

COURTESY TRANSLATION OF THE WITNESS STATEMENT OF
FERNANDO BEJARANO GONZALEZ

1. I obtained my Bachelors Degree in sociology from the Universidad Iberoamericana, and a Masters Degree in Rural Development from the Colegio de Postgraduados de Ciencias Agricolas.

2. In 1992, I joined Greenpeace as consultant to evaluate pesticide use in Mexico. Thereafter, in 1993, I was asked to open the Greenpeace Office in Mexico and I became the Coordinator for the Campaign on the Hazardous Waste Program in Mexico from 1993 to October, 1996.

3. Angelina Nuñez of Pro San Luis Ecologico, an environmental organization, was the person who originally informed Greenpeace Mexico of the hazardous waste landfill problem in La Pedrera, Guadalcázar, San Luis Potosí. As a result of a meeting of environmental groups in Mexico City organized by Greenpeace, we became more aware of the problem. Together, 17 organizations including Pro San Luis Ecologico, sent a letter to the National Institute of Ecology dated January 27, 1994, requesting information about COTERIN-Metalclad, Eco Administración, S.A. de C.V. INE responded on February 18, 1994. A copy of the official letter is attached as Exhibit 1).

4. Dra. Angelina Nuñez kept us informed about the problem. One year later, I was shocked by the news published in the *Reforma* Newspaper on March 11, 1995 (Exhibit 2) concerning the opening of the La Pedrera landfill. I called Ariel Miranda of COTERIN and, afterwards, sent him a letter dated March 14, 1995 (Exhibit 3) requesting a guided visit of the facilities at the La Pedrera landfill, along with some members from environmental organizations and representatives from the municipality and the community. I also requested a copy of the Environmental Impact Statement and their Remediation Plan. On March 15 he responded and informed us that we could the visit site on March 16, 1995. The Environmental Impact Statement and their Remediation Plan were at PROFEPA for review and unavailable. However, once reviewed and agreed to, they would be happy to discuss the respective details. A copy of this letter is attached as Exhibit 4.

5. The first act in which Greenpeace formally participated in San Luis Potosí, was the visit to the hazardous waste facility on March 16, 1995. Since that time, I could tell that the community was well organized. On that date, approximately 200 or 300 people gathered at the entrance of the hazardous waste landfill. They were carrying placards requesting Greenpeace support. It is my understanding that Metalclad alleges that this was a violent demonstration, in which the people were intoxicated and carrying guns. This is completely false. Only 6 or 7 people were allowed to enter, including Hermilo

Méndez, a resident of Guadalcázar who had always led the opposition to the landfill, Dra. Angelina Nuñez of Pro San Luis Potosí, and myself were included. The visit and the demonstration were carried out in an orderly manner. None of the demonstrators were carrying guns or intoxicated. Nobody was transported in state owned vehicles, in fact, there were not any state or municipal authorities present. We all arrived there through our own means. On behalf of Metalclad were Mr. Humberto Rodarte Ramón and Mr. Javier Guerra. The rest of the people remained outside. Some of them went to a mountain bordering the landfill for a better view.

6. During our visit, we were informed about the landfill characteristics and the technology that would be used there. Guerra and Rodarte stated that the project had the Mexican government's support. Metalclad's representatives spoke poorly of Hermilo Méndez. They told me that the opposition organizers were corrupt people and that they asked the company for money, but that the company refused.. I know Hermilo Méndez personally.. He is an honest and religious individual, a dedicated worker and a natural leader. Hermilo is a strong and moral leader in the opposition movement. Moreover, he has endured great personal sacrifice, given that he is a person of limited income(at that time, he was a construction worker). He knows the region very well and played a very important role in calling the community together to express themselves in a united way. A witness statement from him could be very valuable.

