

FUNDACIÓN BAHÍA DE LORETO, A.C.



THE OCEAN FOUNDATION
TURNING THE TIDE FOR CONSERVATION

Mark J. Spalding, President
The Ocean Foundation
1990 M Street NW, Suite 250
Washington, DC 20036
202-887-8992

<http://www.oceanfdn.org>
mspalding@oceanfdn.org

OVERVIEW

Loreto is a small desert town on the edge of the Sea of Cortes, located in the state of Baja California Sur, Mexico. It has 11,000 inhabitants and a low-key level of tourism. However, some 10 years ago, FONATUR, the Mexican government's tourism development arm, built the infrastructure for a massive tourism complex just south of town. including paved roads, electricity, street lights, and so forth. Since then, two hotels and some dozen houses have been built there. The Loreto Bay Company (LBC) <<http://www.loretobay.com>> is purchasing this site over time, and plans a three-tiered, 10-year project, involving:

- Vacation home neighborhoods (3 villages with a total of 5-6000 houses), hotels, and two golf courses (one new; one refurbished) called "The Villages at Loreto Bay"
- Auxiliary businesses and job/skill training that link this development to the community (for example, sustainable tourism)
- A foundation that will make grants for community projects.



Above, the site of the Villages of Loreto Bay

LBC plans call for it to put in place a number of environmentally sensitive features including building with adobe bricks, using electric cars, some solar and wind energy, grouping the homes into villages around central town squares with small shops, and trying to connect, in a variety of ways, the development to the existing town. The developer is also refurbishing the existing golf course with native grasses, will recycle the water, and in other ways is trying to reduce its impact as well. LBC staff is talking about making this a real model for "new urbanism" and "ecotourism" (or sustainable tourism) that will become known and admired around the world. Specifically, the list of sustainable goals for the development include:

- Establishment of 5,000 acres of untouched desert, including the mouth of the Primer Agua river and a significant portion of its watershed as protected areas.
- Pedestrian-oriented, bike-friendly and car-free neighborhoods with the use of photovoltaic powered electric carts as primary transportation.
- Fifty percent reduction of potential energy consumption through passive solar design and ground source heat.
- Twenty percent of energy to be generated from renewable sources.
- One hundred percent utilization of reclaimed water from effluent for irrigation.
- A solid waste reduction program for recycling wherever possible and facilities for composting one hundred percent of organic waste.
- Organic farming and organic orchards to be established as an integral part of the development.

- Existing golf course to be renovated using eco-focused management systems.
- Facilities for ongoing education, health and the vitality of the community, including gathering places for lifelong learning, conferences and the arts.
- Job creation programs within the community to provide 2,000 jobs during construction and 5,000 permanent jobs in hospitality, local businesses, eco-tourism, agriculture, local manufacturing, the arts and artisan fields.
- Cooperation with FONATUR, federal and local governments to develop a program that integrates appropriate affordable housing into all of Loreto for workers moving to the area for employment.

Perhaps the most novel feature of this project is that LBC and FONATUR have contractually agreed to take 1% of the gross proceeds of all sales, and re-sales in perpetuity, and put it into a Foundation that will make grants to support local community projects.¹ Part of the value of this special place we call Loreto is its natural beauty and that has been protected by the creation of the marine park. Thus, doing anything that harms the park is bad for the Nopolo development and for the community of Loreto. Thus, the scope of the Foundation covers the community of Loreto, but also the entire marine park.

All Foundation activities are being designed to be consistent with general understanding of sustainable development and social equity, and to employ the best available practices in those fields. After seven months, the Fundación Bahía de Loreto (Loreto Bay Foundation) is just getting started. We experienced a slower start than envisioned as the result of slower than anticipated government action on permits and approvals which led to delayed real estate closings for the developer, in turn, delaying funding for the Foundation. In fact, the land in the first phase transferred just three months ago.

Due to lack of cash flow to the Loreto Bay Foundation until more closings take place, we have been concentrating on following up on information gathered during two fact-finding trips to Loreto to compile a clear needs assessment for Foundation grantmaking. Thus, we have not engaged in any activities that might generate costs that could not be covered. In addition, we have tried to avoid creating expectations for what the Foundation can or will do until it has operating capital. In other words, we are developing the matrix for what, and infrastructure for how, the Foundation will operate, once it is really able to do so.



¹ This is subject to the terms of the Loreto Bay Company's Master Development Agreement with FONATUR, and the formation of the Foundation was a condition precedent to the closing on the purchase of the land in Phase 1 of the Villages of Loreto Bay Project. The 1% in perpetuity is part of a Trust Agreement with the Mexican government and governs all re-sales within the development.

