 full-time employees while onsite. The new plant would have involved digging out an area twice the size of Washington, D.C., to create an enormous system of salt evaporation ponds. Seventeen pumps operating 24 hours a day would draw 6,600 gallons of saltwater per second from the lagoon into the evaporation ponds.

This expansion would have had adverse effects on the ecosystem and might have disrupted the whales' migration patterns and behavior. The project was incompatible with the area's land-use zoning, its tri-level biosphere reserve, World Heritage Site, and Mexican Sanctuary status provisions, and their intended conservation objectives. Specifically, plant and animal species under various categories of protection are found within in the project area.

¹ The Mitsubishi *keiretsu* is the world's largest corporation, with more than \$230 billion in revenues annually. ESSA's existing Guerrero Negro operation ranks as the largest saltworks operation in Mexico and second largest in the world.

These species could have been directly or indirectly harmed by the proposed habitat alteration as well as during construction and subsequent operation of the project in question.

The saltworks project was initially proposed by ESSA in 1994, seeking a building permit authorization supported by an Environmental Impact Assessment (EIA). Because the proposed project site lay within a federally designated protected area, it fell to Mexico's National Institute of Ecology (INE)² to decide whether the proposal should be approved. The Mexican government requires an EIA to be done by the proponent of any significant development.

In 1994, a coalition, then made up primarily of Mexican environmental groups, mobilized against the saltworks project through various legal remedies, and asserted significant and substantive legal and scientific arguments. As a result, the first EIA regarding the Laguna San Ignacio saltworks was rejected in February 1995 by INE primarily because the project was proven to be inappropriate for a buffer zone of a Biosphere Reserve.

The Breakdown of Mexico's Protected Areas Policy

In brief, the current law governing protected areas is the 1988 General Law of Ecological Equilibrium and Environmental Protection (Ley General del Equilibrio Ecológico y la Protección al Ambiente) as amended in December 1996. This regulates natural protected areas, makes legal provisions for the management of a national system of natural protected areas, while defining categories used and making provisions for wild and aquatic flora and fauna.

In the past, the protected areas system has been unable to adequately protect the natural richness of the country due to lack of legislation and resources for management. This has been compounded by the fact that many of the existing decrees have not been carried out. Ambiguity over management arises because areas designated as national parks often remain in private ownership.

Some of the problems facing protected areas include: lack of clear objectives, scientific research and management plans, appropriate legal support, and management resources; irregularities in land tenure and pressure from settlements in and around protected areas; and lack of public awareness. By the early 1980s, property rights had been left undefined in 60% of national parks. The majority of protected areas have been established on communal land or ejidos. This has led to conflicts between nature conservation and local utilization. The following are the principal threats: deforestation, poaching, rubbish dumping, plant poaching, mineral exploitation, over-grazing, and erosion.

ESSA first appealed the rejection directly to SEMARNAP and then decided to prepare a new EIA document. In response to allegations of conflict of interest, SEMARNAP created an

² Part of SEMARNAP [the Mexican Secretariat for the Environment, Natural Resources and Fisheries].

International Scientific Committee³ to advise INE and ESSA on what to include in the environmental assessment.

In July 1996, the International Scientific Committee issued scientific terms of reference (TORs) for the new EIA. Concurrently, INE issued socioeconomic TORs that also had to be addressed by the EIA. The project, in addition to conforming to these terms of reference, had to be consistent with Mexico's environmental laws and regulations.

Sometime during the first quarter of 2000, ESSA submitted its environmental impact assessment to INE. This submission should have triggered a review process that would include an initial assessment by the International Scientific Committee, followed by a "public consultation" opportunity. Finally, INE's Director General for Environmental Impact and Ecological Zoning was to propose a finding to the Secretary of the Environment, Julia Carabias, as to whether or not to authorize the project, taking into account the following results:

1. The assessment made by the International Scientific Committee,
2. The public consultation, and
3. Its own assessment as the competent authority.

On Thursday, March 2, 2000, however, Mexico's then-President Ernesto Zedillo announced that he had decided to cancel, and Mitsubishi Corporation had agreed not to pursue, the Laguna San Ignacio saltworks. While many were thankful that Mitsubishi's plans to put an industrial saltworks in a whale sanctuary had been rejected, it is important to remember that the project was not rejected on legal or environmental grounds through the established process, as it should have been. Mexico has a process for reviewing EIAs, but apparently President Zedillo had no qualms about derailing the "process." This is a bad precedent for Mexico, even if most believe that not building the facility was the right decision, because once again the legal process for project review was subverted and the competent authority sidelined from the final decision. This presents particular difficulty for planning future campaigns of this nature, despite the very real successes and positive outcomes that are the hallmark of the binational coalition that helped make the project's perceived political and diplomatic costs outweigh the perceived economic gains. Thus there was little or no accountability of the state to constituencies dependent upon the fair, equal, and predictable access to justice.

THE LAW AND THE SALTWORKS

To evaluate this proposal, let's look to the international norms, Mexican federal law, and the law of the presidential decree which established the reserve. However, before going any further, as a result of the sometimes overlapping protected area designations, Laguna San Ignacio is a whale sanctuary, is part of a biosphere reserve, and is a UNESCO World Heritage site. Perhaps most importantly, President de la Madrid's Vizcaíno Biosphere Reserve Decree identified the lagoon as a site in special need of preservation. My evaluation here is limited to

³ Comprised of seven national and foreign volunteer experts (2 Mexicans, 3 Americans, a Chilean, and a European). These scientists were drawn from multiple fields and were able to add to the terms of reference based on their expertise.

the status of the place under the law as part of the buffer zone of the Vizcaíno Biosphere Reserve.