7. After the visit was concluded, Dra. Nuñez spoke to the crowd and the demonstration was over.

8. I understand that Metalclad alleges that on March 9, Pedro Medellín met with some of Metalclad's representatives, Guadalcázar's Municipal President and some other people with the purpose of organizing the demonstration the day of the opening ceremony. This is absolutely false, we were called with such purposes. As I already stated, the first act in which Greenpeace participated was the visit to the site on March 16. Even though I was not present, I understand that on March 10th, Metalclad tried to open the landfill notwithstanding the community's complete opposition, resulting in a peaceful demonstration.

9. On March 17, 1995, Greenpeace issued its first press release, published on March 18, 1995. The announcement stated that there was legitimate opposition to the project and that the complaints should be addressed by the company. We also mentioned the attempted opening of the hazardous waste landfill without any prior authorization. A copy of the press release published on March 18, 1995 is attached as Exhibit 5.

10. I understand that Metalclad claims that there was no major opposition to the project, and, that, instead, the majority of the population supported them. Metalclad alleges that the demonstration against the opening of the landfill was organized by state and municipal officials and that the participants were brought in from other localities in

state owned vehicles; and were remunerated for participating in the demonstration. I can say that I do not consider Metalclad's allegation credible. Greenpeace has a worldwide presence. It is known that we act in the genuine defense of the environment irrespective of any political or economical interests. I can affirm that the interests of Pro San Luis Ecologico are legitimate as well.

11. The national and international opposition to the landfill was obvious. This is shown by the Opened Letter sent to Julia Carabias, Secretary for the Environment, Natural resources and Fishing (SEMARNAP) signed by more than 100 groups, including *ejido* representatives and the communities of Guadalcázar, environmental groups and social organizations of the country (Exhibit 6). In the same way, on November 3, 1995, it was demanded that the same Secretary declare the site where the hazardous waste landfill is located in Guadalcázar, to be designated as a protected ecological area. This letter was signed by more than 30 national and international organizations (Exhibit 7).

12. Since March 16, 1995, Greenpeace participated in 3 or 4 demonstrations in Guadalcázar, San Luis Potosi, in Mexico City (on one occasion, we symbolically closed PROFEPA's offices in Mexico City). In none of these events were we ever paid by public officials. The participants, the majority of them women, were genuinely concerned about their health and the environment.

13. The demonstrations were also held in the United States. Greenpeace Mexico requested the support of Greenpeace United States in Los Angeles, Chicago and Washington. On August 22, Greenpeace United States together with the *Madres del Este de Los Angeles* and a group representing around 80 organizations opposed to hazardous waste in California, demonstrated in New Port Beach, California, in front of Metalclad's headquarters (Exhibit 8). In Washington, a press release was issued in which they requested that Congressman Paul Simon and United States Ambassador in Mexico, James Jones withdraw their support for Metalclad (Exhibit 9). See the newspaper article dated August 22 reporting this (Exhibit 10).

14. The La Pedrera hazardous waste landfill in Guadalcázar represents a serious environmental problem. It holds more than 20 thousand tons of hazardous waste in inadequate conditions and needs to be remediated to deposit the hazardous wastes in a more appropriate site.

15. After the visit and thanks to the community pressured and the joint mobilization in San Luis, there was a meeting in PROFEPA's headquarters in Mexico City which was attended by the representatives of Guadalcázar, Grupo Pro San Luis Ecologico and Pedro Medellín. We asked Mr. Antonio Azuela if we could have access to the results of the Environmental Audit to review it; to which he agreed so long as Metalclad consented. The review of the Environmental Audit was done by soil experts as well as by the geology expert Dra. Fernanda Campa from the Department of Earth Sciences at

