

**COURTESY TRANSLATION OF THE WITNESS STATEMENT OF
JOEL MILÁN**

My name is Joel Milán, I provide this witness statement as a result of METALCLAD Corporation's allegations with respect to the hazardous waste landfill that it wants to set up in the Municipality of Guadalcázar, San Luis Potosí

1. I graduated from the Autonomous University of San Luis Potosí (UASLP) in 1973. I obtained my professional designation as a geologist in 1975. From 1975 to 1979, I worked at the National Institute of Geography, Statistics and Information (INEGI). In 1979, I received a scholarship to pursue a masters degree in mining in France. I returned to work for the INEGI focusing on geohydrological issues. From 1981 to 1985, I worked at the Federal Electricity Committee on exploration projects researching the use of coal in thermoelectric plants. In 1985, I became a professor and researcher at the UASLP. I am currently the Director of the Department of Earth Sciences at the UASLP.

MY KNOWLEDGE REGARDING THE CONTROVERSY

2. The attorneys for the Mexican government have informed me that Metalclad has alleged that then Governor Horacio Sánchez Unzueta, formed a University Committee to analyze the characteristics of the La Pedrera site, in the Municipality of Guadalcázar, San Luis Potosí. The Committee was to also research the site's viability as a hazardous waste landfill. Moreover, that I along with Mr. David Atisha and Mr. Roberto Leyva were appointed to form the Committee. That this Committee prepared a final opinion in favor of Metalclad and that, because the Governor prohibited the publication of these conclusions, Dr. Leyva resigned in protest.

I declare that the above is false, and I wish to clarify the following:

3. Metalclad sought to establish a hazardous waste landfill in La Pedrera. For this reason, the company met with some experts at the UASLP in order to show them their executive project. Among those they met with, were the researchers in the Earth Sciences Department of the Faculty of Engineering.

4. The project's presentation generated diverging opinions. In December of 1993, the then-Director of Chemistry, Dr. Roberto Leyva Ramos met with me at the request of the Dean to establish a technical Committee of university professors to analyze the proposal submitted by Metalclad and to provide our opinions on it. Attached to this statement, as Exhibit 1, is a copy of the official letter. This Committee was composed of Mr. David Atisha, Guillermo Labarthe, Fernando Díaz Barriga and the undersigned. Dr. Leyva Ramos was in charge of the Committee and was its only spokesperson.

The Committee never issued a final opinion, because the studies to determine the geological-geohydrological characteristics of La Pedrera, proposed by the Committee to Metalclad, were never concluded.

5. The Committee's objective was to provide an opinion as to whether the technical studies submitted by Metalclad were sufficient to guarantee both that the landfill complied with the existing national and international environmental standards and with the technical characteristics which would ensure that there would not be any environmental impact.

6. As can be seen in Exhibit 1, the Committee was organized by Dr. Leyva Ramos at the request of the Dean. All of our opinions were submitted to him in writing, as shown in the my report dated February 27, 1995, a copy of which is attached to this statement as Exhibit 2.

7. Metalclad did not carry out all of the studies suggested by the UASLP and, consequently, there were still many unresolved technical issues. Given this, at a Technical Committee meeting, it was decided that the Committee could not provide a final opinion on the landfill. In fact, Metalclad wanted the University to provide a conclusion as to whether or not the project was feasible, however the University never committed itself to provide such a determination. Instead, the Committee's role was to provide an opinion on whether the technical studies were consistent and answered the necessary technical questions. The respective governmental authorities were the ones who were to decide whether or not the project was feasible.

8. Between 1992 and 1993, the Faculty of Engineering in an agreement with the State Government through the then-SEDGE carried out a study on the "*Location of Sites for the Construction of Hazardous Waste Landfills.*" The state level study focused on the geological-geohydrological conditions and a series of other criteria of the state regions presenting the most suitable sites for the establishment of these types of facilities.

Annexed to this study is a "*Map on the Susceptibility for Groundwater Contamination for the State of San Luis Potosí,*" in a scale of 1:250,000.

9. In May of 1994, the Faculty of Engineer of the UASLP submitted a proposal to Metalclad for a "*Study on the Selection of a Site in the State of San Luis Potosí for the Construction of a Hazardous Waste Landfill.*" The proposal was submitted upon a verbal request by Metalclad and given that the school had completed a similar study as noted in paragraph 8 of this statement. I should make it clear that we never received comments on the proposal and the study was never undertaken by the UASLP.