In order to evaluate whether the saltworks can be developed in the buffer zone of the biosphere reserve, Mexico's General Law of Ecological Equilibrium and Environmental Protection must be read together with the Vizcaíno Biosphere Reserve Decree and Reserve Management Plan. In addition, thanks to Article 133 of the Mexican Constitution, which states that all international treaties, once approved by the Senate, become supreme law of the nation, we can look to some of the international standards for biosphere reserves. Let's start there and work from the general to the specific.

International Standards

According to the Statutory Framework of the World Network of Biosphere Reserves adopted in Seville in 1995, biosphere reserves serve three main purposes (in order of priority): conservation, research, and development. Biosphere reserves are not like other protected areas because they are intended to promote sustainable use of natural resources and not just preservation. No human activities are permitted in the core of a biosphere reserve other than non-manipulative research and monitoring. Human activities in buffer zones, which surround the cores, are to be closely regulated and limited to those that protect the core and are consistent with conservation objectives. Surrounding the buffer zones are "transition areas" in which rational exploitation of natural resources may take place in cooperation with local populations.

The Vizcaíno Biosphere Reserve includes a core zone and a buffer zone. In other words, based on this Seville Statutory Framework, ESSA would have to have proven that this saltworks project was an "integrated conservation and development project that is compatible with the protection of the core of the Biosphere Reserve."

The protected areas agenda in general

In general, Mexico takes an integrated approach to environmental issues. As such, there is no separate Endangered Species Act in Mexico. While the country lists more species as endangered than are listed internationally or in the United States, there is no specific program for individual species recovery. Rather, Mexican law takes a habitat approach to species protection. In its pursuit of protection of endangered and endemic species, Mexico has declared parts of the country "protected areas." Mexico's national ecology program of 1984-88 had established the:

national system of natural protected areas whose purpose is to protect and conserve the country's natural wealth and to support socioeconomic development. This system includes the biosphere reserves, which have the purpose to develop activities for protection, conservation, improvement, restoration, and management of natural resources. This will take place through research, teaching, training, and participation of the local population.

While ESSA's proposed project might arguably involve "management of natural resources," it would have been very hard for the salt company to argue that its activities constitute protection, conservation, improvement, or restoration of natural resources. Further, the project did not involve research, teaching, or training, and the only participation of the local population may have been through the creation of jobs at the project site. Thus the proposed saltworks project was not consistent with Mexico's protected areas agenda.

General Law of Ecological Equilibrium and Environmental Protection

The operative articles of the general environmental law regarding biosphere reserves read as follows:

Article 48 - . . . The surface area(s) that protect the core from external impact in the reserves will be determined. These zones are buffer zones where only productive activities started up by the local communities living there at the time the respective decree was issued, or with their participation, can occur. These activities must consider future ecological programs and must be strictly compatible with the objectives, criteria, and sustainable development projects within the respective decree and management program.

Additionally, the 1988 law made it clear that no new human settlements would be approved in a biosphere reserve. In the 1996 amendments, this sentence was moved from Article 48 to the introduction of the General Law's Title on Biodiversity, thus expanding this protection to all classifications of natural protected areas.

Thus, while the Mexican law does not set a standard for buffer zones lower than international norms, it is silent on what kind of development can occur in the buffer zone of a biosphere reserve. According to Article 48, the Biosphere Decree and the Reserve Management Plan determine what types of activities can be authorized. I would also argue that, in the vacuum created by the silence of the articles of the general law, the international norms (discussed above) regarding what activity is authorized in a biosphere reserve should be consulted pursuant to the Mexican Constitution.

So, under Article 48, ESSA was obligated to prove that its proposed saltworks design would protect the core from external impact, that its productive activities would be started up by or with the participation of the local communities living in the Laguna San Ignacio area at the time the Vizcaíno Biosphere Reserve Decree was issued, that its activities considered future ecological programs and were strictly compatible with the objectives, criteria, and sustainable development projects within the respective Decree and Reserve Management Plan, and that no new human settlements could be established.

The Reserve Decree

President de la Madrid's decree establishing the Vizcaíno Biosphere Reserve was published in Mexico's Official Federal Register on November 30, 1988. The preamble to the Reserve Decree provides:

[B]uffer zones refer to surfaces that are set up to protect the core zones from external impact. Productive, educational-recreational, applied research and training activities can take place here. These activities should follow the technical ecological and land-use regulations.

It is necessary to protect the wealth and to promote the conservation of Baja California Sur's ecosystems. The objective is to preserve the natural beauty, standards, to rationalize the productive activities, and to carry out basic research activities and apply it to the entity.

While the proposed saltworks was a "productive" activity, it would not have served to protect the core from external impact. Its footprint bordered the core and created a risk for spills and other accidents. It might also have attracted expanded human populations to the area near the core which would have damaged the core directly through incursions or indirectly through waste generation, as has happened near the Guerrero Negro saltworks, where the population has grown from less than 100 when the saltworks were established to more than 10,000 today.

Further, the 116-square-mile installation would not "preserve the natural beauty" of the reserve. As can be observed in Guerrero Negro, many of the salt evaporation ponds and all of the processing facilities detract from the area's natural beauty.

