

**UTTON TRANSBOUNDARY RESOURCES CENTER
STRATEGIC PLAN
2004**

BACKGROUND

At the beginning of 2003, a number of Utton Center Advisory Board members and guests gathered to do some strategic planning for the Center. Bob Kerr generously agreed to facilitate the meeting. Those participating were Lee Brown, John Shomaker, John Utton, John Thorson, Peter Davies, Suedeen Kelly, Gary Weatherford, Chris Garcia, Steve Mumme, Ruth Singer, and Marilyn O’Leary. Alberto Szekely joined by telephone for a portion of the meeting. Bob Kerr asked participants to bring to the meeting answers to the following questions: Identify at least two reasons why the Utton Center should exist. How could the Center fail? What does the Center bring to the table to resolve issues? What are core values that should guide the Center’s work? Does the current mission hamper the vision? Answers to these questions helped to focus the discussion on values, vision, potential areas of support and potential threats. We used the discussion of these issues to inform the Utton Center’s Strategic Plan for 2003, and they continue to be critical to this 2004 strategic plan.

INTRODUCTION

The Utton Transboundary Resources Center’s first two and one-half years have shown that the need for the Center as originally conceptualized is still great. The need to help states deal with interstate water supply issues in order to avoid disappointing litigation that drains the resources of both states is growing, not receding. States trying to draft new compacts are often frustrated in the final stages, and those with existing compacts that no longer work are afraid of the consequences of re-opening the compacts. Although there are many experts in New Mexico and the U.S. working on solutions to water problems, in many cases opportunities to maximize their research by working with other disciplines is missed. In addition, it is becoming painfully clear that the institutions traditionally looked to for solutions to water problems are having difficulty dealing with the changing water environment. People and institutions must come together to find new ways to view issues and new approaches to solving problems.

The direction of the Center has evolved from 30 years of significant international transboundary resources work with an emphasis on “preventive diplomacy” by Professor Al Utton, in whose honor and memory the Utton Center was named, to its current focus on transboundary water issues, with a special emphasis on interstate water allocation issues. The Center will continue to be open to other transboundary resources issues. The Utton Center itself was funded through the efforts of Senator Pete Domenici. Its \$1.4 million budget has provided the benefit of being able to begin projects and become involved in important issues from the start. We have already engaged in significant efforts to replace our initial funding.

The Utton Center’s location at the UNM School of Law takes advantage of opportunities provided by the state. New Mexico’s climate, location, history and culture make it a microcosm of most of the water issues in the United States and even internationally. These elements include: semi-aridity, dependence on ground water supplies, existence of a market in water

rights, indigenous cultures, community water systems, municipal growth, international border, experience in correlative regulation of surface and groundwater, party to nine interstate water compacts and a water supplier pursuant to an international water treaty.

These aspects make New Mexico the perfect laboratory for field projects and research that can have application nation and world-wide. New Mexico is currently addressing how to best deal with a multi-year drought. Plans to treat surface water for municipal use are proposed as solutions to groundwater mining. Federal monies have been provided to study conservation of agricultural irrigation and desalination. New Mexico's governor has proposed negotiating resolution to stresses with its neighbor states. Solutions need to be found to the depletion of aquifers by neighbors that do not regulate groundwater pumping. It is currently addressing whether its water rights adjudication process can be improved. To remove naturally occurring arsenic may require either large amounts of money or development of new technology. The Utton Center has been involved in a number of these issues. We are perfectly positioned to help resolve these problems and to provide our solutions to the wider world.

RATIONALE FOR THE PLAN

Natural resources have no intrinsic social, economic or political boundaries. Yet they are very much bounded and crisscrossed by competing governmental authority and the claims of diverse interest groups that hold differing values. When state lines run through a river basin, the surface, ground water and related ecosystems of that basin become subject to the rules, designs and values of multiple agencies, cultures and institutions. Those rules, designs and values are not always compatible with the integrated and sustainable management of, or the equitable allocation of the benefits inhering in, those resources.

Natural resources that are intersected by political boundaries are "transboundary" resources. However integrated those resources may be in a state of nature, their management, use and protection typically are not, due in part to the fact that the resources are fragmented under multiple political jurisdictions. The most notable of those -- states, tribal reservations and nations -- are sovereigns. For one sovereign to modify a resource management practice or regime to accommodate the demands of a neighboring sovereign that shares that resource is no simple matter. For neighboring sovereigns, and their complicated skein of constituent groups, to collaborate in integrated resource planning and management is an even taller order. Yet accommodation and collaboration among stakeholders must occur soon if the rich heritage of transboundary resources within the United States and within its neighbors, Mexico and Canada, is to be protected and sustained.

The drought being experienced in the West has severely exacerbated tensions among water users. On the Colorado River negotiations to avoid drastic action by the federal government finally resulted in a settlement but legal and political challenges lie in the path of implementation. Now states and federal agencies are involved in lawsuits over management of the river and allocation of the water, and it is likely the outcome will be unsatisfactory to many of the parties.

