



Ombudsman Conclusion Report

This report summarizes the complaint handling process by the CAO regarding IFC's involvement in the Agrokasa project in Ica, Peru

Summary of the Complaints and CAO's Assessment Process

Sociedad Agrícola Drokasa S.A. ("Agrokasa"), an IFC client since 1999, is a grower and exporter of fresh asparagus, table grapes, and avocados. The company operates three farms, two of which—Santa Rita and La Catalina—are located 300 kilometers south of Lima in the Ica valley.

In June and July 2009, six complaints were filed with the CAO on behalf of various stakeholder groups regarding the impact of Agrokasa's operations on the Ica aquifer. Two of the complaints were signed by ground-water users' associations—one by the *Junta de Usuarios de Rio Seco*, and one by the *Junta de Usuarios de Aguas Subterranas del Valle de Ica* (JUASVI). One complaint was signed jointly by the NGOs Progressio and Water Witness International, but was later formally withdrawn by Progressio's executive director. Three of the complaints requested confidentiality.



Department of Ica, Peru

All of the complaints raised concerns about depletion of the Ica aquifer due to excessive drilling throughout the valley, and about the impacts, information disclosure, and legality of a water transfer project between Agrokasa's Santa Rita and La Catalina farms. Each of the complaints also questioned the company's compliance with several IFC Performance Standards.

In July 2009, a CAO Ombudsman team traveled to Peru and met with key stakeholders in Lima and Ica to assess the situation and help them evaluate options for resolution. During that trip, the company told the CAO team that it intended to withdraw its request for IFC financing of the Ica project (# 26821), which would have been its third IFC loan.

In September 2009, Agrokasa formally notified IFC that it had cancelled the loan request.

The assessment also involved interviews and meetings with IFC staff in the Environmental and Social Department and the Agribusiness Departments, and with World Bank personnel who are involved in a Water Resources Management Modernization Project¹ that includes the Ica-Alto Pampas basin.

Based on the assessment interviews with the complainants, and on their written complaints, specific requests and ideas for

¹ Information on the Water Resources Management Project, ID # P107666, is available at <http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P107666>

resolution of the grievances included the following:

1. Enforcement of the Government of Peru's ban on all drilling and re-drilling of new and existing wells until a hydro-geologic study is completed.
2. A ban on permits to sell newly cultivated land until a hydro-geologic study is completed.
3. IFC involvement in halting a water transfer project that was being undertaken by the company at the time the complaints were filed. (Complainants said they were unaware at that time that the transfer project was nearly complete; it was finished several months following the July 2009 Ombudsman assessment trip, and after the company had withdrawn its request for IFC funding.)
4. Completion of an Environmental Impact Assessment (EIA) of the Agrokasa water transfer project and other activities associated with the IFC loan, which complainants understood was required by IFC for this project, and disclosure in hard copy [to impacted water user associations] of the EIA and the IFC-required Environment and Social Action Plan.
5. A comprehensive hydro-geologic study of the Ica/Villacuri aquifer to serve as a foundation for policy decisions and solutions-seeking processes regarding agricultural and economic activity in the region.
6. IFC assistance in encouraging immediate implementation of the World Bank's Water Resources Management Modernization Project, which seeks, among other things, to develop "participatory integrated water resource management" and "promote a new water culture" in several basins, including Ica-Alto Pampas (Huancavelica).
7. Involvement of water users

associations, commercial growers, and appropriate local government officials in a basin wide plan to slow the rate of extraction from the aquifer, to develop long-term strategies for protecting the resource, and to ensure fair and equitable access to all the valley's water users.



Ica Valley, Peru

In evaluating their options for resolution, the complainants were in general agreement that items 1-4 above could not be resolved through a mediated settlement or dialogue process. They agreed that items 5-7 could potentially be resolved through a facilitated agreement-seeking process.