The preamble also notes the importance of the endemic and endangered species in the area, including abalone and lobster fishery beds, some of which are located at the site of the proposed ESSA pier.

The principal purpose of the Biosphere Reserve is to preserve the genetic diversity of its peninsular, marine, and island flora and fauna, as well as to foster favorable regional economic development of natural resources through research, applied technology, environmental and cultural education, history, and recreational and tourist activities.

Again, while the ESSA proposal may have constituted "regional economic development," it was not the most "favorable" and was contrary to the principal purpose of the establishment of the reserve to preserve biodiversity. As an example, the pumping of water from the lagoon may have created an imbalance in the biotica of the lagoon, thus impacting the fish and avian species there. ESSA's planned inundation and dike system would have redirected natural tidal flooding to areas that are the habitat for numerous marine and terrestrial plant and animal species. Ponds with highly concentrated salt and waste products also posed a significant risk of contamination of the lagoon and surrounding mangroves, a risk that does not currently exist.

The articles of the decree also contained significant obstacles to the ESSA project as proposed:

ARTICLE 10: [Mexico] will not authorize public and private works that will initiate ecological disequilibrium or exceed the limits and conditions established in the technical ecological laws and norms.

ARTICLE 11: . . . In the Vizcaíno Biosphere Reserve, new population centers cannot be authorized.

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ARTICLE 15: The permits . . . for exploring, extracting, or using the resources in the Vizcaíno Biosphere Reserve, can only be granted when they are in accordance with the General Ecological Equilibrium and Environmental Protection Law, . . .

The applicant must demonstrate to the proper authorities its technical and economic capacity for the exploration, exploitation, extraction, or use. This must not undermine the ecological equilibrium in the Reserve.

Pursuant to these provisions of the decree, ESSA would have had to gain authorization from the appropriate government agencies and demonstrate that it was in compliance with all environmental laws and regulations and that its project would not cause an imbalance in the natural conditions in the location. And even if the ESSA project complied with all the laws and arguably would not disturb the ecological equilibrium, it could not be authorized if it included the direct or indirect establishment of new population centers.

Application of the Law

The first environmental impact assessment regarding the San Ignacio saltworks, prepared by Centro de Investigaciones Biológicas del Noroeste (CIB) in 1994, was rejected by the Mexican National Institute of Ecology (INE) in 1995. In the rejection, INE stated 15 reasons why the project could not be authorized. I will note three of them:

1. . . . the project is incompatible with the area's conservation objectives and is also incompatible with land-use zoning and other legal provisions.
3. In the area of the project, one finds plant and animal species under various categories of protection . . . 14 plant species (4 rare, 2 threatened, 2 under special protection, and 6 endemic) and 72 animal species (15 rare, 39 threatened, 6 in danger of extinction, 7 under special protection, and 5 endemic). These species could be directly or indirectly harmed by habitat alteration and construction and operation of the project in question.
4. . . . it is our opinion that there are no valid reasons which justify the loss of the natural environment in such as extensive area and within a biosphere reserve.

INE's reasons for rejecting the assessment tracked well with the international norms on approval of activities in a biosphere reserve. It would appear that INE was aware of Mexico's international obligations and found support within Mexican law for its rejection of this project.

For the reasons set forth above, we concluded there was an incontrovertible interpretation of the environmental law that a project such as the ESSA saltworks proposal should not be authorized in a biosphere reserve buffer zone. Under this interpretation of law, INE was correct to reject the first ESSA proposal in 1995. The proposed Laguna San Ignacio saltworks was not consistent with international, federal, or specific biosphere reserve obligations because it is not a conservation activity, it does not maintain cultural values, it does not protect the core of the biosphere reserve, and it does not come from or aid the local community.

COOPERATION AND COLLABORATION

The binational cooperation and collaboration in the case of Laguna San Ignacio evolved over time through four relatively distinct stages. First was the precursor to the campaign, a time in which communication began and mutual trust was built among U.S. and Mexican nonprofit environmental groups. Second was the quick, almost informal lending of U.S. support to Mexican groups, through U.S. NGO international reputations⁴ and access to financial resources which was part of the successful effort to defeat the first saltworks application in 1995. Third was the informal association of groups in a loose campaign against the second saltworks application from 1995 to 1998. The fourth stage was the coordination and maturation of the campaign through the creation of a more formal Coalition to Save Laguna San Ignacio. During these different stages, organizations and individuals played roles that lead to each stage building on the previous one, culminating in the defeat of the second saltworks application in March 2000.

Stage 1: Building trust

From 1990 to 1993, the U.S. environmental nonprofit organization Natural Resources Defense Council (NRDC) engaged in extensive outreach to its counterparts in Mexico and Canada to promote cooperation and collaboration in the face of the development of the environmental conditions of the North American Free Trade Agreement (NAFTA). The effort was undertaken within NRDC's international department. Among the many relationships built during this era were those with Mexico's poet cum environmentalist, Homero Aridjis of the Grupo de los Cien,⁵ and Alberto Székely, one of Mexico's prominent public interest environmental attorneys. The NAFTA collaboration was a slow process but one that built some trust across the border among the groups involved. NRDC was consistently able to provide information to Mexican nonprofits regarding the NAFTA negotiations, which the Mexican

⁴ In particular, the Natural Resources Defense Council and the International Fund for Animal Welfare.