Nearer to home, on the Rio Grande, failure to work out a solution to the water shortage problems has fuelled a series of suits and appeals, with reverberations in Washington.

On the U.S.-Mexico border, growth, drought and suspicion have caused international tensions.

VALUES

The core values of the Utton Center, that is, the values that guide the Center in fulfilling our mission, stem from values embodied by Professor Al Utton and his work:

- *Neutrality/impartiality* is key to working with stakeholders to water conflicts. We must always strive to facilitate the work of groups and to avoid advocacy. Impartiality also includes the concept of transparency. We build transparency into our processes, knowing that it encourages understanding and acceptance.
- *Inclusivity*. Impartiality leads directly to inclusivity. We strive to always be aware of who needs to be involved in multi-stakeholder, multi-disciplinary work, and our goal is to have them at the table.
- Closely following inclusivity is *respect for diversity*. Al Utton not only respected differences, he valued them. The Center acts on the belief that all parties must be included in solutions, and that diversity brings a richness that builds a foundation for sustainable agreements.
- *Preventive diplomacy*. Our mode of operation is to use diplomacy to prevent or avoid disputes. This comes from an understanding that once parties become fully engaged in transboundary resources conflicts, it is often difficult to change the mind-set from win-lose to win-win, or what is coming to be more usual in water allocation, sharing of shortages.
- *Resource management*, not dispute management. Consistent with Al Utton's efforts, we focus on the resource, and not the dispute. That is why the focus on resource management is closely related to preventive diplomacy. We encourage the constructive engagement of effective and affected participants, that is, scientists and stakeholders, in the creative processes of defining and solving problems.
- *Multidisciplinary expertise* is at the heart of the Utton Center's approach. Resource issues are complex because they require scientific input to be understood and effectively managed. Most of the time, the knowledge of many disciplines must be brought together to effectively manage the resource.

VISION

This plan expresses two visions. The first is for the world we would see if the Utton Center fulfills its mission and achieves its goals. Thus, our first vision is for a world where sustainable transboundary resource plans and policies are implemented by stakeholders working collaboratively to use the best multidisciplinary expertise.

Within our vision for the world, our vision of the Utton Center is as a recognized resource for innovative tools for solving water resource conflicts. This vision includes the concepts that:

- the best minds want to be here
- we use the best science
- law, science, policy come together
- we help provide sustainable resource solutions

We are establishing a Center where people come for training, for research, for collaboration, for solutions. We serve communities, governments, officials, the State of New Mexico. This is a place where we assemble and manage expertise to produce a usable product as well as support research, education and learning.

MISSION

The mission of the Utton Center is to promote equitable and sustainable management and utilization of transboundary resources through impartial expertise, multidisciplinary scholarship, and preventive diplomacy. This is the mission the Center has had since its inception. The mission is still compelling and fits within our newly articulated vision. Another way of stating the mission is that we bring people together to manage transboundary resources. That brings our mission down to its essentials. We bring people together to cross boundaries of all kinds: geographical boundaries, disciplinary boundaries, cultural boundaries and political boundaries.

The Utton Center fulfills its mission through both academic research and applied field projects. Its research projects have practical applications, and its field projects result in knowledge applicable in other settings. Science, law and policy frequently operate independently from each other. As a result, much scientific study goes unheeded by policy makers and their advisors. The goal of the Utton Center is to reduce conflict over transboundary resources by bringing together multidisciplinary teams, including lawyers and scientists, to provide fact-based data and analysis to assist policy makers and stakeholders in creating sustainable management plans. The Utton Center, at the University of New Mexico School of Law, works with law faculty, UNM's Water Resources Program, and national and international resources experts. Our multidisciplinary approach promotes comprehensive, sustainable management plans.

STRATEGIC OBJECTIVES/PROGRAMS

Our strategic objectives form the backbone of our program. They flow directly from our values.

- **Strategic Objective 1: Be a resource for the state of New Mexico and other entities to help deal with water management issues.**

The Utton Center entered into a contract with the State Engineer for a research project on the Colorado Water Court System to determine whether any aspects of the Colorado system might be applicable in New Mexico. That study has been used by the state in fashioning its water court legislation. The Center also has helped New Mexico with its State Water Plan. The Utton Center is working on a proposal to provide assistance in organizing negotiations among the parties to establish a water management plan for the ESA Collaborative Program to improve the status of listed species in the Middle Rio Grande. The Center will proactively market its services in preventive diplomacy and multidisciplinary expertise to the state to assist in the myriad of water management issues facing New Mexico.

