

1                                    LEONEL RAMOS TORRES

2            was called as a witness and, having first solemnly declared, was  
3            examined and testified, through the interpreter, as follows:

4                                    PRESIDENT LAUTERPACHT: Mr. Pearce?

5                                    MR. PEARCE: Thank you, sir.

6                                    CROSS-EXAMINATION

7                                    BY MR. PEARCE:

8                                    Q        Good evening, Mr. Ramos.

9                                    A        Good afternoon.

10                                    Q        My name is Clyde Pearce. I am one of the attorneys for the  
11            Claimant in this case, and I am going to ask you some questions about  
12            testimony that you have given in this case.

13                                               You have given two Witness Statements in this case;  
14            correct?

15                                    A        Yes, that's so.

16                                    Q        And have you read those statements over in preparation for  
17            your testimony here today?

18                                    A        Yes, sir.

19                                    Q        And having read them, sir, do you today reaffirm what you  
20            have testified in both your Counter-Memorial and your Rejoinder  
21            Statements?

22                                    A        Yes.

1 Q Did you, sir, review any other documents in preparation for  
2 your testimony here today?

3 A Yes, but it's almost exclusively based on what I've already  
4 declared.

5 Q What other documents did you review?

6 A With respect to the same case.

7 Q Yes, sir. And can you tell me specifically what those  
8 documents were?

9 A Well, it's all based on my statements or on something which  
10 is consistent with my statements.

11 Q Did you review the statements of any other witnesses?

12 A No; only my own.

13 Q Did you review any of the pleadings?

14 A Only our own.

15 Q Would that be the Counter-Memorial?

16 A Yes, and I would repeat it is with respect to the same  
17 thing.

18 Q And also the Rejoinder?

19 A Yes.

20 Q Did you read anything from the Memorial?

21 A Yes.

22 Q And anything from the Reply?

1 A Yes.

2 Q Did you meet with anyone from the Government of Mexico, any  
3 of their lawyers or their staff?

4 A We have talked.

5 Q And did they review with you your testimony for today?

6 A Yes, of course, although any testimony I give is solely my  
7 own.

8 Q Certainly. Did they advise you on how to answer any  
9 questions?

10 A Well, yes, but I repeat the testimony is solely my own.

11 Q Did anyone suggest to you what questions might be asked of  
12 you today?

13 A No, no, of course not, because I didn't know what I was  
14 going to be asked.

15 Q Did anyone suggest to you what areas of inquiry might be  
16 pursued in your examination today?

17 A No. I believe, or I thought, that those subjects would be  
18 the same of those on which I gave testimony.

19 Q Mr. Ramos, you served as the Municipal President in  
20 Guadalcazar for approximately two years; is that correct?

21 A Yes.

22 Q And what is your current occupation, sir?

- 1           A       Farmer and merchant.
- 2           Q       Was the job of Municipal President a full-time job?
- 3           A       Yes.
- 4           Q       Were you paid a salary as Municipal President?
- 5           A       Yes, yes, fees.
- 6           Q       How often did the ayuntamiento meet?
- 7           A       Monthly, and there was a monthly meeting of the Cabildo
- 8       [ph.].
- 9           Q       And did you meet with the ayuntamiento in their monthly
- 10       meetings?
- 11          A       Yes. I chaired the meeting.
- 12          Q       And also the cabildo?
- 13          A       Yes.
- 14          Q       What was the operating budget for your Municipality during
- 15       each of the years you were Municipal President?
- 16          A       I don't recall exactly the number, but it was something
- 17       important, what was given to me.
- 18          Q       Can you give me an idea what it was?
- 19          A       I repeat, I don't recall.
- 20          Q       You have no idea, sir, what your annual budget was for the
- 21       years that you were Municipal President?

1           A       There was--there was a budget for expenditures and revenues  
2 that was done, and it was something--and it was for the Federal  
3 Government.

4           Q       I'm sorry--it was from the Federal Government?

5           A       Yes. The Federal Government gives the participation to the  
6 Municipality.

7           Q       Is it also correct, sir, that the State Government must  
8 review and approve your budget?

9                   PRESIDENT LAUTERPACHT: Yes, Mr. Perezcano?

10           MR. PEREZCANO: There was a mistake in the interpretation.  
11 I understand that Mr. Ramos said that the Town Council made a proposal  
12 for the State Government and for the Federal Government, not from the  
13 Federal Government to the cabildo, the Town Council.

