

DECLARATION OF T. DANIEL NEVEAU

1. My name is T. Daniel Neveau. I became a member of the Metalclad Board of Directors in July of 1991 and Chairman of the Board in January 1994. Towards the end of 1993, I became significantly involved in Metalclad's hazardous waste landfill project in San Luis Potosi.
2. I have read pertinent parts of the Respondent's Counter-Memorial. I have personal knowledge of the events described in this declaration and am willing and available to testify before the Tribunal if requested.

METALCLAD'S EFFORTS IN 1994 TO SECURE THE SANCHEZ'

ADMINISTRATION'S SUPPORT

3. I became significantly involved with Metalclad's business in Mexico at the end of 1993 and the beginning of 1994. Beginning in the Fall of 1993, I and others in the company attempted in vain to arrange a meeting with the Governor. Since the June 1993 meeting where the Governor expressed his support—both orally and in a letter—he had been unresponsive to further meetings with the company.
4. I am aware that in October 1993, Dr. Sergio Reyes Lujan, President of the INE, and Rene Altamirano, also of the INE, went to San Luis Potosi to meet the Governor to encourage him to support the La Pedrera project. After their meeting with the Governor, Dr. Reyes and Mr. Altamirano met with Mr. Kesler and other Metalclad officers and told them on the way to La Pedrera that the Governor wanted to establish a committee of UASLP professors to study the geology of La Pedrera and that the Governor wanted Metalclad to fund their studies.
5. On January 9, 1994, El Pulso published an article entitled "Landfill in Guadalcasar, No!". This article quotes the Governor saying that he had the final word on the "re-opening" of the landfill, and that his final word was "no." (Memorial exhibit: Notes *Pulso*, 1/9/94.)
6. I was perplexed by this public statement both by the fact of his earlier expression of support, and by the fact that he took such a definitive public position without any discussion with anyone in the company

7. Since the Governor refused to meet with us, the company officers felt that we had no choice except to publicly address the factual inaccuracies contained in that newspaper article. We issued press releases entitled "Enormous Misinformation" on January 11th and "What is Really Happening in Guadalupe With the Landfill?" on January 12th, and a letter to the Governor which was published on January 13th.
8. Our efforts apparently worked. The Governor agreed to meet with us on January 28, 1994. This meeting was arranged by an attorney in San Luis Potosi, Jose Mario de la Garza Mendizabal, who had been retained to advise Metalclad on its relations with the San Luis Potosi state government. I participated in the meeting along with Grant Kesler, Humberto Rodarte Ramon, and Mr. de la Garza on Metalclad's behalf. Dr. Medellin was also present at the meeting.
9. In this meeting, Mr. Kesler discussed in detail Metalclad's project for a hazardous waste management facility at La Pedrera with the Governor. Kesler emphasized the site's technical competence, the world-class caliber of the facility's design, the employment and revenue that the construction and operation of the landfill would create in the local community, and other ways that the state and community would benefit from Metalclad's investment. Kesler underscored Metalclad's desire to work with the community and the state in developing the project, and that Metalclad wanted to integrate itself into the local community. I was aware that the company had already presented the La Pedrera project to the Governor in June of 1993, so the object of this meeting was to communicate to the Governor that Metalclad was an investor that was interested in doing more in the community than just making an economic profit.
10. Dr. Medellin disagreed with Kesler that the geological characteristics of the site were suitable. He stated that some of the faculty members at the UASLP were against the project on this basis.
11. Dr. Humberto Rodarte, who had previously worked at SEDUE and SEDESOL, countered Dr. Medellin's assertions. He further reminded Medellin that although some of the members of the UASLP commission had strongly stated their concerns at their first meeting on January 11, 1994, they had ultimately agreed then that the

technology and the design of the landfill provided substantial assurance that it could overcome any natural deficiencies that could arise within the course of their investigation (Metalclad was in the process of meeting with them to define the geological and geo-hydrological tests they wanted us to perform).