After reviewing the Ombudsman assessment report, and following several months of discussion and deliberation about the timing and potential roles of the CAO, the two ground-water users' associations of Rio Seco and JUASVI (whose complaints are public) requested CAO Ombudsman assistance in: 1) convening a community wide water outreach event aimed at education, information sharing and public input; and 2) developing a collaborative working group comprised of the valley's four water users' associations to address Ica's critical water situation and to seek agreement on strategies for more sustainable management of the resource.

Among the confidential complainants, some expressed their support for CAO's

involvement in Rio Seco's and JUASVI's proposal, and others told the CAO team their interests would be met only through a review of Agrokasa's adherence to the IFC Performance Standards, not through a negotiated settlement.

In response to Rio Seco's and JUASVI's requests to the CAO, Agrokasa said that regardless of its decision to withdraw the request for IFC financing of the Ica project, it was nonetheless committed to working with the water associations—through its membership in JUASVI—to improve management of the water resource. Agrokasa told the assessment team that CAO's assistance in guiding the stakeholders through a process of joint fact-finding and consensus building would be welcome, and that such a process could help establish firm priorities along with short-, medium-, and long-range goals for preserving the Ica aquifer.

In consideration of the requests and perspectives of the company, and due to the number and diversity of the issues involved in the collective complaint, the CAO Vice President agreed to conclude the Ombudsman process with a time-limited intervention to catalyse establishment of a water dialogue, and to pursue a CAO compliance appraisal of IFC's due diligence in relation to the project.

The CAO Ombudsman team then began working with the parties to design and launch a 'Water Working Group' involving the two ground water associations, two associations that represent medium- and small-scale traditional ground water users, and the two local water authorities from the Ica and Rio Seco sections of the valley. Agrokasa, as an active member of JUASVI², said it was supportive of the

² Despite its membership in JUASVI, Agrokasa was not involved in the decision of the association's then-leadership to file a complaint to CAO. Several months following receipt of the CAO complaints, JUASVI held elections that resulted in a change of leadership. Thus, JUASVI representatives in the CAO-facilitated Working Group were different from those who filed the original complaint.

Working Group's efforts to jointly address the shared concerns regarding Ica's water situation.

Separately, a CAO Compliance appraisal was undertaken. An appraisal report disclosed in June 2010 determined that an audit of IFC was merited. An audit is currently underway of IFC's appraisal and monitoring of its investments in Agrokasa and Corporacion Drokasa, and whether or not IFC complied with its own policy provisions.

Outcomes of the Ombudsman Process

At the first meeting of the Water Working Group, which involved representatives of the four water users' associations and local water authorities in Ica, participants ratified the following principles, which the CAO drafted with input from participants in advance of the meeting:

Acknowledgement of the problem

- ✓ The aquifer is being depleted at a rapid and unsustainable rate.
- ✓ Access for all water users is important (large and small exporters, municipalities, population in general).

Transparency

- ✓ Exchange of information among the water users associations about the aquifer is important.
- ✓ A process of joint monitoring of the key components of the water situation should be undertaken.
- ✓ Sharing information outside the working group to raise awareness and consciousness among the general population.

Consensus

- ✓ The Water Working Group should make every effort to make decisions collaboratively and operate by consensus of the full group.

Purpose of the Water Working Group

The Water Working Group is intended as an informal dialog process convened jointly by the four *juntas* and two local water authorities (*Autoridades Locales de Agua - ALA*) of the Ica basin. The initiative is motivated by the critical situation of the Ica aquifer, and the participants' shared interest in improving the way water resources are managed throughout the basin.

The Working Group members acknowledge the current situation is unsustainable, and that working together toward a common vision is critical to the survival of the population and the region.

Also at the first meeting, members of the Working Group agreed they would seek to develop goals and a work plan for jointly managing the water resources in the Ica-Alto Pampas basin. The CAO clarified to participants that the Ombudsman team's involvement would be limited to assistance with design and launch of a collaborative project, but not to long-term facilitation assistance. Therefore, Working Group members also agreed it would be important to identify potential sources of funding for longer-term facilitation and for implementing any agreements and projects.