14                   PRESIDENT LAUTERPACHT: Thank you. the correction will be  
15 noted.

16                   Mr. Pearce?

17                   BY MR. PEARCE:

18           Q       I'm not sure where we are with the answer now. Is the  
19 answer that the money comes from the State Government?

20           A       The Federal Government is the one that contributes with the  
21 majority of the resources.

1 Q Is it correct that the State Government must review and  
2 approve your budget?

3 A The Government of the State, no; the local Congress will  
4 review the budget.

5 Q What portion of the money for your yearly budget came from  
6 the San Luis Potosi State Government?

7 A It's very difficult to say or to speak about a percentage,  
8 but I would say that more or less, it would be 25 or 30 percent.

9 Q And just so that I can try to understand correctly, if I  
10 remember what Mr. Perezcano was saying, the Municipality would make  
11 application to the State, and the State would submit a budget to the  
12 Federal Government?

13 A Yes, that's it.

14 Q Thank you. And isn't the Governor the person who has a lot  
15 of influence about how much money is going to be asked for from the  
16 Federal Government?

17 A No. I think it depends--it depends on the budget or the  
18 participation that is given to each of the Municipalities. It depends  
19 on the Federation and each of the States.

20 Q And doesn't it also depend on the application made from the  
21 State to the Federal Government?

22 A The Congress does this.

1 Q Mr. Ramos, I would now like to ask you a few questions--

2 MR. PEARCE [To Interpreter]: If you'll let me phrase a  
3 little longer, we'll be okay.

4 THE INTERPRETER: Of course.

5 BY MR. PEARCE:

6 Q --a few questions about the testimony you have already  
7 given in this case. And I would like to begin by asking you about the  
8 negotiations in late 1996 and early 1997 that led to what has been  
9 referred to in this case as the Acuerdo.

10 You participated in the negotiations in October 1996  
11 regarding the circumstances under which the landfill at La Pedrera  
12 might open; correct?

13 A Yes, sir.

14 Q And did these negotiations, Mr. Ramos, take place at  
15 Government House?

16 A Yes. The Government gave us the place where we could  
17 undertake this.

18 Q Is this the Governor's office?

19 A No, no. This was his house, not the office.

20 Q The Governor's house?

21 A Yes, the house of the Governor; there is a house.

22 Q At whose invitation were you there?

1           A       The Governor was the one who initiated this to see if there  
2 could be an agreement and the discussions.

3           Q       Other members of the ayuntamiento were present with you,  
4 were they?

5           A       The first time, I think not; afterwards, I believe so.

6           Q       Was anyone else with you the first time?

7           A       I don't recall. I don't think so.

8           Q       Do you recall who else was in the meeting with you the  
9 first time?

10          A       No, I don't recall.

11          Q       Were you and the other members of the Town Council acting  
12 as representatives of the community of Guadalcazar?

13          A       That sole cabildo also intervned in the agreement.

14          Q       And I'm sure that it's correct that you and the members of  
15 the Town Council were there in good faith?

16          A       Of course.

17          Q       And that you conducted your part of the negotiations in  
18 good faith?

19          A       Yes.

20          Q       During these discussions, these negotiations that went on,  
21 did you discuss the issuance of a municipal construction permit for La  
22 Pedrera?



1           A       Well, yes, yes, we discussed it. As a matter of fact, this  
2 has nothing to do with the Acuerdo; this was after the Acuerdo.

3           Q       That it was--

4           THE INTERPRETER: Yes--I believe he had said "before."  
5 Wait a minute.

6           THE WITNESS: It was in 1991-1992--in '96.

7           BY MR. PEARCE:

8           Q       Let me see if I can ask another question and clear up my  
9 mind.

10           At these negotiations at Government House that began in  
11 1996, were there discussions concerning the issuance of a municipal  
12 construction permit for La Pedrera?

13           A       Yes, would you repeat that, please?

14           Q       During the negotiations that took place at Government House  
15 in 1996 in which you participated, isn't it true that there were  
16 discussions concerning the issuance of a municipal construction permit  
17 for La Pedrera?

18           A       In the Agreement, or the discussions--in the discussions  
19 that we had to formulate this Agreement of Understanding, this  
20 construction permit was not mentioned.