12. It is also my understanding that Dr. Medellin was part of the group of UASLP professors who in March of 1993 had analyzed and approved La Pedrera as being an appropriate site for the location of a hazardous waste treatment facility. This determination was made at the request of the San Luis Potosi State Congress in relation to the issuance of the state use of land permit.
13. Mr. Kesler told the Governor that even though the company had obtained the relevant federal permits, we needed his public support for La Pedrera, and his help with solidifying the community's trust and confidence. The members of the Metalclad Board and our officers in Mexico were well aware that some in the community did not view the previous owners of COTERIN well. We also knew that the spread of misinformation throughout the community could be quite injurious to our project.
14. The Governor stated that San Luis Potosi needed the company's project for La Pedrera because of the significant amount of hazardous waste produced and illegally dumped in the state; that it would fit in well with his state development plan; and, because it would be an economic boost to the Municipality of Guadalcazar. Sanchez said that if Metalclad would address the specific technical concerns raised by the UASLP professors and make them comfortable with the geological aspects of the site, he would publicly support the La Pedrera project. If Metalclad would do this, the Governor said, he and Dr. Medellin would take care of educating and convincing the community of the merits of the project.
15. Metalclad had already established the preliminary plans for a community awareness program to educate the local people on the technology and benefits associated with the landfill. Thus, we agreed to continue with those efforts and our meetings with the members of the UASLP commission.

16. With regard to the community awareness program, we learned through meetings and interviews conducted in the community in this same time frame of some of the needs of the community, and refined our program to address them. For example, part of the program included setting up a free medical clinic for the communities use on a weekly basis and a water program, which consisted of both water deliveries to 6 - 8 communities and helping to rebuild the earthen water dam at El Huizache. We also provided the supplies to help refurbish the exterior of a church in El Huizache.
17. The Governor formally made a request for the university commission to the president of the UASLP, Dr. Lastras. Dr. Lastras in turn appointed Dr. Roberto Leyva, Director of the Chemical Sciences Department, to head the commission. The first meeting between the commission and Metalclad took place on January 11, 1994.
18. Additionally, I would like to comment before leaving this time frame that contrary to the Governor's press release of January 13, 1994 where he complained that neither the INE nor Metalclad had formally submitted the appropriate documents to his administration, the Governor knew or should have known that Metalclad had already submitted these documents to the state congress with its application for a state use of land permit in May of 1993. No additional documents were required. In fact, I understood that the Governor had seen these documents in his June 11, 1993 meeting with Metalclad and SEDESOL representatives, which were the basis of his contemporaneously drafted letter inviting Metalclad to invest in the state (See Exhibit 4 to the Counter Memorial).

DRAFT AGREEMENTS AND THE INSPECTION OF THE HLA LANDFILL

19. As a result of the January 28, 1994 meeting with Sanchez and Medellin, the Board of Directors decided that a formal agreement was necessary to confirm the San Luis Potosi state government's commitment to Metalclad. During February 1994, I drafted an initial agreement reflective of our discussions. In March, I continued my discussions with Dr. Medellin, and Mr. Kesler revised the agreement,

complying with the specific requests of Dr. Medellin as to its presentation (See Exhibits 1 and 2 attached hereto).