MILESTONES

- NON-PROFIT STATUS IN MEXICO

With excellent assistance from Scott Montell, Esq. (Loreto Bay Company) and Gabriela Alaña (Gallastigue & Lazano) we drafted the corporate documents needed to become an “Asociación Civil” (not for profit corporation) in Mexico. In September 2004, the Foundation was formally formed, and incorporated in Mexico. As part of this process, we have identified our own mission and vision for the Foundation, and established clear independence from the developer/benefactor as well as from FONATUR (the Mexico tourism development agency).

- FUNDING FOR THE FOUNDATION

All the necessary legal documentation to ensure the 1% from Loreto Bay Company sales and all subsequent sellers of property in this development is now in place. These monies are being forwarded to the Foundation as contracts close and houses are completed. With this financial security, the Foundation is off to a great start. In addition, because we begin as we mean to continue, we are building in significant independence of the Foundation from the LBC and the Villages of Loreto Bay development (and by extension FONATUR). No one will doubt where the money came from, or to whom credit is due, but the independence of the Foundation from direction by Loreto Bay Company is being made most clear.

- BY-LAWS

The following is a rough translation of the enumerated purposes of the Foundation as established in the By-Laws (or “Estatutos Sociales” in Mexico):

1. To establish a fund for the sustainable development of the community of Loreto, South Baja California, destined to support centers of labor and business enterprise capacity building.
2. To contribute to the education of the inhabitants of Loreto, South Baja California, in order to increase its average educational level.
3. To drive the sustainable development of the area of Loreto, South Baja California.
4. To improve the labor capacity of the inhabitants of Loreto, South Baja California, by implementing measures that augment their qualification and training.
5. To collaborate in the care and protection of the environment; preserve and avoid extinction of indigenous flora and fauna; including but not limited to the support and conservation of the Loreto Bay National Marine Park.
6. To help in the promotion of sports activities for the inhabitants of the zone of Loreto in order to foment a sports culture.
7. To support the improvement of the medical services for the inhabitants of Loreto.
8. To provide economic resources to third persons (grants) with the purpose of giving fulfillment to the objectives of the Foundation.
9. To acquire, to construct, to rent and to operate all class of necessary personal or real property necessary for the attainment of the Foundation’s objectives.
10. To obtain loans, as well as to subscribe, to guarantee, to endorse and in general, to negotiate with all class of credit necessary for the attainment of the Foundation’s objectives.
11. To give, with or without return benefit, all type of real or personal guarantees to guarantee the fulfillment of obligations in charge of the Foundation.
12. To undertake all type of acts, agreements or contracts of any nature, that are consistent with the previously enunciated objectives of the Foundation.
13. The Foundation will not pursue economic profit, or commercial speculation as a primary purpose, but it will have to provide for its own subsistence and financial management.

- FIRST BOARD OF TRUSTEES RECRUITED

The members of the Board of Trustees of the Fundación Bahía de Loreto, A.C. are personally committed to the mission of the foundation, and are willing to volunteer sufficient time to make this Foundation a success. The Foundation's initial board is made up of:

- David C. Butterfield, Trust for Sustainable Development (representative of benefactor, LBC)
- Catherine Cameron, (former) Executive Director, Wallace Global Fund (has spent the last thirty years working on international issues, especially those relating to women, population, health, and so on)
- Dr. James L. Elder, Chair, Sustainability Education Institute, [Board Secretary/Treasurer] and founder of the School for Field Studies, (brings ecotourism knowledge and experience)
- Iain Kerr, Vice President and CEO, Ocean Alliance [Board VP] (offers experience in marine conservation as we focus on the Loreto Bay Marine Park)
- Mark J. Spalding [Board President]

We hope to move quickly to add at least two more board members, and we have two Mexicans in mind. The Board of Trustees is charged with setting the policies of the foundation, including its long-term grant making strategy. Staff of the foundation handles all day-to-day management and grantmaking issues.

- U.S. FISCAL AGENCY

During our start up phase, The Ocean Foundation (Washington, D.C.) has agreed to receive the 1% of sales from LBC and distribute it in accord with purposes of the LBF by-laws set forth above (as directed by the staff and Board of the LBF). The fee for this service is 4%. In exchange, The Ocean Foundation provides all U.S. tax reporting, check writing, and investment services. We will continue to use this service until the LBF reaches \$3,000,000 in assets. At that time, it will become financially preferable to establish our own infrastructure.

Were we to have only established the Foundation in Mexico, it would only have been allowed to make grants to non-profits that are "donatarios autorizados." In Baja California, there are still only a few non-profits with this designation, which is very difficult to obtain. For example, most environmental groups do not yet have the *donatario autorizado* designation, making tax deductibility for Mexican companies or individual donors problematic. The Ocean Foundation does not have this restriction. As a U.S. public charity, it can make grants to any non-profit in Mexico so long as they are a 501(c)(3) equivalent or they can meet the expenditure responsibility requirements of the IRS, and be cleared under the requirements of the U.S. Patriot Act.