⁵ Grupo de los Cien, or Group of 100, is a coalition of Mexico's best writers and artists seeking to bring attention to the need for clean air in Mexico City, and who have expanded their interests to environmental issues throughout Mexico.

government was withholding from public view. In the end, for Mexican environmental nonprofit organizations, the NAFTA debate process resulted in better access to the transnational political arena (see Audley and Hogenbloom). More important to Laguna San Ignacio's future, the NAFTA process laid the groundwork for future collaboration by establishing a pattern of trust, sharing of resources, and credibility.

Stage 2: Defeating the first saltworks proposal

In early 1995, two Ph.D. students doing field research in Baja California Sur learned of the Laguna San Ignacio saltworks plans. A copy of the plans was acquired and secreted out of the headquarters of ESSA and delivered to Grupo de los Cien (see Dedina). Grupo de los Cien was originally founded to lend the names of 100 of Mexico's top writers and artists, the elite of Mexican society, to a call for cleaner air in Mexico City. As an entity, it has no money and no members. Grupo de los Cien has no one knowledgeable about environmental law, science, or policy. Its biggest asset to the LSI campaign was its influence within some media circles.

Once the saltworks became public knowledge, a scathing editorial appeared in *Reforma*⁶ demanding the project be dropped. Attorney Székely was also contacted to initiate legal and administrative action against the project. NRDC was the first non-Mexican group invited to join the effort to stop the saltworks. Knowing that a project this large was beyond the ability of the NRDC international department's budget, the International Fund for Animal Welfare (IFAW) was called upon to collaborate. Together in early February 1995, they financed a full-page ad in the *New York Times* signed by numerous environmental groups that was designed to raise public consciousness about this issue, because public outrage is an excellent weapon against corruption and the fear that Mitsubishi company officials would unduly influence Mexican government officials.

The pressure created by this ad supported the legal effort that killed the first application by ESSA for approval to build its saltworks. In fact, the language of the Mexican government rejection letter very closely tracks the language of the legal filings prepared by Székely.

The *New York Times* ad foreshadowed an important aspect of the campaign, which was the maintenance of a media spotlight at many levels to help prevent repression or co-opting as an option for ESSA or its governmental supporters.

Stage 3: The informal campaign to save Laguna San Ignacio

Following the defeat of the first ESSA application in February 1995, there was a split between Aridjis (the poet) and Székely (the lawyer) over whether to participate in the government's program to set up a process for the new EIA on the saltworks, which would accompany ESSA's announced plan to resubmit its project for approval. NRDC and IFAW, who were not privy to this subtle distinction (nor were they in direct communication with Székely),

⁶ *Reforma* is Mexico City's leading newspaper.

followed Grupo de los Cien's lead to participate in the government process, which Székely asserted was far too extralegal to be allowed. He saw it as undermining the rule of law in Mexico, rather than supporting a public participation process.⁷

In late 1995, NRDC and IFAW hired me to fulfill a need for advice on working in Mexico. Together we engaged in the process to establish an international scientific panel to set terms of reference (TORs) for the new EIA and, with materials provided by NRDC and Grupo de los Cien, gave advice to the panel on what should be included in such TORs.

I formed a team of researchers to undertake basic factual and legal research. I initiated collaboration with an Ensenada-based environmental group, Pro Esteros. This conservation organization was then, and until very recently remained, the largest and most important environmental group located on the peninsula of Baja California. It is dedicated to the preservation and conservation of coastal estuaries, bays, and wetlands located in Baja California.

Also at the center of this debate were the people of Laguna San Ignacio. Six small villages, with a total population of approximately 320, dot the shores of Laguna San Ignacio. No village has electricity or running water, and the residents live in small wooden shacks. Most locals fish for part of the year and act as tour guides for the rest of the year. Pismo clams are harvested year-round, and this is the most important part of the local economy. Lobsters, scallops, halibut, and grouper are also harvested although, due to poaching, out-of-season fishing, and quota violations, these practices are unsustainable. Locals are generally distrustful of the federal government. Most but not all of the local people supported preserving the lagoon as it is. They were very concerned that the saltworks would kill off the fish and that sucking up water out of the lagoon would affect the larvae of shrimp, scallops, squid, and fish.

At first, Pro Esteros was suspicious and reluctant to join in an effort with U.S. groups. There was concern that the U.S.-based conservation groups were imperialist interlopers that were perhaps carrying a protectionist agenda for a competing industry (the result of Mexican environmentalists' very different view of the tuna/dolphin trade dispute). They were even more concerned about Grupo de los Cien and its lack of science credentials and propensity toward showboating.