20. In response to Metalclad's invitation, in April of 1994, Dr. Medellin and three of the five members of the UASLP commission —Dr. Roberto Leyva, Ing. Joel Milan, and Dr. Fernando Diaz Barriga—agreed to come to California to inspect a municipal waste landfill which shared many of the same components that the design for the proposed hazardous waste landfill at La Pedrera incorporated. The Board thought that this would be a particularly good landfill for Dr. Medellin and the members of the commission to see since the company constructing the landfill was in the process of installing the same liner that would be used at La Pedrera. But, with La Pedrera being a hazardous waste management facility, its design incorporated the use of two liners. Another factor in choosing this site was that Harding Lawson Associates, the engineering firm Metalclad had hired to design the facilities at La Pedrera, had been involved in the initial design and siting of the Orange County landfill.
21. After the San Luis Potosi group inspected the landfill and Ramon Chavez of HLA gave a presentation on the design of the La Pedrera landfill, the group relocated back to the Metalclad corporate offices. Medellin, our Mexican legal counsel Hector Raul Garcia Leos of Bufete de la Garza, Javier Guerra Cisneros, and I reconvened in another office apart from the rest of the group. We met to discuss the terms of the draft agreement in place prior to the trip to California.
22. We came to an agreement with Dr. Medellin, which our lawyer Mr. Garcia drafted in final form and typed up. Metalclad agreed that the design of the facility at La Pedrera would be of a world-class caliber, very similar to the one Dr. Medellin had just inspected on the trip, taking into account the variances necessary for a hazardous waste landfill. We also agreed that Metalclad would complete the studies requested by the UASLP commission, so as to show that there were no major geological deficiencies, such as faults, migration potential, or aquifers and so forth—conditions that, if they existed, would change the design but not the

- feasibility of the project. In exchange, Dr. Medellin agreed to simultaneous remediation and operation of the hazardous waste management facility.
23. We emerged from the private office and I announced that we had reached an agreement. Medellin then informed the audience made up of the UASLP professors, Metalclad executives and management—Grant Kesler, Lee Deets, Humberto Rodarte, Ariel Miranda, Javier Guerra, Garcia Leos and me—as well as Ramon Chavez, of the terms of the agreement as aforementioned.
 24. Everyone in the room stood and applauded. There was general feeling of relief and exuberance. For the management of Metalclad, our hard work and perseverance in finally attaining the Sanchez administration's full public support and approval had finally paid off. The members of the commission also seemed to share our enthusiasm in that they would be participating in the development and construction of the first fully permitted hazardous waste landfill in all of Mexico.
 25. Later, when Mr. Kesler asked Medellin to sign a document reflecting our agreement, Medellin replied it was not necessary given the announcement he had just made. He convinced Grant and me that it would be better if he first took it to the Governor for his concurrence and then made a public announcement of our accord.
 26. Dr. Medellin's witness statement is incomprehensible when it states that he was reluctant to correct *me* on the terms of the agreement that *I announced* in front of Metalclad employees. It was *he who announced and explained* the terms of the agreement, and thus there was no one who would have been embarrassed but him had the terms been different than those announced.
 27. On May 27, 1994, Dr. Medellin called a press conference at the Governor's palace wherein he purported to announce the terms of the Metalclad - state government accord. The agreement we had reached in Newport Beach was that Metalclad would remediate and simultaneously operate La Pedrera until another site in San Luis Potosi could be located, approved as technically suitable, and fully permitted for construction and operation.

28. In the press conference, however, Medellin announced that Metalclad would remediate La Pedrera and not operate, but rather find an alternative site to build and operate a hazardous waste landfill. This was never contemplated, and Metalclad issued a press release reporting the terms that had been agreed to, and announced by Medellin, in Newport Beach. The only issue outstanding at the time of the agreement reached in California was the length of time period that Metalclad would have to operate at La Pedrera site and find another site. The Metalclad Board wanted at least 5 years and Dr. Medellin insisted on 3 years. However, given Medellin's attempt to change the basic terms of the agreement without our consent, this became irrelevant.
29. I have been made aware that Dr. Medellin wrote to our Mexican counsel, Mr. de la Garza, on May 26, 1994, one day before said press conference, attempting to qualify his earlier public consent to the terms of our agreement and interjecting some additional terms that we had not agreed upon. Neither I, nor to the best of my knowledge, did anyone at Metalclad ever see the May 26, 1994 letter until it was submitted in the Counter-Memorial.
30. When I later questioned Medellin about why he had announced terms substantially different than those upon which we had agreed, he told me that he had done it so as to slowly introduce the idea to the people that a hazardous waste landfill would open. Thus, he announced it would open, but for a limited purpose.