- GRANTS MADE

\$2,900 – to The International Ecotourism Society for a collaboration with the Universidad Autónoma de Baja California Sur to develop a series of in-classroom and possibly distance learning courses aimed at capacity building for local government officials, parks employees, guides, local entrepreneurs, artisans, students, local non-governmental organizations, and other stakeholders in various aspects of sustainable and eco-tourism.

\$5,000 – to Pro Peninsula to sponsor the 7th Annual Grupo Tortuguero (Turtle Group) conservation meeting (which always take place in Loreto). Our funds will be used to bring participants from all over the Baja California peninsula and mainland Mexico to participate in the conference, strengthening our conservation network and, ultimately, leading to a recovery of endangered sea turtle populations.



STAFF ACTIVITIES

The Loreto Bay Foundation only has one part-time staff person, Mark J. Spalding, as its Executive Director. Together with The Ocean Foundation, he handles all aspects of foundation management. In addition, the Foundation has received legal support provided free of charge by the Loreto Bay Company in house counsel, and Mexican legal counsel.

- VISITS TO LORETO



In order to conduct a needs assessment of local social and environmental groups, Mark J. Spalding visited Loreto twice during the summer of 2004, which is as many visits as seemed reasonable given the cash flow circumstances. In June and in August, he toured Loreto, the project site for The Villages at Loreto Bay, and the surrounding areas. Time was spent talking to people in the town, and walking or driving the streets to look at quality of life issues and extant infrastructure status. He has interviewed key community leaders, especially non-profit representatives.



Map shows the boundaries of Baja's National Park in the Bay of Loreto. Sport fishing will be allowed within the protected area, but large-scale commercial fishing will not. The Villages at Loreto Bay will be built at Nopolo, which is shown just south of Loreto.

- LORETO COMMUNITY NEEDS ASSESSMENT

To date we have used our visits to Loreto together with strategic interviews to develop a list of ten major categories for funding. These are:

| |
|---|
| 1. Health and Human Services |
| Emergency room |
| Automatic defibrillator |
| Child care/day care facility(s) |
| School lunch programs |
| Youth at risk programs |
| Women's health care |
| Coordination of existing medical facilities and needs, patient referrals, staffing/volunteer needs and sharing of professional expertise and resources |
| 2. Civil Society |
| Capacity building for non-profits |
| Foster civic engagement in community problem solving |
| 3. Environment |
| Sewage treatment |
| Support for LB National Marine Park (endowment? Infrastructure & maintenance) |
| Uplands development |
| Baseline study re LBC site/lands |
| Set up satellite marine research lab |
| Overgrazed land restoration opportunities |
| Study how to achieve promise #3 re increasing biodiversity |
| Management/Controls/uses for LB National Park (study to write criteria for eco-tourism development, signage, brochures) |
| Grant to U.S. Green Building Council to hire a LEEDs auditor to review/certify LBC development, and possibly to foster establishment of Mexico Green Building Council |
| Limit light pollution (remove street lights on trans-peninsular highway) |

| |
|--|
| Urban plan for Loreto (grant to IMPlan?) |
| “Clean Loreto” campaign, increase awareness of environmental issues through education and publicity. |
| 4. Education |
| Capacity building for NGOs |
| Worker training (including hospitality training – American Lodging Association college in a box and certification programs) |
| Business management training |
| Ecotourism training (grant to RARE and/or FIELD school) |
| Support for UABCS course development in Loreto (TIES joint venture), internship program to direct/reward students with jobs, expansion of local library resources, scholarship endowment |
| 5. Micro-enterprise lending |
| Grant to Acción? |
| 6. Preserving of historical assets |
| Building restoration |
| 7. Arts and Culture |
| Art/Cultural Preservation: Restoring paintings in Loreto Mission, archiving customs, supporting local programs (Ex: Casa de la Cultural, Noche Bohemia) |
| 8. Affordable housing |
| LBF study/design seed funding? |
| 9. Community recreation opportunities |
| Restore the hurricane damaged, covered basketball court? |
| Improved infrastructure for physical activity (parks and playgrounds) |
| 10. Community infrastructure |
| Restore the marina/pier |

To prioritize these community needs we are applying a set of filters. These filters include:

- Cost
- Timing
- External Image: Influence on community view of LBF
- External Image: Influence on community view of LBC
- Internal issues: Cleans up confusion re what is, or is not Foundation?
- Promotes Independence of the Foundation
- Limits bad outcomes by FONATUR (including Escalera Nautica)

- COMMUNICATIONS WITH POTENTIAL GRANTEES

Much of our time spent in communications with grantees to date has been in two categories. First, there have been numerous interviews initiated by us, as part of the community needs assessment discussed above. Second, as word has quickly spread that this Foundation was being established, we have received and responded to inquiries from many potential grantees. For the most part, we have let such potential grantees know that we can only proceed as fast as we receive contributions to the foundation, and that the foundation must maintain its own positive cash flow without access to financial support from other sources.

