

Environmental Laws Cited in Submission

Valle de Bravo-Amanalco Sub-Basin (SEM-23-005)

- **Political Constitution of the United Mexican States**

Article 4. Women and men are equal before the law. The law shall protect the organization and development of the family.

[...]

All persons are entitled to a healthy environment for their development and well-being. The State shall guarantee respect for this right. Any person who causes environmental damage and impairment shall be liable therefore, as provided by law.

All persons are entitled to access to and availability and cleanliness of water for personal and household consumption in a sufficient, healthy, acceptable and affordable manner. The State shall guarantee this right and the law shall define the bases, supports and forms of access and the equitable and sustainable use of water resources, establishing the participation of the federal government, the states and the municipalities, as well as citizen participation in the furtherance of such purposes.

[...]

- **General Ecological Balance and Environmental Protection Act**

Article 20 bis 4. Local ecological zoning programs shall be issued by the municipal authorities, and, as applicable, by the territorial subdivisions of Mexico City, in accordance with the local environmental laws, and shall have the purpose of:

[...]

- II.** Regulating land use outside of population centers with the purpose of protecting the environment and preserving, restoring and sustainably using the respective natural resources, fundamentally in the performance of production activities and the location of human settlements, and

[...]

Article 20 bis 5. The procedures under which the local ecological zoning programs shall be drafted, approved, issued, evaluated and amended shall be those determined in the applicable state laws, according to the following bases:

[...]

- V.** When a local ecological zoning program includes a protected natural area under federal jurisdiction, or part of one, the program shall be developed and approved jointly by the Ministry and the governments of the states, the municipalities, and the territorial subdivisions of Mexico City, as applicable;

[...]

Article 46. The following are deemed protected natural areas:

[...]

- VI.** Natural resource protection areas;
- VII.** Flora and fauna protection areas;
- VIII.** Sanctuaries;
- IX.** Parks and state reserves, and all other categories established by local law;
- X.** Municipal ecological conservation zones, and all other categories established by local law, and
- XI.** Areas voluntarily devoted to conservation.

For purposes of the provisions of this Chapter, the protected natural areas included in sections I to VIII and XI above are under federal jurisdiction.

The state governments, as provided by the applicable local laws, may establish parks, state reserves and other management categories established by the applicable local laws, either by meeting any of the characteristics set forth in sections I to VIII and XI of this Article or by having their own characteristics in accordance with the particularities of each state. Said protected natural areas cannot be established in zones previously declared as protected natural areas under federal jurisdiction, except in the case of those indicated in section VI of this article.

The municipalities are responsible for establishing municipal ecological conservation zones, and all other categories established by local law.

The foundation of new population centers cannot be authorized in protected natural areas.

The introduction of invasive exotic species into protected natural areas is prohibited.

Article 161. The Ministry shall perform inspection acts and enforce the provisions of this Act and all provisions deriving herefrom.

In the Mexican maritime zones, the Ministry, itself or through the Ministry of the Navy, shall perform inspections and enforcement and levy any penalties on violations of the provisions of this Act.

Article 170. When there is an imminent risk of ecological imbalance or of serious damage or impairment of natural resources, cases of pollution with hazardous repercussions to ecosystems, their components or to public health, the Ministry may, with proper grounds and reasoning, order one or more of the following security measures:

- I.** Partial or total temporary closure of the pollution sources, as well as the facilities in which specimens, products or byproducts of wild flora or fauna or forestry resources are handled or stored, or where activities giving rise to the cases to which the first paragraph of this article are carried out;
- II.** The precautionary seizure of hazardous materials and waste, as well as specimens, products or byproducts of wild flora or fauna or their genetic material, forestry resources, and the property, vehicles, utensils or instruments directly connected with the conduct giving rise to the imposition of the security measure; or
- III.** The neutralization or any similar action preventing the hazardous materials or waste from generating the effects set forth in the first paragraph of this article.