SLOWING OF CONSTRUCTION AND POLITICAL EVENTS
DURING THE SUMMER OF 1994

31. Metalclad began doing preparatory work for the construction of the project and initiated the studies regarding the site characteristics requested by the UASLP commission on approximately May 16, 1994. Our construction contract called for completion in 16 weeks. The Board had anticipated that the construction and studies would be completed by September of 1994, when Metalclad could begin operating the facility.
32. Metalclad hired Dr. Jorge de la Torre's firm, GYMSA, to do the geological and

geo-hydrological studies. The studies took longer than expected to perform because the UASLP commission kept increasing the number of requirements. Dr. Leyva finally set the final conditions near the end of the summer of 1994 and promised that no more would be required. The work required by UASLP was completed in March of 1995, about the same time as the environmental audit.

33. Also in May 1994, we heard from Medellin that federal officials wanted us to proceed slowly and keep a low profile with our initial construction in recognition of the upcoming August presidential elections. The terrible tragedy of the Colosio assassination left these government officials understandably anxious. Even though the company had the requisite federal and state permits and thus had a right to begin construction of the landfill facilities, the current government did not want to provoke the possibility of controversy during this critical period. The Metalclad Board complied with this request out of respect for the support and assurances that the federal government had given us all along. The construction contract of 16 weeks now took 32 weeks.
34. Right after the elections on September 1, 1994, Miguel Limon Rojas, the federal attorney general for the environment held a press conference that Rodarte and I, along with Pedro Medellin, attended. In his statement, Limon publicly celebrated the accord reached between Metalclad and the San Luis Potosi state government to construct a hazardous waste landfill and to remediate the transfer station. (See Exhibit 16 to the Memorial).
35. Medellin attended the press conference and said nothing to contradict these terms. But, later in San Luis Potosi, Medellin denounced Limon's statement.

PREPARATORY CONSTRUCTION AND RELATIONS
WITH THE MUNICIPALITY

36. On or about June 6, 1994, Ariel Miranda, Salomon Leyva and Mike Tuckett met with municipal officials, representatives of the some of the ejidos near La Pedrera, and Pedro Medellin at the joint road to La Pedrera and Los Amoles, not far from the entrance to the landfill. Metalclad representatives told me later that the

municipality expressed their desire to have more control over the progress of the project. One of the things they wanted was the establishment of a supervisory committee to oversee the activities at La Pedrera. We affirmed that we had voluntarily suspended all construction activities and agreed to hold a formal meeting with the officials of the municipality to discuss a proposal to the community, which would include the establishment of an oversight committee.

37. On June 8, 1994, I wrote to the president of the municipality, Juan Carrera and explained that there were still matters regarding the transfer station that needed immediate attention, including but not limited to the repair of a small dam. I explained that the representative of the ejido El Huizache had specifically asked the General Director of COTERIN, Ariel Miranda, to continue making the repairs. As well, Mr. Miranda notified the municipality that it was finishing topographical studies at the site in accordance with the UASLP requests. (See Exhibits 3 and 4 attached to this declaration).
38. Thereafter, on June 13, 1994, I wrote to the president of the municipal government and outlined Metalclad's commitments to the remediation of the transfer station, the design and construction of the treatment facility, and Metalclad's suggestions for involving the community in the project. (See exhibit 75 to the Counter-Memorial and Javier Guerra's letter of July 7, 1994, which is attached hereto as Exhibit 5). I never received a reply from the Municipality.
39. The Board instructed Mr. Miranda that only construction necessary to maintain the cells in the transfer station and prepare for actual construction in the fall should be done during the summer. This was in keeping with our promise to the federal government to build slowly.