In the end, Pro Esteros agreed to work toward the effort to protect Laguna San Ignacio. *Pro Esteros* and I undertook extensive interviews of local community members, ESSA staff, and government officials to determine the scope of the controversy and support for each side. With financial assistance from IFAW, Pro Esteros organized a coalition of all of Baja California's

⁷ Alberto Székely was probably right. It was absurd for the government to allow ESSA to attempt to put together a new EIA. While the new EIA would have been done on a revised project, we now know that the new design could not have been substantially different from the original design and thus would still be unable to overcome all of the grounds for rejection of the first environmental impact assessment. The project would still be in a whale sanctuary, in a biosphere reserve buffer zone, in an area with many endangered species, too large, transform the beauty of the landscape, and risk harm due to potential oil spills and salt-production-waste pollution. It is also difficult to imagine a new design that incorporated sufficient changes to make the project compatible with the area's conservation objectives.

environmental groups which became known as Pro Peninsula.⁸ Also invited into Pro Peninsula were sympathetic fishermen as well as the management of the Vizcaíno Biosphere Reserve. Numerous meetings were held, environmental education shared, consensus and capacity building undertaken. A strategic electronic communications network was constructed to link all of these players and to ensure the isolated communities surrounding the lagoon were kept informed as the result of a basic commitment to the transparent sharing of information and development of strategy. Computers were donated to those communities that did not have them, and substantial information was published on the Internet in English and Spanish. A satellite modem was tested, but the technology was not yet reliable. Thus, for the rural community participants, CD-ROMs were recorded with all the available information from conservation websites, as well as ESSA and Mitsubishi's websites so that everyone was updated on at least a monthly basis. The commitment to transparent communication within the coalition may have added opinions, but it also helped keep everyone feeling included.

Stage 4: The Coalition to Save Laguna San Ignacio

In mid-1998, I recruited into the campaign as its highest-level advisor, former Mexican Deputy Minister of Foreign Affairs Andrés Rozental. Rozental advised against the risk inherent in undertaking a frontal assault on the Mexican government (as was then being considered by the nonprofits), as a strategy that would result in serious blowback for the team and possible retaliation against the Mexican nonprofit organizations involved.⁹ He proposed an alternative, more comprehensive campaign within Mexico that would achieve the same goal of influencing Mexico's decision makers. He brought Alberto Székely back into the effort, who in turn brought along UGAM (the Union of Mexican Environmental Organizations). The linkage of these additional players resulted in the creation and coordination of the Coalition to Save Laguna San Ignacio.

During the final two years of the five-year campaign, IFAW, the Mexican coalition of environmental groups, and, to a lesser extent, NRDC formed the core leadership of the campaign and the "Coalition to Save Laguna San Ignacio." The coalition's successful multi-pronged strategy at the international, domestic, and local levels made use of legal advocacy, media/communications outreach, policy/politics outreach, and grassroots outreach to make the compelling arguments in favor of protection of the lagoon.

Specifically, the Coalition to Save Laguna San Ignacio, as directed by both its Mexican and U.S. member groups, undertook many joint efforts to win its campaign to convince Mexico and Mitsubishi to drop their plans to build the world's largest saltworks at Laguna San Ignacio. While we may never know which of these efforts was the one that pushed the decision makers

⁸ The name Pro Peninsula was later adopted by Pro Esteros USA (Pro Esteros Mexico's prater) when it expanded its activities in Baja California. See <http://www.propeninsula.org>.

⁹ His concern was that the Mexican government would launch reviews of the corporate and nonprofit status of the Mexican organizations, and that rarely enforced laws regarding pre-consultations with the Mexican State Department (Secretaría de Relaciones Exteriores) before dealing with foreigners, especially foreign press, would be invoked.

to cancel the project, we can reasonably assume that they had a cumulative effect on the outcome. The following is a list of the eleven most important aspects of the campaign:¹⁰

1. We developed a broad and effective international coalition that was willing to devote time, expertise, and financial resources toward the goal of defeating the saltworks.
2. We worked to ensure that the balance of power within the coalition was maintained, that consensus was built, and that communications were transparent and complete.
3. We engaged in early and continuous communication with Mitsubishi and the Government of Mexico.
4. We engaged in administrative and other legal advocacy in Mexico, including participation in the Environmental Impact Assessment process.
5. We undertook extensive public education and outreach. This issue generated a strong public response: over 1 million letters to Mitsubishi and the Government of Mexico, and over 50,000 letters to the UNESCO World Heritage Committee. We made use of interested celebrities (including Robert Kennedy Jr., Pierce Brosnan, Glenn Close, and Jean-Michel Cousteau). We made use of the whales as a symbol for the entire fight.
6. We had a group of top scientists sign and publish an open letter (full page ads in Europe, the United States, and Mexico) questioning the general principle of building the project. To them, it created "An unacceptable Risk."
7. We engaged in advocacy before all appropriate international tribunals: seeking "in danger" status for the World Heritage Site from the World Heritage Committee, seeking assistance from GLOBE international,¹¹ seeking to intervene in Mexico's free trade negotiations with Europe, etc.
8. We worked extensively with the local communities to understand their needs and ensure their voices were heard. This was particularly important in developing a plan that would provide protection for local small-scale fisheries as well as limited economic development to the isolated communities of San Ignacio if the saltworks were not built.
9. We focused on Mexican politics and politicians who had the power to act on the decision.
10. We undertook a three-part economic assault on Mitsubishi: (i) a traditional consumer boycott, (ii) a program to generate pressure to cancel public contracts between government agencies (primarily on the U.S. side of the border) and Mitsubishi entities, and (iii) a divestiture campaign, to encourage shareholders and major mutual fund investors to rid themselves of their holdings in any Mitsubishi-related entity's stock. As a result, more than 40 California cities passed resolutions against the proposed project and fifteen mutual funds played a critical role in persuading Mitsubishi to cancel the plant.
11. Having invested in a great deal of basic factual and legal research, we were better prepared and more accurate than Mitsubishi/ESSA.

¹⁰ This list was created following the end of the campaign through a series of analysis meetings involving the U.S. and Mexican participants.