The Ministry may also pursue the execution of one or more of the security measures established in other laws with the competent authority.

Article 182. In those cases in which, by reason of the performance of its duties, the Ministry learns of acts or omissions that may constitute crimes under the applicable laws, it shall file the corresponding complaint with the Federal Public Prosecutor.

Any person may directly file the criminal complaints corresponding to the environmental crimes set forth in the applicable laws.

The Ministry shall provide, in matters within its jurisdiction, the technical or expert reports requested by the Public Prosecutor or the judicial authorities, with respect to the complaints filed against the commission of environmental crimes.

The Ministry shall assist the Federal Public Prosecutor pursuant to the Federal Criminal Procedure Code, without prejudice to any assistance that may be rendered by the victim or person directly injured by the crime, itself or through its legal representative.

Article 192. Once the case is admitted, the Office of the Federal Attorney for Environmental Protection shall identify the complainant and give notice of the complaint to the person or persons or the authorities to whom the reported facts are attributed or who may be affected by the result of the action taken, in order that they may submit any documents and evidence they deem appropriate in a period not to exceed 15 business days from the respective notice.

The Office of the Federal Attorney for Environmental Protection shall conduct the necessary proceedings to determine the existence of acts, facts or omissions relevant to the complaint.

In the cases set forth in this Act, it [the above Office] may also initiate the applicable inspection and enforcement procedures, in which case the respective provisions of this Title shall be observed.

Article 193. The complainant may assist the Office of the Federal Attorney for Environmental Protection by providing any evidence, documentation and information they deem relevant. Said agency [Office] must state the considerations adopted with respect to the information provided by the complainant upon ruling on the complaint.

- **National Water Act**

Article 9. The Commission is an autonomous administrative agency of the Ministry, governed by the provisions of this Act and the regulations hereto, the Organic Act of the Federal Public Administration and its Internal Regulations.

The purpose of the Commission is to perform the duties corresponding to the water authority and to act as the governing agency on federal technical, standards and advisory matters with respect to

the comprehensive management of water resources, including the management, regulation, control and protection of waters in the public domain.

In the performance of its duties, the Commission shall be organized in two forms:

- a.** At the national level, and
- b.** By hydrological-administrative region, through its Basin Agencies.

The specific duties, functions and activities with respect to operations, management, administration and legal affairs, in the federal jurisdiction on national water matters and enforcement, shall be performed through the Basin Agencies, with the exceptions set forth in this Act.

The duties of the Commission at the national level are as follows:

- I.** To act as the authority on the quantity and quality of water and its management in the national territory and to perform those duties corresponding to the water authority under this Act accordingly, within the scope of federal jurisdiction, in accordance with the decentralization of the water sector, except for those to be performed directly by the Federal Executive Branch or the Ministry and those under the responsibility of the state, Federal District, or municipal governments;
- II.** To formulate the national water policy and propose it to the Head of the Federal Executive Branch through the Ministry, and to periodically monitor and evaluate compliance with such policy;

[...]

- XXVI.** To promote the efficient use of water and its conservation at the national level, in all phases of the hydrological cycle, and to foster the development of a water culture that considers this element as a vital, scarce and high-value resource in economic, social and environmental terms, which contributes to achieving the comprehensive management of water resources;

[...]

- XXX.** To promote and foster scientific research and technological development, the formation of human resources, and the awareness of water resource management, in

order to strengthen its actions and improve the quality of its services, for which it will coordinate as applicable with the Mexican Water Technology Institute;

[...]