THE BEGINNING OF CONSTRUCTION AND THE ENVIRONMENTAL AUDIT

40. Once the presidential elections were concluded and after PROFEPA had publicly announced its support of the La Pedrera project, Metalclad began constructing the infrastructure for the landfill through Grupo Sitra S.A. de C.V. ("Sitra"), a British - Mexican joint venture construction company. At our request, Sitra hired

workers from El Huizache, Los Amoles, La Polvera, and El Entronque providing as many jobs as possible to the local community.

41. The beginning of the audit that Metalclad requested was formally announced on December 14, 1994.

THE MARCH 10, 1995 EVENT

42. The construction of the infrastructure was nearly complete in January of 1995 and was expected to be finished in March. The Board anticipated that the environmental audit and studies that GYMSA was conducting would be completed at the beginning of March as well.
43. With the opening near at hand, the Board decided to hold a grand opening celebration at the site. Metalclad wanted to show the facility to all who had backed the project to build the first fully permitted hazardous waste landfill in Mexico since the NAFTA, and celebrate its success with the local people who had helped build it and who would work at the site.
44. In January of 1995, I began the preparations for the inaugural event. We planned a tour of the facility in the morning and then a catered lunch afterward, with music provided by a mariachi band. I chose March 10, 1995 as the date of this event because both the audit and the GYMSA studies were to be complete by then.
45. During my work in Mexico, I went to see Dr. Medellin at his office in San Luis Potosi regularly. On average, I met with him at least four times a month. We discussed the progress of the landfill mostly, and I answered the questions that he raised.
46. It was on one my regular visits to see Dr. Medellin in early February of 1995 that I discussed with him the proposed date and showed him a draft of the invitation. He approved of both and said that both he and the Governor would attend.
47. After this meeting, I went forward with the planning of the event. I sent invitations to officials at SEMARNAP, PROFEPA, and INE, to the municipal president of Guadalcazar, the U.S. Embassy in Mexico, the NAFTA office of the Mexican Embassy in Washington D.C., and Metalclad investors in the U.S. and

Europe, among others, some of which I personally delivered.

48. Later that February, I sent a follow-up letter to the Governor further explaining Metalclad's intentions for holding the grand opening through Mr. de la Garza and Pedro Medellin. It was not until after the event had taken place that I became informed that the Governor never received the letter. Incidentally, this letter also thanked him for a meeting of February 18, 1995 held at the Governor's palace, which the Governor now denies ever having taken place.
49. It was not until one week prior to the event that Medellin informed me that Governor Sanchez would not be attending. Then, 2 days before the event, Medellin said that he would not attend and said I should cancel it because the audit was not yet complete. I had already sent the 300 plus invitations, made major preparations, and the travel plans and schedules of many people had been made.
50. I was taken aback by Medellin's request given that we had obtained his unqualified approval over a month in advance and this was such short notice. In a meeting I had with him the day before the event, he reluctantly said Metalclad could hold the event if it was called a "facilities tour" instead of a "grand opening." Even though there was no legal requirement to have the state government's approval for this event, Metalclad adhered to Medellin's wishes.
51. Although I was aware that there was some opposition to the opening of the landfill, such as by Angelina Nunez' group, Pro San Luis Ecologico, all of our work in the local communities indicated that the community supported the project. Most of the workers who had helped construct the landfill, as well as the personnel who had been trained to work at the landfill for the operations period were from the nearby community. Given the local support for the project, it is my opinion that the demonstrators at the landfill on March 10, 1995 were not from the neighboring vicinity, and the demonstrators were paid and organized at the hands of the state and local governments. After all, Governor Sanchez and Dr. Medellin had made it plain that they controlled the municipality as well as Pro San Luis

Ecologico, and that they could persuade them to accept, or not, the opening of the landfill.