Inquiries about Foundation grants have been received from:

- Alcosta (a coalition of coastal conservation groups)
- Canto de Ballenas y Otros Mamíferos (Song of the Whale and other Mammals)
- Encuentro de la Misiones (Experiencing the Missions) in Loreto, B.C.S. annual festival
- Graduate School of Design at Harvard University

- International Community Foundation (for its annual gala)
- International Community Foundation (for its needs assessment and NGO guide for Baja California Sur)
- The International Ecotourism Society jointly with the Universidad Autónoma de Baja California Sur
- Instituto de Estudios Ambientales (Institute for Environmental Studies)
- Niparaja
- Pro Peninsula

- COMMUNICATIONS WITH BENEFACTOR

The Foundation is not the designated watchdog for sustainable development promise compliance, and is independent of the LBC. In fact, the Foundation can do a lot of good with the money generated by the Villages of Loreto Bay project regardless of whether the LBC meets its promises. However, because we believe that anything less than developer credibility on sustainable development and equity may undermine the credibility of the foundation or its staff, we have responded to inquiries from the LBC regarding:

- The design and invitees for the Ecotourism Charrette
- Basketball court renovation –to determine nature and extent of commitments made to the community on behalf of the Foundation prior to its creation.
- Affordable housing issues – leading toward coordination by LBF to ensure the needs of workers are met, as well as ensuring such housing benefits the community.
- Clean water issues – concerns raised by the developer regarding water well contamination problems as the result of incomplete wastewater infrastructure development by FONATUR.
- Water drainage issues – concerns raised regarding land preparation in compliance with the Environmental Impact Study for the project
- Our drafting of a job description for a LBC Sustainability Management Officer
- The Foundation is in the process of becoming the concession holder to manage the Zofemat, the 20-meter strip of land upland from the high water mark, which will continue to be owned by the federal government. We believe that this strip of land will be best protected for the longer term if the Foundation rather than the developer controls it.

LBF has received and reviewed the following documents:

- Loreto Bay Community Relations memo (December 2003, Siri Thomas)
- Thoughts on Loreto Foundation (May 2004, Emergo Foundation/Tim Maloney)
- Loreto Bay Environmental Report (June 2004, Eric Gustafson)
- Community Relations memo (September 2004, Darlene Tait)
- Draft executive summary of the Ecotourism Business Plan (September 2004, Sustainable Resources/Carl Frankel)
- Memo regarding the Loreto Master Development Plan (October 2004, Ayrie)
- Sustainability Program Update (December 2004, David Butterfield)
- Alternative Futures for the Region of La Paz (February 2005, Harvard University)

In addition, we have worked closely with a representative of the LBC community relations staff to make use of her knowledge of the community of Loreto, but also to ensure that projects appropriate for LBC to promote its public relations are consistent with the future goals of the Foundation.

- COMMUNICATIONS WITH THE COMMUNITY OF GRANTMAKER NETWORKS

Due to cost restrictions, we did not attend the annual Environmental Grantmakers Association meeting in Hawaii in September 2004. However, we did participate in its federal policy briefing in Washington DC in December 2004.

We have been far more active in the Consultative Group on Biological Diversity (CGBD), another networking group for philanthropy. Much of our activity has been through its marine issues affinity group, which holds monthly telephone calls. Mark J. Spalding is also on the planning committee for the annual marine funders meeting, which took place in California in February 2005. However, we also participated in the CGBD's annual meeting in Duluth in June 2004, where Mark facilitated a panel on addressing alien invasive aquatic species. Finally, Mark was asked by the CGBD to write a funders policy briefing on Oceans & Climate Change.

In early February 2005, we attended a “Cumbre para Conservación en La Paz” to connect funders and non-profit organizations work in the Sea of Cortez region.

PROPOSED GRANT GUIDELINES

In early 2005, a key activity will be to draft grant guidelines for the Foundation. These will be made available in English and Spanish once the Foundation has a reserve of at least \$100,000 in operating capital. The guidelines will set forth deadlines for submissions, as well as the content requirements for the submission. We have access to many of the best practices in such guidelines and will make sure our guidelines are well informed by such best practices, while at the same time making this easy for many different kinds of applicants, with many levels of capacity for preparing proposals.