

COURTESY TRANSLATION OF THE WITNESS STATEMENT OF
DR. ANGELINA NUÑEZ GALVAN

1. My name is Angelina Nuñez Galvan. I was born in the city of San Luis Potosí. I studied Biology in the Faculty of Science of the National Autonomous University of Mexico (UNAM) and I obtained my undergraduate degree in 1954. I obtained my masters and doctorate degrees in Cellular Biology from the Faculty of Medicine of UNAM in 1963 and 1966, respectively. For 27 years, from 1956 until my retirement in 1983, I worked as a researcher for the Institute of Biomedical Research at UNAM. In 1977, I took part in a Multinational Course on the Methodology for the Detection of Carcinogenic and Mutating Chemicals in the Environment at the Biomedical Research Institute of UNAM which lasted from December 1 to 16 of the same year.

2. Pro San Luis Ecológico is a non-governmental environmental organization that was established following an environmental conference hosted on June 6, 1993 by two political parties, the Nava Partido Político and the Partido de la Revolución Democrática (PRD). The coalition of these two political parties had the objective of appointing Concepción Calvillo de Nava as a candidate for Governor for the State of San Luis Potosí, during the same election in which Horacio Sánchez Unzueta was elected Governor. At this conference, some very serious issues at the State and Municipal level were discussed. As a result of these discussions, we decided to form Pro San Luis Ecológico in 1993.

3. During the environmental congress, mentioned above, we learned of many environmental problems facing the city and the state and it was then that we decided to go and see these problems first hand. For example, PRONAPADE, a newspaper recycling company that was wasting water and contaminating the area, and the Villa de Reyes thermoelectric facility that was contaminating a natural water source for San Luis Potosí with diesel fuel. An important case is that of MEXINOX in Villa de Pozos, which contaminated the groundwater in the area to such a degree that the lands became unproductive and a lot of livestock died. MEXINOX had to compensate those affected. Metalclad is not the only case that Pro San Luis Ecológico has been involved in and, as I have stated, the organization was not created just because of that one case. When we began working with Pro San Luis Ecológico, our main concern was that we learned of the problems suffered in the industrial zone as a result of the discharge of hazardous waste.

4. We later decided to go to Guadalcázar to visit the landfill and learn what was going on there first hand. We also wanted to know how the community felt about the situation and we therefore went to the town of Los Amoles. In Los Amoles, the assistant judge of the town told us (there is a video and quotes) that COTERIN had lied when they claimed that they were looking into the agricultural potential for growing tomatoes which the community saw this as a good thing because there was a need for new sources of work.

The judge also told us that they live in an area where water is scarce and they went to the company to ask for some water from their tanks. When they got to the site, they discovered that the company was receiving containers of hazardous waste (medical waste, meat packaging and industrial waste). From that moment on, the community became concerned.

5. The concerned people of Los Amoles, El Huizache and Ejido de la Verdolaga (El Entronque), organized a demonstration to prevent sixteen trucks from entering the landfill and depositing the hazardous waste they were transporting. The trucks had license plates from New Mexico, Arizona, Carolina and Tijuana. The community would not allow the trucks entrance until the authorities arrived. The authorities arrived three days later. The then SEDUE representative was Humberto Rodarte Ramón (who later became Metalclad's adviser). Rodarte Ramón asked the people to allow the trucks to deliver their shipment, and he explained they were not carrying hazardous waste. However, the people refused (this is recorded on tape). Thus, the first time we looked into the landfill problem as environmentalists, we discovered and were of the opinion that there were an enormous number of occurrences in which the wastes were not being properly separated for their final disposal. For several months, this was the only involvement we had in the matter.

6. As the Tribunal will be aware, as a result of community pressure the authorities felt obligated to shut down the landfill. However, the company was able to leave close to 55 thousand unprotected containers of hazardous waste in the area. Attached to this witness statement, as Exhibit X, are photographs taken by Dr. Díaz Barriga of the site with these unprotected containers.

7. I am aware that the Guadalcázar Municipal President wrote to Sergio Alemán asking him to prepare a soil and subsoil study of the site. He agreed given that he had already prepared a general study of the state, a *Metalogenética* Map. Therefore, it was easy for him to prepare the study and that is why he was able to charge very little for his services. Sergio Alemán pointed out that the ground was not suitable for the proposed hazardous waste landfill. It contained limestone and at the Realejo entrance, there were caverns with stalactites through which seepage occurs.

8. In reference to Metalclad's description of the failed March 10, 1995 opening ceremony found on pages 81, 82, and 83 of its Memorial. I did not attend that demonstration. Instead, that morning I was at Dr. Pedro Medellín's offices and I was very concerned about the incident. It is my understanding that the previous day, the United States Embassy in Mexico called Dr. Medellín to ask him what sort of security arrangement existed for the Ambassador's attendance at the landfill opening ceremony. It is also my understanding that people in the community found out about the event through local newspaper reporters who went to Guadalcázar to ask their opinion on the opening of the landfill. Early that same morning, they went to the site and tried to stop the guests from leaving the facility.