One of the first activities of the Working Group, in April 2010, was a field trip to AQUAZUL, a water treatment plant on the Rio Chillón in Lima. Officials from the National Water Authority (*Autoridad Nacional del Agua - ANA*) accompanied Working Group members on the tour. The purpose of the visit was to learn more about the technical aspects of the project and generate ideas for adapting and developing a similar project in Ica.

Following the Rio Chillón trip, the Working Group began meeting regularly in Ica to identify and agree on key issues, brainstorm possibilities for collaborative projects, and engage in outreach and information sharing

with the national and local water authorities about the collaborative initiative.

In July 2010, the Working Group agreed to develop a process to undertake participatory monitoring of recharge into the Rio Seco, monitoring of ground and surface water use at critical points throughout the Ica valley, and eventual monitoring of sewage water (in light of new regulations for dumping and construction ponds). Although the water users' associations have been executing some monitoring through their own technicians, they agreed that the location and number of 'witness wells' with flow meters was insufficient. For this reason, they agreed it was necessary to conduct more systematic reviews and to complete a collaborative baseline assessment.

In preparation for that assessment, and to begin determining the parameters of the study, Working Group participants decided to convene a technical information-sharing workshop amongst themselves and the local water authorities. Organizing of the workshop proved a difficult challenge, in part because of the complex range of interests and opinions within the Working Group about the specific information that should be presented and shared. To overcome that challenge, participants agreed to hold an internal workshop to first present each association's current system of monitoring, as well as the challenges and gaps in the information they were collecting. Following those presentations, they outlined a number of technical discrepancies that needed to be addressed by a collaborative water-monitoring program.

In August 2010, Working Group members committed to continue a process of cooperative information exchange, and to pursue strategies for convening the larger Technical Workshop with the water authorities and independent experts. In September 2010, they presented additional information and continued discussing challenges and ideas for designing the

water monitoring program.

In October 2010, the Working Group convened a “Technical Team” meeting, at which participants agreed on several key components that should be included in the water monitoring program. These included:

- Field trips involving representatives of each association to a sample area within the jurisdiction of each association, as a validation of what has already been done, and to finalize the type of information that can readily be collected;
- Jointly conducting an inventory of wells throughout the valley;
- Developing a reporting system so that each association’s extraction rates are known and publicly available, and the amount of water from each region that is lost via flows to the ocean;
- Developing a ‘sensitization’ program to inform citizens about the monitoring program and the urgency of the water crisis, with an overall goal of changing the water culture throughout the valley.

The CAO facilitated its final meeting in November 2010. At that meeting, the National Meteorological and Hydrology Service (*Servicio Nacional de Meteorología e Hidrología* - SENAMHI) made a formal presentation to Working Group members about a series of new programs it was undertaking involving water and risk mitigation throughout the country and in the Ica region. These included a disaster prevention strategy and a climate forecasting project that involves identifying regional and global climatic trends and a warning system to alert people of risks and potential mitigation measures.

Following SENAMHI’s presentation, Working Group members discussed short- and longer-term measures toward fulfillment of the water monitoring program, and toward their continued collaborative process to improve the water situation in Ica. It was

agreed that each of the users associations would submit to ANA, the national water authority, no later than December 2010: (1) a work plan, operating budget, and fee proposal for activities to be carried out in the coming year, in accordance with both their daily operations and with the proposed monitoring program; and (2) a ‘user log’ that included the amount of water extracted by every water user within each of the four associations’ constituencies, and the fees collected by the associations from those water users.



Water users' associations meet with the CAO team in Ica, Peru in March 2010

Working Group members also discussed actions that should be given highest priority as the group moved forward in designing the monitoring program and other joint initiatives. These included:

- Public presentations and appearances by the Water Working Group members to raise awareness about the water situation and importance of conserving and financing water projects in Ica – particularly to school-age children, municipal governments, and among the general population;
- A continuation of joint projects and programs that can be measured and reported publicly;
- Strengthening the Working Group’s outreach to and collaboration with the

National Water Authority as the monitoring plan is carried out, and generally as part of the Group's efforts to unify local, regional and national approaches to managing the resource.