52. For weeks after the facilities tour, state police in marked vehicles would park outside the gates to the site on a regular basis and stop and inspect vehicles coming to and from the site.
53. To confirm my suspicion that the state government was now actively trying to delay the opening of the site by this police harassment, I devised a ploy. I arranged for empty trucks to enter and exit the site. The state police were frustrated at not finding anything in the trucks—especially hazardous waste—since they were empty.
54. COTERIN's application for an amparo was unsuccessful to prove that the Governor was trying to impede the operations at the site. However, the federal court decision implicitly admitted that such inspections had taken place. (See Mr. Sanchez witness statement at p. 16 and exhibit 30 to his statement). I perceived this form of harassment as an indicator of further state government opposition to opening of the landfill yet to come.

THE RESULTS OF THE AUDIT AND THE EXPERT REVIEW OF THE AUDIT

55. Contrary to what the Governor says in his witness statement, Javier Guerra, Rodarte, Mr. de la Garza, and Ramiro Zaragoza met with the Governor and Pedro Medellin to discuss the progress of the audit and the GYMSA studies on February 18, 1995. The meeting was positive, as both Medellin and Zaragoza spoke favorably of the project. The Governor said he would make a decision on the landfill when he had the results of the GYMSA studies.
56. The results of the audit were finalized on March 28, 1995 and were favorable to the operation of the landfill on the La Pedrera site. Eleven volumes of data were submitted to Antonio Azuela, Federal Attorney General for the Environment. The audit identified the remediation issues of the transfer station. And it concluded that since its acquisition of the project, Metalclad had complied with, and in some instances exceeded Mexican NOMs. The audit found that the characteristics of La

Pedrera were highly compatible with the siting of a hazardous waste landfill. (See exhibit 4 attached to the Memorial, SEMARNAP "To the Public Opinion"; see also exhibit 98 to the Counter Memorial).

57. At a meeting that Rodarte and I attended where GYMSA and Radian officials presented the results of their work to Dr. Medellin and his staff, Medellin said to all of his aides in attendance and us that he had not expected the results to be so good. He stated that "Now we have our work cut out for us. We must explain to the people that what we have been telling them all along was not true."
58. Rodarte and I reminded Medellin of the Governor's promise that he and Medellin would take care of convincing the local community (i.e. they had told us to stay out of the community and leave it to them since they controlled the municipality and Pro San Luis Ecologico) if Metalclad handled the technical aspects — getting the UASLP's approval on the geological aspects of the site. I told Pedro that I had fulfilled our end of the bargain and now it was time for he and the Governor to fulfill theirs.

STUDIES REQUESTED BY THE COMMISSION ARE COMPLETED

59. In or about March of 1995, GYMSA prepared a final report after having completed the tests requested by the UASLP commission. The members of the commission reviewed the results and found them satisfactory.
60. In light of this, I asked Jaime Valle Mendez, acting president of the University, to recommend that the commission prepare a final report in completion of the task the Governor had requested and to get the imprimatur of the university. The Governor had ordered that the results not be published, and President Valle said he could not sign off on the results of the studies without Governor's approval.
61. The reason for the formation of the Commission and the goal of the studies was to satisfy the Governor, Medellin, and, hence, the community that La Pedrera was technically suitable for the location of a hazardous waste landfill. The GYMSA studies had shown this through the extensive tests required by the UASLP commission. After having spent hundreds of thousands of dollars to conduct the

tests to confirm what we already knew, and at considerable delay to the project, I was now told the university would not issue a report, even though this had been clearly contemplated as part of the initial agreement with the state government.

62. Respondent claims the report was not issued because Metalclad refused to do the further tests. That is not true. A letter from Dr. Leyva confirmed that the additional tests were not necessary for the commission's publication of a final report on La Pedrera—if the commission were to prepare and publish a report, the Governor would have no excuse for not supporting the project, and this was not simply not an option. (See exhibit 6 attached hereto).

