

Statement of Alan J. Borner

1. My name is Alan J. Borner. To the best of my recollection, I was a member of the board of directors of Metalclad Corporation from November, 1992 until November, 1993.
2. I am the Executive Director of the Environmental Hazards Management Institute (EHMI), which I founded in 1979. EHMI is an independent, nonprofit organization dedicated to the understanding, enhancement, and preservation of the environment, and focuses on education and training, both for companies and consumers. EHMI sponsors some of the largest environmental conferences in the United States (including the HazMat International Series), conducts a variety of training and support programs that assist companies in their environmental compliance efforts, and publishes consumer education materials.
3. I joined the board of directors of Metalclad at the direct invitation of Grant Kesler, who contacted me at the recommendation of Marshall Swartwood, an investment adviser. Mr. Kesler said that he needed assistance in learning about the environmental business and identifying people to hire.
4. At the time I joined the board of directors, Metalclad was not involved in hazardous waste disposal or treatment. Its main business was the installation and removal of insulation. Mr. Kesler, who had no background in environmental matters, was intent on re-inventing the company as an environmental contractor in Mexico.
5. During the period I was on the board of directors, Metalclad explored the possibility of acquiring a pre-existing waste disposal site in the Mexican state of San Luis Potosi, with the idea that the company would convert the facility into a hazardous waste landfill. The site, known as La Padrera, and the Mexican company that operated the site, known as COTERIN, were the subject of analysis by the company.
6. In April 1993, Metalclad entered into an option agreement that gave it the right to purchase COTERIN and La Padrera from their Mexican owners. The agreement, as described to the board, provided for the payment of a total of \$1,950,000, subject to the election of the sellers to take part of the payment in shares of Metalclad. The agreement also specified that, 30 days after payment of an initial \$450,000, Metalclad would make a separate payment of \$500,000, to be followed by separate payments of \$500,000 each thirty days after the other.
7. A key element of the option agreement was that it would become fully effective only at such time as COTERIN had obtained all of the required local permits and other permits required to operate a hazardous waste landfill.
8. On September 17, 1993, I attended a board of directors meeting held at the offices of Metalclad. As reflected in the minutes of the meeting attached as Exhibit 1, Mr. Kesler asked the board to ratify the acquisition of 94% of the capital stock of COTERIN, and reported that Metalclad had entered into a purchase agreement, "substantially in the form previously approved



by the Board," providing for a payment of \$500,000 down, and three payments of \$500,000 each month "commencing 30 days after substantial construction of the new landfill commences."

9. In my view, Mr. Kesler had not sufficiently considered the potential risks to Metalclad of acquiring property on which pre-existing waste was stored. I was concerned that in Mexico, as in the United States, an acquirer of property containing hazardous materials could not escape liability for contamination caused by a previous owner. I expressed my opinion on this subject on a number of occasions, including during the September 17 board meeting. Nonetheless, Mr. Kesler and the other board members were determined to go forward, and I was the only board member to vote against the acquisition.

10. I have been shown copies of documents that were attached to the Form 10-K report for the fiscal year ending May 31, 1994 filed by Metalclad with the Securities and Exchange Commission on September 14, 1994, after I had left the board of directors and was no longer associated with Metalclad. The first document, dated April 23, 1993, is a translation of Metalclad's original option to purchase COTERIN. This document reflects the terms of the acquisition that were presented to me as a member of the board of directors.

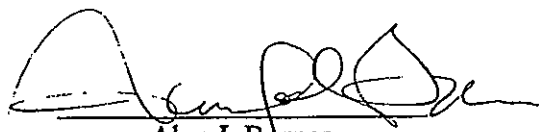
11. The second document, dated September 9, 1993, is labeled as a translation of an "amendment agreement" to the option agreement. It apparently was signed by Mr. Kesler. On page 7, the amendment agreement states that after a first payment of \$450,000, the first additional payment of \$500,000 would be made commencing:

... within twenty days following the day in which the government of the State of San Luis Potosi, through its current Governor, has authorized to proceed with the construction needed for the operation of a controlled confinement of hazardous wastes located in ... 'La Padrera,' ... pursuant to what was authorized to COTERIN by the National Institute of Ecology by means of authorization number 24-17-PS-VII-01-93, dated August 10, 1993 and that the Municipal permit for the building of the aforementioned confinement has been obtained by COTERIN, or as the case may be, definitive judgment in a writ of amparo that allows to legally proceed with the building of such confinement, provided that in no event such payment shall be carried out before thirty days following the date in which the [initial] payment is carried out.

12. The amendment agreement on page 8 also provides that the dates of the three payments of \$500,000 would be extended:

... in an equal term to that in which by any circumstance not imputable to the Beneficiary [Metalclad], the construction of the confinement [at La Padrera] is suspended by order of the authority or the operation of such confinement is suspended, or the foregoing occurs by reason of the physical situation or situation of violence of the neighbors of the location of the confinement.

13. Although the amendment agreement is dated September 9, 1993 – eight days before the September 17, 1993 board meeting at which the proposed acquisition was presented to the board for approval – these conditions, and their underlying basis, were not disclosed at the meeting. Neither Mr. Kesler nor any other Metalclad employee or board member ever told me about these conditions, either during the board meeting or afterward at any time prior to my resignation from the board.



Alan J. Borner

Date:

9/23/98