Article 15. Water planning is mandatory for the comprehensive management of water resources, the conservation of natural resources, vital ecosystems and the environment. The formulation, implementation and evaluation of water planning and programming shall include:

- I.** The National Water Program approved by the Federal Executive Branch, which shall be formulated by the Commission pursuant to this Act and the Planning Act. Said program shall be updated and improved periodically under the guidelines and priorities demanded by social well-being and economic development, without endangering the ecological balance and the sustainability of the processes involved;
- II.** Water Programs for each hydrological basin or groups of hydrological basins in which Basin Agencies are established and Basin Councils are operated, and developed, agreed upon, and implemented thereby. In the case of the states and the Federal District, which in their legal frameworks develop a state water program based on the inclusion of local programming with the participation of organized society and the local authorities, said programs shall be incorporated into the water programming process by basins and hydrological regions;
- III.** Specific subprograms for regions, hydrological basins, aquifers, states and sectors to address problems of water scarcity or pollution, the orderly management of basins and aquifers, or correcting the overexploitation of surface waters and groundwater; such subprograms shall include the use of instruments to address conflicts on the exploitation, use and conservation of water in terms of quantity and quality, issues on the concession, assignment and conveyance of water usage rights, in general, for exploitation and use, including reuse, as well as the control, preservation and restoration thereof; the formulation and updating of actualization of the national water inventory and the public goods inherent thereto and water uses, including the Public Water Rights Registry and the infrastructure for its use and control;

- IV.** Special or emergency programs implemented by the Commission or the Basin Agencies to address special problems and situations posing a risk to the safety of persons or their property;
- V.** Composition and updating of the catalog of water use projects and the preservation and control of water quality;
- VI.** Classification of bodies of water according to their intended uses and the development of water balances by quantity, quality and basins, hydrological regions and aquifers, according to their load capacities;
- VII.** Strategies and policies to regulate the exploitation or use of water and its conservation;
- VIII.** Mechanisms for consultation, engagement, participation and assumption of specific commitments for the execution of programs their funding, enabling a concurrence of water users and their organizations, society organizations and the agencies and entities of the federal, state or municipal public administrations;
- IX.** Multi-year investment programs and annual operating programs for the investments and actions carried out by the Commission, itself in the cases set forth in section IX of Article 9 of this Act or through the Basin Agencies, and
- X.** Water programs shall respect environmental use or ecological conservation, the natural rate of water renewal, the hydrological sustainability of hydrological basins and vital ecosystems, and shall contemplate the feasibility of exploiting underground waters on a temporary or controlled basis.

The formulation, monitoring, assessment and modification of water programming pursuant to the Planning Act shall be done in conjunction with the Basin Councils, which shall indicate the consultation mechanisms ensuring the participation and engagement of users and other interested social groups in the development of activities.

The planning and programming of national waters and basins shall be supported by a network consisting of the National Information System on the quantity, quality, uses and conservation of water, whose creation and development shall be supported by the Commission and the Basin Agencies.

Article 95. The Water Authority shall, in the scope of federal jurisdiction, conduct the inspection or verification of wastewater discharges to verify compliance with the Act. The results of such verification or inspection shall be stated in a detailed report, shall have full legal effect, and may be used as the basis for the Commission and the competent agencies of the Federal Public Administration to apply the respective penalties prescribed by the Act.

- **Regulations to the General Ecological Balance and Environmental Protection Act on Protected Natural Areas**

Article 74. The management program of each protected natural area must contain the items prescribed by Article 66 of the Act, as well as the specification of densities, intensities, conditions and types of works and activities carried out therein, pursuant to the Act, these Regulations, the declaration of the creation of protected natural area at issue, and all other applicable legal and regulatory provisions. Said program must determine the extent and delineation of the area of influence of the respective protected area.

The management program shall also contain the delimitation, extent and location of the subzones indicated in the declaration. The Ministry shall ensure that the activities carried out by private interests conform to the purposes of such subzones.

Article 80. For the uses carried out within protected natural areas, the Ministry shall grant the respective rates and establish the corresponding ratios, acceptable levels of change or load capacities, according to the respective methods and studies.