9. I have had the opportunity to view the video submitted by Metalclad as evidence of the events of March 10th. I want to confirm that I know many of the people that appear on that tape and that all of them are from Guadalcázar. These people voluntarily participated in the movement to stop the hazardous waste landfill. As I mentioned above, I was not at the site on March 10, 1995, and I can see that the company combined two tapes of events that occurred on two different days, as if this all occurred on one day. As can be seen on Metalclad's videotape, I appear at the end of the tape during a visit to the facility and later addressing the people gathered outside. That video was taped on March 16, 1995, one week after the failed opening ceremony, which is the only time that I have been inside the hazardous waste landfill. This was not explained in Metalclad's video nor in their Memorial.

10. With regard to Metalclad's allegations on pages 1 and 18 of their Memorial, that I had a financial relationship with RIMSA, I wish to state that this is false. My only contact with that company has been through the receipt of a letter from them thanking me for the information that I had supposedly sent them. In that letter, RIMSA stated that they reserved the right to take any legal action that might arise based on the information that I had sent. Attach to this statement, as Exhibit 3, is a copy of the letter RIMSA sent me. In response, I wrote a letter requesting that RIMSA send me a copy of the letter, because it had not been sent by me and likely not by Pro San Luis Ecológico either. I also mentioned that I had not had the pleasure of meeting RIMSA and that I did not even have their address. Attached to this statement, as Exhibit 4, is a copy of the letter I sent to RIMSA. They were kind enough to send me a copy of the letter and I was able to confirm that it had not been written by Pro San Luis Ecológico because it did not have the organization's letterhead or a signature; we had previously agreed that every letter sent by Pro San Luis Ecológico was to be prepared in our official letterhead and signed by the person sending it. Attached to this statement, as Annex X, is a copy of the letter provided to me by RIMSA.

11. I wish to make some comments regarding Metalclad's mention at pages 85 and 86 of its Memorial describing an occasion when an infant with brain damage was shown to the Governor during a political gathering. I can confirm that the child is from El Entronque. I know the child's father, Mr. Juan Romo, personally. In fact, the father told me beforehand that he was planning to show the child to the Governor at that meeting. I tried to convince him not to do it, because I did not believe that was an appropriate way to protest and because I thought that this would cause more pain to the family. I want to emphasize to the Tribunal, that it is very difficult to know whether this child or other children had been affected by the pollution from La Pedrera, there is, however, no doubt that the risk of this occurring exists. More importantly, many families feel endangered and harmed by the hazardous waste landfill, as is the case with Mr. Romo's family. This is not the only case of a child being born with brain damage in the surrounding communities. Unfortunately, the local hospitals do not want to confirm that such children are born, and consequently it is very difficult to study the relationship between these birth defects and the establishment of hazardous waste facilities. However, scientific studies in the United States have shown that cancer related deaths and spontaneous abortions increase in areas close to hazardous waste

landfills. The counterpart to the United States Health Department has extensive literature on this issue.

12. Metalclad says that all of the opposition to the landfill was contrived. That is ridiculous. Many people were opposed to the landfill. It is true that some people wanted jobs at the facility, but the majority of the municipality was strongly opposed. In fact on [] we went to see Governor Sánchez Unzeta to express our concerns. He would not see us so we went to the main highway and blocked it until he came to meet with us.

13. In our view, he was not interested in taking a stand for many months. However, he eventually acknowledged that the people must have the final say on whether or not such a hazardous waste landfill should be located in their community.

14. Finally, I wish to inform the Tribunal that I decided to leave Pro San Luis Ecológico because I saw a need to promote environmental education in other ways in the community. I, therefore, formed a new organization named *Educación y Defensa Ambiental* (Environmental Education and Protection). To promote this organization I used my own personal funds, as I previously did with Pro San Luis Ecológico. Since the time I established Pro San Luis Ecológico, I made the decision to use the salary that I had paid to my former maid, to fund the establishment and organization of these non-governmental organizations. At the request of the community, I am currently the environmentalist in charge of the Guadalcázar problem.

15. I make this declaration with the intention of providing evidence that will assist this Tribunal in resolving the dispute. I am aware that I can be called to provide more evidence and to be cross-examined on the evidence that I present. I make this declaration under oath and in respect of those matters that I did not directly witness, I declare that the information contained in my witness statement is accurate to the best of my recollection and belief.

SIGNED IN THE ORIGINAL:

Dr. Angelina Nuñez Galvan