- **Strategic Objective 2: Continue the 30 year legacy of Al Utton and the CIRT to address resource issues on the U.S.-Mexico border.**

Because of Professor Utton's internationally renowned efforts to use preventive diplomacy in addressing transboundary matters, the Center is invited to participate in U.S.- Mexico and other transboundary water issues. The director of the Center is regularly asked to make presentations on transboundary water issues. She was the keynote speaker in Guadalajara, Mexico at a conference put on by the international leadership group, LEAD, International, and spoke on U.S.-Mexico border water issues. She also addressed the U.S.-Mexico Law Institute's annual conference of U.S. and Mexico lawyers on border water issues. She also is teaching a class in International Water Law.

Governor Richardson has asked the Center to provide research on the water situation on the U.S.-Mexico border along the Rio Grande. The Governor would like to bring together the governors of both the U.S. and Mexican states that border the Rio Grande to address water management issues. If solutions are found, they would be presented to the federal governments of both countries to see if joint management of the basin can occur.

In addition, the Utton Center is planning a major research study on water supply on the U.S.-Mexico border in 2025. "Water Limits to U.S.-Mexico Border Development: Estimating Water Needs and Availability to the Year 2025." The Center is exploring a collaboration with NOAA to focus on the effect of climate change on border water supplies. Experts in border water issues from the U.S. and Mexico will meet to plan and prepare the study, which will then be the subject of review and comment at an international meeting of other experts.

- **Strategic Objective 3: Support the use of technology and science to provide tools for decisionmaking and options for increasing water supply.**

The Utton Center has been working with Sandia National Laboratories to help facilitate the use of a water budget model by the Middle Rio Grande Water Assembly. This project brings science and technology to bear on regional water planning. The Center hopes to continue its collaboration with SNL to support the development and use of the model in a variety of settings described in this plan. The Center has also been approached to co-sponsor a workshop on hydrologic modeling for lawyers.

- **Strategic Objective 4: Promote transboundary resource management by bridging institutional and cultural boundaries through conferences, projects, and research.**

The Center continues its by-invitation conferences to gather selected representatives of diverse resource or stakeholder groups to understand how they might collaborate to solve water issues. Our first conference of lawyers and scientists will be followed by a second where we will invite Tribal representatives, farmers and irrigators and acequia representatives, governmental entities, and environmentalists to focus on the role of water in their respective cultures. The goal is to sponsor an inclusive conference to enhance understanding of diverse values and uses of water. This will provide the opportunity to build capacity in order to foster collaborative approaches to managing water issues.

- **Strategic Objective 5: Develop legal tools to provide flexibility in dealing with change that affects the use of water resources.**

Based on the knowledge that interstate water compacts are one way to effectively resolve transboundary water disputes, the Utton Center will undertake a project to design a model water compact to be used as the basis for forging new agreements or for reworking current compacts that are now outdated. The water compact, to be created over a five-year period, was launched at

the Center's first conference, a national landmark water forum, *Interstate Waters: Crossing Boundaries for Sustainable Solutions*, that brought together 70 water experts in law, science, and public policy to begin a collaborative, multidisciplinary approach to transboundary water resource management.

- **Strategic Objective 6: Provide research and educational opportunities for scholars and students to work together on transboundary resource issues.**

The Law School Dean has asked the Center to help provide administrative support for the Natural Resources Program at the Law School. She has also, with the support of the Natural Resource faculty, asked the Utton Center to be the Law School's Natural Resources Center. This work will help the Center be integrated into the Law School and provide assistance to the School of Law.

The Center is hosting its first Visiting Scholar this academic year. He is a Professor and Researcher at El Colegio de Veracruz and the Instituto de Ecologia in Xalapa, Veracruz in Mexico. His research has focused on policy, politics and management of the environment at the Mexico-U.S. border.

The Center worked with UNM's Water Resources Program on our first joint Speakers Series. Presentations were given on drought by climatologists and the chair of the Governor's Drought Task Force; on New Mexico's interstate water compacts by an employee of the Interstate Stream Commission; on U.S.-Mexico border issues by a former ambassador; and the future of water in New Mexico by the State Engineer.

MANAGEMENT PLAN

In our planning meeting, the lack of adequate staffing was raised as a significant impediment to the Center's being able to achieve its mission and goals. As a result, the Center hired an associate director to manage a number of the projects we have undertaken.

FUNDING PLAN

A major obstacle to the Center's achieving its mission and goals is the lack of ongoing funding. It was expected that the funds provided through Senator Domenici's efforts would be replaced by private foundation funding and contracts with clients. The poor economy has made funding from both those sources problematical. Private foundations have been hurt by poor stock market performance and have drastically scaled back their funding. Some foundations that traditionally funded water programs are frustrated by the length of time it takes to see results on water issues and have put their funds into other kinds of programs. Troubled state economies also have limited contracting possibilities. For this reason, the Center is pursuing contracts for service with state and federal entities.

A positive development regarding funding is the interest that the UNM Foundation has taken in the Center's work and the assistance it has given in pursuing private funding. The Center will continue to work with the Foundation Office to pursue funding from private donors. Importantly, the new Dean of the Law School is very supportive of the Center and is working with it to obtain funding.

N: Strategic Plan/Strategic Plan 2004