10. In regards to the proposal made, I wish to clarify the follow:

In the background section, we mentioned that the site is located in a region that is an "overdescharge zone," it should say "recharge" as stated in the original text. It is a region with potential groundwater, which, along with other characteristics, do not make this site any better than others. This conclusion stems from a regional geological analysis which shows that the La Pedrera site is located in an area composed of limestone rocks belonging to the *Plataforma Valles-San Luis* region. This group of rocks, which can reach several kilometers in thickness, were deformed and fractured during the mountain formation process. This, together with the highly soluble nature of the rocks leads us to conclude that, in general, the area is highly permeable. Indications

of this include, the manifestations of solubility (caverns, *dolinas*, etc.) as well as the fractures that these types of rocks generally have. Even though there are no studies on the geohydrological characteristics of the region, these manifestations are visible through the different springs that originate in the region. Therefore, the Committee always insisted that the company should determine if groundwater exists, given that such information would be indispensable for the planning of the engineering design.

The Committee was of the belief that Metalclad and the State Government had supposedly reached a verbal agreement, in which the company would undertake the studies to locate suitable alternative sites for the establishment of a new hazardous waste landfill. We never confirmed this fact.

I should mention that based on verbal communications with both Metalclad and the State Government, we learned that the company had committed itself to two things. First, to undertake studies of alternate sites, and, second, to undertake more detailed studies on La Pedrera to set up a possible remediation program. Of these, only the first commitment would be undertaken by the Faculty of Engineering of the UASLP.

The Committee believed that the best way to carry out the alternate sites study was to follow the technical program set out in the proposal.

The objective of the Faculty of Engineering's proposal was to locate sites comprised of land whose natural physical characteristics themselves, would guarantee less impact on the water resources and on the environment in general.

We believe that the six sites selected in the previous study by the UASLP "*Location of Sites for the Construction of a Hazardous Waste Landfills*" fulfilled the various criteria which were ranked. This would have enabled them to carry out detailed studies of the alternate sites with greater precision.

I must mention that the copy of the "*Study for the Selection of a Site in San Luis Potosí for the Construction of a Hazardous Waste Landfill*," is not a copy of the original text completed by the Engineer School. Therefore any opinions suggested in the text set out in Metalclad's complaint, must be referenced with the original.

11. The Committee always maintained that geological and geo-hydrological conditions were not the most suitable. Therefore, the Committee always insisted that the studies completed and those being carried out must determine the geohydrological characteristics of La Pedrera. In this way, the results of the studies could be taken into account in the final design of the landfill and to monitor it later in time. Therefore, the Committee never provided a final conclusion to the company.

12. During my involvement in the Metalclad's matter, I never, personally, submitted a statement or any study. All the communications were through the UASLP.

THE ALEMÁN STUDY

13. I know Mr. Sergio Alemán, an engineer. He studied at the UASLP and he is a very well known geologist and miner. In fact, he achieved "first honors" for his professional thesis from the Faculty of Engineering. I have read Sergio Alemán's study on the characteristics of La Pedrera. I believe that it was carried out with professionalism and ethics. I generally agree with his conclusions. I think that for a study carried out at that time, it was undertaken with professionalism. Perhaps with the new technologies, it would be possible to undertake more detailed studies that would confirm the conclusions of his research.

14. I would like to note that the site was considered to be a recharge zone with granular soil, which makes it highly permeable. The SEDUE acknowledged this, and in an official letter dated March 8, 1990, the former owner of the transfer station was informed. Attached to this statement, as Exhibit 3, is a copy of the letter.

15. Allow me to conclude by stating that from a regional geological and geo-hydrological perspective, the site where La Pedrera is located is not the most suitable. It has the disadvantage of being located in a region composed of permeable rocks and where there exists a high possibility of groundwater in the area.

However, it is clear that the State's geology indicates that there are other sites where the risk of groundwater contamination is its minimum or nonexistent.

I make this declaration with the intention of providing evidence that will assist this Tribunal to resolve the dispute. I am conscious that I can be called to provide further testimony and to be cross-examined on the evidence that I have presented. I make this declaration under oath and with respect to those matters that I have testified on which I did not witness directly, I declare that the information contained in my witness statement is, on my best understanding and recollection, the most exact and truthful information.

SIGNED IN THE ORIGINAL:

Joel Milán