the Autonomous University of Guerrero. The results of this evaluation were set out in a document called "*Dictamen Ciudadano a la Auditoria Ambiental a la Eustachian de Transferencia de Residuos Peligrosos*" (Citizen's Report on the Environmental Audit of the Hazardous Waste Landfill Facility) (Exhibit 11) in which it was concluded that the site was unsuitable for the reopening of the hazardous waste facility in La Pedrera, and the regulatory violation are also set out. Regardless, the PROFEPA's officials decided not to continue with the technical study and, instead, opted to support the political decision to reopening the landfill, supported with the rushed opinions of other academic institutions. Further they ignored the opinion of the Director of the Biological Research from the UNAM, Hector Hernandez, who wrote a letter to Secretary Carabias dated September 19, 1995, informing her that Guadalcázar was comprised of the most diversified area of Cactuses of the Gran Desierto Chihuahuense (Central Altiplano)(Exhibit 12).

16. Further, after the signing of the agreement entered into between INE, PROFEPA and COTERIN, Pedro Medellín called a meeting with the geologists of UNAM, Autonomous University of San Luis and Dra. Fernanda Campa, in which they concluded that the site had serious deficiencies. However, I believe that they did not conduct a sufficiently in depth study. With strong technical and legal arguments, the agreement could had been stopped. In my opinion, the Federal Government committed very serious errors, they sacrificed the community's interest and the community's interest by caving into Metalclad's politic pressures, the United States Ambassador James Jones, Congressman Paul Simon and the First Analysis Corporation of Chicago through letters they published in San Luis Potosi's local press.

17. During the time I participated in Greenpeace with regards to the hazardous waste landfill, I never had any direct communication with Governor Sánchez Unzueta. I only had personal contact with him during the event in which the monument of Benito Juárez, was erected where we exchanged a greeting. The Governor had always being very respectful of the activities of environmental groups.

18. I had a closer relationship with Mr. Pedro Medellín. He was an academic from the Autonomous University of San Luis with whom I had conducted an interview with for a video produced by Greenpeace regarding the importation of hazardous wastes, including San Luis Potosí. In my opinion, he is a serious academic and an honest man, with high moral values. I believe that he had to face a very serious problem, and that he did it in the appropriate way, given the circumstances of the case.

19. The argument about the company called Residuos Industriales Multiquim, S.A. de C.V. (RIMSA) sponsoring Greenpeace activities is absolutely false. I want to emphasize that I do not know any representatives from that company and Greenpeace has never been sponsored by it. This argument lacks of credibility. Greenpeace's integrity and the legitimacy of their interests is unquestionable.

20. The public opposition as well as the criminal claim submitted by Greenpeace were prepared after a very in depth legal evaluation of the entire process by the Greenpeace team. José Juan González Márquez, a Greenpeace lawyer, and former President of the Mexican Academy of the Environmental Law, who also previously worked at PROFEPA was an expert of the procedure and led it accordingly.

21. Greenpeace Mexico submitted three claims. The first before the Procuraduria General de la Republica (General Attorneys Office), in a complaint against the federal environmental authorities having entered into an agreement with Metalclad despite the environmental crimes committed by COTERIN. For having given into the pressure of United States, thereby acted beyond the law, the community and the ecology. Metalclad's problem was the pressure of its stockholders that realized their confidence had been breached and the company never considered the community. The second claim was submitted before the Comision Nacional de Derechos Humanos (National Commission for Human Rights), for the infringement of human rights. The third claim was submitted to the Secretaria de la Contraloria y Desarrollo Administrativo de la Federacion (Secretary for Controlling and Administrative Development of the Federation), in a complaint against the abuse of power by the officers involved. A press release dated February 2, 1996 is attached as Exhibit 13.

I make this witness statement with the intention of providing evidence to assist the Tribunal in resolving this conflict. I am aware that I may be called to provide further testimonial evidence and to be cross-examined on the evidence that I have presented. I make this declaration with the promise to tell the truth and in those areas where I have testified on matters which I did not witness directly, I declare that the information contained in my witness statement is in my understanding and to the best of my knowledge the most accurate information.

SIGNED IN THE ORIGINAL:

Fernando Bejarano González