¹¹ GLOBE International is an organization of legislators from around the world seeking to enhance international cooperation between parliamentarians on global environmental issues and to provide a unique forum in which parliamentary leaders from different countries work together to forge balanced and informed policy responses to pressing global environmental challenges.

CONCLUSION: THE OUTCOME

We won. Simply stated, the international pressures brought to bear in the United States, Japan, and Mexico were too much to withstand. First Mexico and then Mitsubishi conceded. The whole campaign took five years and cost an estimated \$3.5 million dollars.

NRDC is an extremely well-known advocacy organization; its name alone brought significant cache to the campaign. Despite an annual income of over \$14 million, only a small portion is earmarked for international efforts. Thus NRDC had to be extremely efficient in the use of funds and other resources. While the organization assigned two senior staff attorneys part time to this campaign, its 300,000 members were counted on to send letters to Mitsubishi and/or the Mexican government or to others, expressing their public opposition to the project. The issue also provided NRDC with a high-profile campaign that significantly increased membership and financial resources for the whole organization.

IFAW, on the other hand, has an annual income of over \$60 million, with most of this dedicated to international efforts. IFAW has offices in 14 countries and about 3.5 million supporters worldwide. The organization operates with a small staff and often hires consultants, ad agencies, researchers, and other experts as needed. Despite its size, IFAW is not as well known an organization. However, especially during the last two years of the campaign, IFAW concentrated its considerable expertise, financial support, and other resources on the campaign and as such bankrolled the Andrés Rozental consultation and media campaigns in Europe, Mexico, the United States, and Japan. They also paid for much of the corporate-markets campaign elements of the campaign (item 10 above).

The Mexican environmental groups had few financial resources but were able to shape the campaign to fit a Mexican public and officialdom. As such, they were able to reach everyone from the isolated fishing villager in Baja California Sur to the highest-ranking cabinet secretaries in Mexico City. Aridjis never missed an opportunity to get the story of the campaign as it unfolded into the Mexican media - both through the kind of provocative quotes loved by journalists everywhere, and by writing compelling editorials and opinion pieces. Meanwhile, Székely was merciless in pursuing every administrative and legal avenue available (usually funded by IFAW or subsidized by Székely's private law practice). By the time the campaign was over, we had in place a battery of strong legal remedies that made it difficult for the Mexican government to approve the saltworks project without committing an overt denial of justice and without failing to effectively comply with and implement its environmental laws.

Although the collaboration was extremely successful, it would be inaccurate to say there was no conflict. As the publicity for the campaign increased, the desire for top billing among the nonprofits arose, individual and personal strategies had to be contained, and sensitivity to Mexican diplomacy was crucial. Grupo de los Cien considered this its campaign, in which it had "invited" the other organizations to participate. Thus Grupo wished to be the sole authority on key campaign decisions and get top billing on newspaper ads as the lead organization for the campaign. While there was tremendous benefit flowing to the other organizations that had members and donors who supported their participation in the most important environmental campaign in Mexico's history, Grupo de los Cien had no budget to fight Mitsubishi's saltworks and was completely dependent on others for support. On the other hand, Grupo de los Cien's founder brought this case to the world's attention. Because of the remote location of this project,

the ability of ESSA to basically have its way would have been assured if Homero Aridjis had not been able to turn a media spotlight on the plight of the lagoon.

There were other instances where individuals would seek out the press with their own perspective on the process. Unfortunately, one person's or organization's perspective is not always the consensus of the team. This, in the end, created conflict among the coalition members on what and how they wanted their message communicated. For the most part, this could be resolved through discussion, and part of the coalition's success rested on a fairly consistent message.

Conflict also arose in 1998 when the U.S. groups began to discuss undertaking a high-level effort directed against the Mexican government decision makers. To those with experience in working in Mexico, this was not advisable because the country lacks a cultural tradition of seeing such efforts as part of the democratic process. It would likely have produced an unproductive defensive attitude and a backlash against the Mexican partners in the coalition. This was resolved by bringing to the table a high-level Mexican advisor who was able to dissuade the Americans from pursuing a confrontational strategy as part of their plans.

To their credit, the U.S. groups deferred to their Mexican coalition partners in decision-making to avoid conflict with the ultimate goal of the campaign. This deference was given despite the potential for the golden rule to control (she with the most gold rules). When there were insurmountable differences, IFAW, as the bank for the campaign, generally deferred to the Mexican coalition leaders' advice and the campaign proceeded without an imbalance of power created by an imbalance of resources.

Maintaining the cooperation and civil collaboration among the coalition members was part of the internal battle to be fought along with the external battle against ESSA. But, as with any team effort, give and take is essential. It was through cooperation, communication, and collaboration that the environmentalists were successful in this campaign.

AFTERWARD

To fulfill promises made to Mitsubishi and to Mexican government officials, NRDC and IFAW paid for ads signed by many groups celebrating the victory and giving the joint owners of ESSA credit for making the right decision. The following year, IFAW and NRDC voluntarily collaborated on creating a small fund of \$100,000 (that was supposed to be matched by Mexico) as a mitigation fund to offset the loss of the ESSA investment for the communities surrounding the lagoon. They also backed loans to fishermen to swap out their dirty, noisy two-stroke engines for more environmentally sound four-stroke engines.