Working Group members also discussed strategies for how the group could be managed and financed into the future, and – following the CAO team's withdrawal from the project – strategies for securing facilitation assistance or support from the water authorities or national legislature.

In concluding its role as facilitator, the CAO team agreed to monitor progress of the Water Working Group, as well as the previously reached agreements for a limited period before formally closing the complaint. The Ombudsman team clarified that it would not provide facilitation services during the monitoring period, but would be available to discuss issues and suggest next steps or potential meeting agendas if Working Group members requested such assistance.

Challenges and Opportunities

The complaints regarding IFC's investment in the Agrokasa project raise a complex set of issues that center on the way water resources are managed in the context of agricultural development in water-stressed regions like Ica, where growing population and greater demand by large-scale producers are increasing the total water requirements. Like other regions of Peru, traditional irrigation techniques account for a high percentage of water use, yet efficiency is extremely low, and projects and proposals aimed at addressing the inefficiencies face numerous challenges.

Members of the Water Working Group are well aware of these challenges and much of their discussion and planning has been focused on strategies for overcoming them. Some of the biggest on-going obstacles they face in resolving the issues include the following:

- Water users in the Ica valley vary widely in terms of socio-economic status, access to financing and technical expertise, and specific water requirements. Villages, towns, and larger municipalities, as well as small-medium- and large-scale agricultural producers and other industries are all competing for an increasingly scarce resource. Smaller users argue they are being outcompeted by larger-scale users who can afford deeper wells, infrastructure improvements, and risk mitigation strategies.
- The multiple public institutions charged with managing and regulating water resources are characterized by high turn-over rates and inconsistent resource management and accountability procedures.
- Despite a government-declared ban on drilling of new wells in the region, there are multiple loopholes and exceptions to the ban that result in continued permitting and drilling throughout the valley.
- Knowledge and information about the quantity and quality of water – including average values, temporal distributions, and other variables controlling supply is inadequate and/or inaccessible.
- The prospects for developing modern management techniques, infrastructure improvements and new supplies of water from the eastern slope of the Pampas River basin are uncertain, given the high costs of construction and growing opposition from environmental groups and communities living in the upper basin.

These and other challenges have sometimes frustrated the Working Group's efforts as it moves forward to implement its goals. Divisions and differences of opinion on what should be measured and the expected outcomes of the monitoring have persisted throughout the Group's planning

and deliberations. In addition, several unrelated complaints raising similar concerns have been filed to funders and to local and national water authorities.

For example, in the summer of 2010, a group of small-scale farmers from the Ocucaje Valley, who also rely on the Ica aquifer for irrigation, filed a complaint to the local water authority in Ica protesting approval of a request by Agrícola la Venta (a large agricultural exporter) to extract water from wells in Ocucaje and to install a water transfer system similar to that of the



Water users' associations and CAO meet with Agrokasa representatives at the company's Ica offices, Peru, March 2010

Agrokasa transmission project. As with the CAO complaints about Agrokasa's operations, the signatories to the Ocucaje complaint about Agrícola stressed the urgency of water monitoring, the need for a baseline study to characterize the current hydrologic situation, and the potentially dire impact that Agrícola's extraction project would have on smaller growers and municipalities.

Yet despite the many challenges, the Water Working Group has remained committed to working collaboratively, rather than at cross-purposes, and to catalyzing new approaches to managing the resource, the demand for water, and sustainably producing more with less.

There is a shared understanding among members of the Water Working Group that overcoming conflict among water users and

achieving a sustainable water supply for the valley depends upon broad local involvement, jointly agreed solutions, and efficient and environmentally sound management practices. In addition, while its more immediate goals involve collaborative monitoring and hydrologic assessments of the aquifer, the Working Group also understands that monitoring alone will not increase the water supply or the way water is currently managed. The stakeholders' vision also involves integrating the technical information with new approaches to management, and educating the broader community about the risks facing the valley and the importance of managing water more efficiently.