63. I cannot conceive why Sanchez would request that a commission be formed to study and verify the characteristics of La Pedrera, ostensibly so that he could be sure his support was justified and reasonable for the people of Guadalcazar, only to have the entire work product go unpublished and unnoticed. I did not understand his motivation in this circumstance or on many other occasions that he would support the La Pedrera project and then find reasons to denounce it.

64. Because of the tremendous effort the university commission had gone through in formulating and designing the tests for the evaluation of the site's characteristics, which included the inspection of the similar landfill in California, and because he felt the Governor had used the commission for his own political motives and thus compromised the serious work of these professors, Dr. Leyva resigned his post in protest.

DE LA GARZA'S FALSE ACCUSATION OF KESLER'S

ATTEMPT TO BRIBE THE GOVERNOR

65. Contrary to Mr. de la Garza's witness statement, the meeting he claims took place in his offices in San Luis Potosi on April 28, 1995 with Mr. Kesler, Dr. Rodarte, and me *never* took place.

66. Instead, what actually happened was that Mr. Kesler and I decided to terminate Metalclad's business relationship with Mr. de la Garza after Mr. Kesler, over a two-week period, was unable to get a special trip to Mexico and to San Luis

- Potosi to meet with de la Garza, and for almost two weeks, Mr. de la Garza never saw fit to return Mr. Kesler's phone calls. Mr. Kesler was finally able to meet with him just before leaving Mexico on or about April 4 or 5 of 1995.
67. This was a particularly crucial time for the company. Construction of the project was nearly complete. The results of the audit and UASLP studies were concluded. Still there was no sign from the state government of when Metalclad could begin operations.
68. Metalclad had retained Bufete de la Garza for the express purpose of dealing with Governor Sanchez. (See exhibit 23 to Mr. de la Garza's witness statement). We knew that we were not legally obligated to obtain the Governor's support, but politically, La Pedrera could not begin operations and hope to survive in the face of the Governor's opposition. It was imperative now more than ever that the company maintain contact with Governor Sanchez *through de la Garza*. Not only was it difficult to get an appointment with the Governor, but also Mr. de la Garza had written me a letter in November 18, 1994 stating his pique that the company had accomplished some previously-agreed tasks in San Luis Potosi without de la Garza's intercession, and thus it was necessary to go through him to see the Governor if we wanted his counsel. (See exhibits 29 and 30 attached to Mr. de la Garza's statement).
69. Both Grant and I felt Mr. de la Garza was not living up to his commitment to give our matter the time and attention necessary to help us gain the Sanchez administration support and advise us in this regard. We both decided therefore, that, it was best to terminate our professional relationship with him. Grant drafted the letter upon his return to California, and had it translated in one of our Mexican offices thereafter. I sent Ariel Miranda to personally deliver the letter to Mr. de la Garza on April 28, 1994. As the Tribunal can plainly see, the letter was signed as "received" by the de la Garza firm on the same date. (See exhibit 7 attached hereto).

70. Mr. De la Garza's claim that April 28, 1995 is the date of the purported last meeting we held with him at his offices is untrue.
71. His claim that Mr. Kesler asked him to bribe the Governor is false.
72. De la Garza lies in stating that the letter firing him was backdated. His own receipt exposes him.
73. I affirm that there was no meeting on April 28, 1994 and that Mr. Kesler never, at any time, asked Mr. de la Garza to bribe the Governor nor anyone else.