Last year, taking advantage of new and developing laws on land conservation easements in Mexico, the Laguna San Ignacio Conservation Alliance (made up of NRDC, IFAW, ICF, Pronatura (Mexico's leader in private lands conservation), Laguna Baja Asociación Rural de Interés Colectivo, and Wildcoast) completed the first phase of a capital campaign to buy a land conservation easement from the six ejidos in the Laguna San Ignacio Wetlands Complex, which own 99% of the land. The first, Ejido Luis Echeverría Alvarez, negotiated a

large-scale conservation easement of 140,847 acres to protect the land near the lagoon in perpetuity. NRDC members and supporters, who contributed \$1.5 million to buy the development rights, made the historic deal possible. Additional phases are being implemented to acquire additional easements on the land in the area. The goal is to further protect 1 million acres of pristine coastal ecosystems, by seeking the permanent commitment of the residents around the lagoon to its preservation. As a result of this project, the interest earned from a trust fund managed by the International Community Foundation will be reinvested back into the rural community of Laguna San Ignacio. In return, the Ejido Luis Echeverría will sign a conservation easement over all their communal use lands. This will ensure that in the future local people will not be under pressure to sell their lands to foreign corporations for shady, ill-conceived development projects. Nearly \$9 million more must be raised to implement all the phases of the project.

For those who work in the developing world, conservation is as much about social justice as it is about protecting wildlife. Unless the social needs of rural people are met first, there will never be that much wildlife around to preserve.
- Serge Dedina

Until 2003, Mark J. Spalding <mspalding@ucsd.edu> was an International Environmental Policy & Law Professor at the Graduate School of International Relations and Pacific Studies at UCSD. He now heads up The Ocean Foundation <www.oceanfdn.org>. Mark thanks Andrés Rozental for reviewing an earlier version of this article. Rozental was a career Mexican diplomat. He was Deputy Minister of Foreign Affairs (1988-1994) and former Ambassador to the United Kingdom (1995-1997). Together, they were the strategic advisors to the Coalition to Save Laguna San Ignacio.

ADDENDUM
A CHRONOLOGY OF LAGUNA SAN IGNACIO

1938	Mexico approves the First Whaling Convention.
1946	Protection of the Pacific gray whale begins worldwide.
1949	Protection of the Pacific gray whale begins in Mexico as Mexico becomes a member of the International Whaling Commission.
1972	Laguna Ojo de Liebre is declared a Pacific gray whale refuge.
1976	Laguna San Ignacio is declared a Pacific gray whale refuge.
1980	The Guerrero Negro and Manuela lagoons are declared Pacific gray whale refuges.
1988	A Mexican government decree creates the Biosphere Reserve of El Vizcaíno
1992	A hunting ban on bighorn sheep is enacted.
1993	The El Vizcaíno Biosphere Reserve is added to the international MAB-UNESCO network. The sanctuary for Pacific gray whales was also inscribed on UNESCO's World Heritage Site list.
July 1994	ESSA submits to the Mexican National Institute of Ecology (INE) its first environmental impact study on its proposal to build a salt evaporation facility at Laguna San Ignacio.
Summer and Fall 1994	A Mexican coalition of environmental groups is formed to oppose the saltworks in Laguna San Ignacio. The coalition actively opposes the project, supported by substantive legal and scientific arguments.
Jan. 1995	U.S. environmental organizations -- IFAW (International Fund for Animal Welfare) and NRDC (Natural Resources Defense Council) -- are invited by Mexican groups to join in the opposition to the saltworks.
Feb. 1995	The July 1994 proposal was rejected by the INE.
March 1995	ESSA appealed the rejection. The coalition legally opposed their appeal. ESSA then abandoned the challenge.
May 10, 1995	Grupo de los Cien places <i>New York Times</i> ad, page A9. IFAW, NRDC and 14 other environmental organizations sign on.
June 27, 1995	Mitsubishi places <i>New York Times</i> ad, page A9.
June 1995	ESSA expresses interest in submitting a new study for evaluation by the INE.
July 1995	INE acknowledges ESSA's right to resubmit the project.
July 1995	The IUCN raises questions at UNESCO concerning Mitsubishi's plans.
Jan. 1996	INE creates an International Scientific Committee (ISC) comprising seven national and foreign experts. It was assisted in identifying experts by the IWC.
Feb. 26 - Mar. 1, 1996	The ISC holds its first meetings, and participates in a public conference attended by nearly 300 persons and is presented with 42 documents to help it define aspects to be included in a new environmental impact assessment.
July 1996	INE issues the ISC's scientific terms of reference and its own socioeconomic Terms of Reference for the new EIA.
Feb. - Mar. 1997	The coalition invites celebrities, scientists, and media to Laguna San Ignacio ecotourism camp during whale watch season, prompting significant worldwide media coverage and expressions of concern.