To develop the methods and studies enabling the establishment of the ratios, acceptable change levels of change or load capacities, the Ministry may request the collaboration of other agencies of the Federal Executive Branch, as well as public or private organizations, universities, research institutions or any other person with expertise and technical ability in the area.

- **Regulations to the General Ecological Balance and Environmental Protection Act on Environmental Impact Assessments**

Article 4. The Ministry is responsible for:

[...]

- II.** Drafting, publishing, and making publicly available the guidance for the submission of the preliminary report, the environmental impact statement in its various forms, and the risk study;

[...]

Article 9. Filers must submit an environmental impact statement to the Ministry, in the corresponding form, for it to evaluate the work or activity project whose authorization is requested.

The information contained in the environmental impact statement must refer to relevant circumstances connected with the performance of the project.

The Ministry shall provide filers with guidance to facilitate the submission and delivery of the environmental impact statement, according to the intended type of work or activity. The Ministry shall publish said guidance in the Federal Official Gazette and the Ecological Gazette.

- **Internal Regulations of the Ministry of Environment and Natural Resources**

Article 46. The bureaus and general bureaus with inspection and enforcement duties shall have the jurisdiction conferred by these Regulations for their respective matters throughout national territory, as well as in the zones in which the Nation exercises its sovereignty and jurisdiction.

The Office shall have federal inspectors who shall have the authority to act in matters in which the Attorney and Deputy Attorneys, and the heads of the general bureaus and offices of representation for environmental protection having inspection and enforcement duties, designate as such in the orders or commissions issued, in accordance with the applicable legal provisions.

Said federal inspectors shall also have the authority to determine and impose the security measures set forth in the environmental laws, whose oversight and enforcement is under the jurisdiction of the Office.

The Deputy Attorneys and the heads of the general bureaus and offices of representation for environmental protection may rely, in the performance of their duties conferred by these Regulations, on the general directors, area directors, deputy directors, department heads and other assigned public servants of the Office.

The Office may, for the performance of its duties, rely on the personnel of the agencies or entities of the Federal Public Administration, states, municipalities and territorial subdivisions of Mexico

City, who, pursuant to the applicable legal provisions and the compacts executed for such purpose, are accredited as federal inspectors.

Article 47. Each bureau shall be headed by a Deputy Attorney. The bureaus have the following generic duties:

- I.** Representing society's interest in environmental matters and providing advisement on matters under the jurisdiction of the administrative units assigned to them;
- II.** Reporting and determining as applicable, with the Attorney, on:
 - a)** The execution and management of programs relating to matters under their jurisdiction, and
 - b)** The handling of matters under their responsibility and those corresponding to their assigned administrative units;
- III.** Performing the duties and commissions ordered by the Attorney, informing him of their performance, and representing the Office in those acts determined by the Attorney;
- [...]
- IX.** Coordinating the assigned administrative units and establishing mechanisms for their composition and interrelationships for the proper performance of their duties;
- [...]
- XIV.** Arriving at determinations with the public servants of their assigned administrative units and granting hearings to the public;
- [...]
- XVIII.** Formulating, evaluating, overseeing and monitoring, in the matters within their jurisdiction, the programs, procedures and operational actions carried out by the offices of representation for environmental protection;
- [...]
- XX.** Ensuring that their assigned administrative units perform their obligations to transparency and access to governmental public information;

XXI. Issuing rulings on administrative appeals filed against the acts issued by their assigned administrative units, pursuant to the applicable legal provisions, after the appeal is substantiated by the General Bureau of Compacts, Procedures and Administrative Defense Measures;

XXII. Requesting reports or opinions from other autonomous administrative agencies and preparing studies, reports or expert reports for academic institutions, research centers and public, social, and private organizations on matters to be considered or evaluated in the handling of matters under its jurisdiction;

[...]

XXIV. Designating, certifying or authorizing federal inspectors or reviewers and the personnel assigned to the offices of representation for environmental protection to jointly or severally perform the acts ordered or related to the performance of their duties, and

[...]