NEGOTIATIONS WITH THE FEDERAL GOVERNMENT
TO REMEDIATE AND OPERATE

74. One of the components of the environmental audit allowed the company and the federal government to make an agreement on the plan for remediation and operation of the hazardous waste management facility at La Pedrera. We began those discussions on October 5, 1995 and signed an agreement on November 24, 1995.
75. In October of 1995, the Secretary of SEMARNAP, Julia Carabias, called me at my home in California. She informed that President Zedillo would be attending a meeting in Washington D.C. at the invitation of the U.S. Chamber of Commerce. The meeting was important since it could bring additional investment to Mexico.
76. On this same trip, President Zedillo was to meet with President Clinton. Since the Spring, Mr. Kesler had been in contact with several U.S. Senators and Congressmen as well as an advisor to President Clinton, Thomas F. McClarty, regarding Metalclad's inability to get confirmation of a clear date of when we could begin operating the now fully constructed landfill. The result of Mr. Kesler's efforts led to the inclusion of the La Pedrera project as one of the items on the meeting agenda for the two presidents.
77. In our long telephone conversation, Secretary Carabias explained the importance of the meeting. She asked me to speak with Mr. McClarty and have the Metalclad matter taken off the agenda of the presidential meeting. She did not want President Zedillo to be embarrassed at the Chamber meeting or the meeting with

President Clinton by the suggestion that SEMARNAP had not followed through with its commitments under NAFTA.

78. Carabias explained that she was dedicated to getting the landfill opened, that Metalclad was on the right track, and that she personally would support the opening.
79. I accepted her promise to help Metalclad open the landfill and agreed to do as she asked. I also expressed Metalclad's support for President Zedillo, the NAFTA, and U.S.- Mexico relations, and said that Metalclad was there because we believed in Mexico.
80. A few weeks later, Metalclad signed the November agreement with SEMARNAP for the remediation and operation of the landfill at La Pedrera. Contrary to what Mr. Azuela says in his witness statement, the federal government always contemplated the Sanchez administration signing the agreement (even if they did not formally participate in the negotiations). I knew that SEMARNAP wanted a unified agreement because Mr. Azuela told me that he would get the Governor to sign the agreement and commit to the opening of the landfill. However, both Governor Sanchez and Pedro Medellin were unresponsive and the agreement was nevertheless concluded without the state government.

THE FEDERAL GOVERNMENT'S PRIMACY TO ACT
IN THE AREA OF HAZARDOUS WASTE DISPOSAL

81. I am aware that the Respondent now contends that the federal government did not have primacy over the area of hazardous waste disposal in Mexico. I would like to say that during the entire time I was involved in Metalclad's efforts to establish the right to build a hazardous waste management facility and open it for operations, the federal government officers of Mexico always assured me that they had ultimate, legal authority, to deal in this area. In fact, that was one of the premises of the environmental audit—to confirm that Metalclad was in compliance with all federal norms, and as such, would be allowed to operate the facility. Their work with Governor Sanchez to gain his political support was an effort for

intergovernmental harmony.

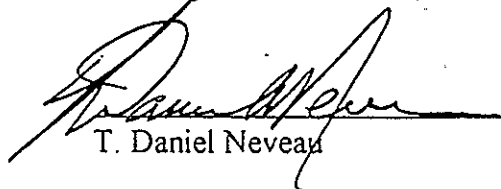
82. Moreover, after the agreement with SEMARNAP was concluded in November of 1995, the federal government reaffirmed its primacy in the area by issuing another operating permit to COTERIN, increasing the capacity by tenfold, without consulting the state or municipal governments.

ACCUSATIONS OF POLITICAL ACTIVITY

83. I would also like to state that Mr. Serrato's assertion that I said Metalclad would never again support political candidates in Guadalucazar in an October 1995 meeting is a lie. Metalclad had never financially or politically backed any candidate for political office in Guadalucazar or the state of San Luis Potosi. The only activities we had in the local community and Guadalucazar involved convincing the municipal officials and the community of how the landfill would benefit them through the community awareness program and our proposals. The only campaign we ever waged was an information campaign to counter people like the municipal president and Angelina Nunez who would lie to influence the people.
84. Metalclad also hired Mr. Salomon Leyva as a consultant to help conduct public relations in the community to accomplish this purpose. To my knowledge, Mr. Leyva did not engage in any political activities.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 20, 1998 at Marina del Rey, California.


T. Daniel Nevean