April 28, 1997	Mitsubishi responds with a full-page ad in the <i>Los Angeles Times</i> entitled "Expanding Our Partnership With Nature."
Oct. 3, 1997	Mitsubishi announces it has redesigned the project and has contracted with UABCS, UAM, UNAM, and SIO to do the EIA.
Dec. 1997	A massive release of brine wastes occurs at ESSA's existing saltworks in Laguna Ojo de Liebre.
Feb. - Mar. 1998	The coalition again invites celebrities, scientists and media to Laguna San Ignacio ecotourism camp during whale watch season.
March 30, 1998	Mitsubishi gets Corporate Watch's Greenwash Award for its misinformation campaign related to Laguna San Ignacio.
April 30, 1998	Chamber of Deputies, the lower house of the Mexican Congress, decides to create a "Commission to Investigate the Environmental Impacts of the Operations of Exportadora de Sal (ESSA)" both at its existing facility at Laguna Ojo de Liebre and in relation to the planned saltworks at Laguna San Ignacio.
May 1, 1998	A second massive release of brine wastes occurs at ESSA's existing saltworks in Laguna Ojo de Liebre. The scientific team on site to investigate the December 1997 brine waste release witnessed the 1998 event. The lagoon is littered with dead fish, killed by the brine release.
May 16, 1998	American Cetacean Society conference on threats to gray whales, held in San Diego, focuses on saltworks plans.
June 23, 1998	Coalition members write to the UNESCO World Heritage Committee asking it to designate the Whale Sanctuary of El Vizcaíno as "World Heritage in Danger."
July 1998	An IUCN report to the UNESCO World Heritage Bureau recommends a mission to the World Heritage Site to determine its status before deciding on "in danger" listing.
July 1998	Profepa issues report on the December and May brine waste releases. The report indicates the deaths of 94 endangered black sea turtles were the result of exposure to a toxic plume of salt brine waste released from the saltworks in December 1997. In addition, 287 batteries (some constituting illegal hazardous materials disposal) were found as the investigators collected sediment samples. The May 1, 1998 brine waste release was found to have killed hundreds of fishes. Extensive damage to plants and animals was observed as the result of the two releases, and preliminary evidence of long-term damage to the ecosystem was found.
September 1998	Ambassador Andrés Rozental joins the coalition as an advisor. Rozental is Former Mexican Ambassador to UN and UK and Former Mexican Deputy Foreign Minister.
Dec. 1998	UNESCO World Heritage Committee meeting in Kyoto. U.S. and Mexican coalition members succeed in efforts to have WHC/IUCN send a mission to the World Heritage Site.
Dec. 1998 - Spring 1999	Unprecedented die-off of gray whales. From Baja California, to California, Oregon, Washington, and British Columbia, the number of dead whales exceeds 150 adults and juveniles.
Feb. - Mar. 1999	The Coalition again invites celebrities, scientists, and media to Laguna San Ignacio ecotourism camp during whale watch season. This year's trip includes Mexican Chamber of Deputies members and European Parliament members.

March 10, 1999	The Coalition submits a formal complaint with the Mexican Federal Prosecutor that ESSA has violated environmental laws at its existing saltworks operations, located next to Laguna Ojo de Liebre. Five other legal actions are filed shortly thereafter (see listing). Most stem from the brine waste releases of Dec. 1997 and May 1998 and the related government investigation.
April 14, 1999	Coalition representatives provide testimony before the Chamber of Deputies' ESSA investigation commission.
May 17, 1999	The firm of Penn, Schoen & Berland Associates releases survey results that show two-thirds of American consumers believe that Mitsubishi's plan to build an industrial salt factory in Baja California is a "serious threat to gray whales," while a strong 63 percent oppose the plan outright.
June 1999	The Coalition obtains a copy of an audit of ESSA performed by Profepa in 1995-96, as well as a May 1999 audit status report. These documents demonstrate a pattern of environmental harm and hundreds of violations of law at the existing Guerrero Negro saltworks. Also shown is a pattern of complicity and cover-up by the Mexican government.
July 12, 1999	Thirty-four of the world's most distinguished scientists, including many Nobel laureates, release an open letter of concerned scientists -- "An Unacceptable Risk" -- in opposition to the saltworks. The coalition runs the letter in ad form in U.S. and Mexican newspapers.
August 23 - 28, 1999	UNESCO sends a four-member team to Mexico to determine if the World Heritage Site of El Vizcaíno Biosphere Reserve is threatened by Mitsubishi's plans with the Mexican government to build the world's largest salt factory at Laguna San Ignacio.
March 2, 2000	Mitsubishi Corporation announces the completion of a two-year research effort and the Environmental Impact Assessment (EIA) for the proposed saltworks project adjacent to San Ignacio Lagoon. Mitsubishi confirmed that it or ESSA had received over 1 million letters and postcards from environmentalists, mostly in the United States, concerned about the saltworks project.
March 2, 2000	Mexico again rejected the plan to build a saltworks near a whale sanctuary and in Latin America's biggest wildlife sanctuary. And Mexico's President Zedillo agreed that the Vizcaíno Biosphere Reserve was too important to his nation and to the world to be turned into an industrial saltworks. He specifically noted the need to protect the scenic vistas of this World Heritage Site.
March 9, 2000	Ads are placed in Mexico and the United States by the coalition of environmental groups applauding Mexico and Mitsubishi's decision to abandon the project.
January 2001	International Fund for Animal Welfare and the Natural Resources Defense Council announce the establishment of a \$100,000 fund to assist the communities around Baja's Laguna San Ignacio.
2002	Earth Island Institute, NRDC, and IFAW back low-interest loans to local fishermen to convert their panga fishing boats from two-stroke to four-stroke engines, thus reducing emissions, increasing efficiency, and decreasing noise pollution in the lagoon.
2005	Laguna San Ignacio Conservation Alliance (made up of NRDC, IFAW, Pronatura [Mexico's leader in private lands conservation] and Wildcoast) completes the first phase of a capital campaign to buy a land conservation easement from Ejido Luis Echeverría Alvarez to protect the land near the lagoon in perpetuity.

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