In a letter to CAO at the conclusion of the Ombudsman team's monitoring period, Working Group members described what they view as the key outcomes and opportunities resulting from the facilitated process:

- Formation of a Working Group with authentic participation from water user associations; local, regional and national water authorities; the Ministry of Agriculture; the regional farmers association; the National Meteorological and Hydrology Service; and PETACC (a regional development project to supply water to Ica from the Choclococha reservoir);
- An easing of tensions between impacted growers and Agrokasa around its operations, including the water transfer project that motivated the CAO complaints;
- Design and launch of a quantity and quality monitoring system for the Ica aquifer;
- Motivation of government authorities to define and engage in real solutions to the water crisis in Ica; and
- Generation of a spirit of trust among stakeholders mainly from the Ica valley

to work together to achieve common goals.

The Working Group's letter concluded with an expression of gratitude to the CAO Ombudsman team for the trust that has emerged, and for helping to launch a process that is beginning bear fruit in Ica.

Lessons and Insights

Although the CAO has closed the Agrokasa complaints and is no longer working with the stakeholders in Ica, the Ombudsman team recommended to IFC management that it consider strategies for supporting on-going facilitation of the Working Group by an independent third party. This recommendation is based on the Ombudsman team's previous experiences in similar cases, and direct experience with the Water Working Group in Ica. After many years and numerous attempts at cooperative initiatives and dialogue-based approaches, stakeholders in Ica told CAO that the involvement of trained, neutral facilitators resulted in a more focused, credible and trusted process.

While facilitation can often help parties break deadlocks, re-frame issues, and develop practical interest-based action plans, it is not always the most appropriate or preferred approach to resolving specific concerns. Collectively, the Agrokasa complaints raised a number of issues ranging from specific impacts on local people to questions of compliance with World Bank and Peruvian rules and procedures. For some stakeholders, resolving conflicts on the ground and developing practical solutions to Ica's water crisis was a key priority. For others, the priority was determining whether Agrokasa's water transfer project should be permitted under existing IFC and Peruvian policies. Still others believed both concerns were equally important and should be jointly addressed.

Given that the company had cancelled its application for financing from IFC, the CAO agreed to a limited intervention on the part of the Ombudsman to assist in catalyzing the creation of dialogue process – something that all of the parties said that they wanted. At the discretion of the CAO Vice President, a CAO Compliance appraisal was initiated to investigate IFC's due diligence with respect to the project.

Another lesson from the interactions and progress of the Water Working Group – reinforced by several other CAO cases – is that protecting and managing water requires knowledge and information about the quantity and quality of the resource. Despite the Ica stakeholders' often striking differences of opinion about the causes and consequences of their water crisis, their shared sense of urgency about the need for reliable data on the quantity and quality of groundwater and surface water resources enabled them to develop a common vision and collective sense of ownership in a solution.

A related lesson is one the Working Group identified early on in their deliberations: technical solutions alone will not pave the way for continued drilling and expansion of agricultural production in the valley. Working Group members, with the support and cooperation of local water authorities and other key sectors in the region, will need to set priorities and make trade-offs. Developing new sources of water will require continued collaboration and innovative approaches that depend heavily upon local engagement, information, and an agreed framework for water resources management.

Finally, involvement of the key public-sector water officials is crucial to the success of collaborative initiatives around water and community. In designing its water monitoring program, the Working Group prioritized outreach to and information sharing with the national and local water authorities. Yet it has continued to face

challenges in reaching consensus with the relevant authorities on a final design of a valley-wide monitoring program. Such challenges are not unique to collaborative

efforts around water resource management, and can often be overcome through facilitated processes such as issues mapping and consensus building.

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The CAO's Ombudsman assessment report and Compliance appraisal report are available on the CAO website at www.cao-ombudsman.org