21           Q       Let me see if I can be a little clearer, although that gets  
22 more difficult as it gets lighter. I'm not asking if it was included

1 in the Agreement itself but if it was discussed during the meetings  
2 that were held.

3 A The first thing that we tried to do was to reach an  
4 Agreement of Understanding. After that, and depending on the  
5 discussion, one would see if the construction permit would or not be  
6 issued.

7 Q So I take that as a yes, that it was discussed in some form  
8 or another in your--in negotiations?

9 A No, it was not discussed, because the first thing we wanted  
10 to reach was actually an agreement, a dialogue, an agreement in order  
11 to remediate the question or the issue of a construction permit is not  
12 mentioned in the Agreement of Understanding.

13 Q Let's look at your testimony at page 4, the second  
14 paragraph of your Counter-Memorial Declaration--page 4, paragraph 2, in  
15 English.

16 Do you have that, sir--and when I say the second paragraph,  
17 I'm referring to the second full paragraph, so it's near the bottom.

18 A [Pause.] Here, it's been said that there was a request,  
19 but this was denied--

20 Q There is no question before him at this point, other than  
21 if he has read that paragraph.

22 Have you, sir?

1           A     Yes.

2           Q     In that testimony, you state: "During my administration  
3     and all others, the Municipality has always held that the company did  
4     not have a municipal construction license and much less a municipal  
5     license to operate, which were the essential requirements set out in  
6     the Ecological and Urban Code of the State of San Luis Potosi and in  
7     the Financial Act for the Municipalities of the State of San Luis  
8     Potosi."

9                     Does that remain your testimony even today, Mr. Ramos?

10          A     Yes.

11          Q     And what do these laws set out as essential requirements?

12          A     Well, first of all, this license was denied since the  
13     landfill had been closed. It was also denied because it did not comply  
14     with the regulations since the company had committed a series of  
15     irregularities--excuse me--because they were requesting a license when  
16     they had already built.

17          Q     Let me see if I can refer back to your testimony that you  
18     just read in that paragraph, where you talked about "essential  
19     requirements" set out in the law. And I am asking you, sir, what do  
20     these laws set out as essential requirements?

1           A       That there should be no problems as the ones that are  
2 considered in that request, and that is with regard to ecological  
3 matters.

4           Q       And is it your position, sir, that those requirements are  
5 in either the Ecological Code or the Financial Code, or both?

6           A       Yes. Yes, sir, they are provided for in there.

7           Q       A moment ago, you said that the company had done things to  
8 violate regulations. What regulations did you refer to, sir?

9           A       In order to begin construction, the construction permit was  
10 needed. The corporation built without that permit.

11          Q       Any other violations?

12          A       From an ecological point of view, and that is not my  
13 specialty.

14          Q       But what were those ecological violations?

15          A       To have dumped 55,000 drums outside, in open air.

16          Q       And what regulation did that violate?

17          A       Well, the inspection regulation.

18          Q       It violated a construction regulation?

19          A       Yes. I repeat, they had the facilities they had already  
20 built without the benefit of a license.

21          Q       In terms of the ecological violations that you say  
22 occurred, were those violations of the Federal law?

1           A       This was from the very beginning an ecological problem.

2           Q       Yes, sir, but my question is were there ecological  
3 violations that were in violation of the Federal law.

4           A       Yes--you've made it very repetitive, but the violation is  
5 that they had already built without having the corresponding permit. I  
6 have stated this several times.

7           Q       So is it your testimony, sir, that the only violation of  
8 the company was to have built without the construction permit?

9           A       That is so, and then it was cancelled, the permit was  
10 cancelled by SEDUE.

11          Q       In that same paragraph 4 of your testimony, you continue by  
12 stating: "The company had already requested the construction license  
13 twice, and on both occasions, it was denied because they did not  
14 fulfill the legal requirements."

15                   What legal requirements, Mr. Ramos, did they not comply  
16 with when the first application was made, before there was any  
17 construction?

18          A       You said before the construction, correct, in 1991?

19          Q       Yes.

20          A       Well, in 1991, there was another Town Council which denied  
21 that right.

1           Q       Yes, sir, that may be correct, but you testified that it  
2 was denied twice because legal requirements weren't fulfilled. Now,  
3 having said that, I am asking you what legal requirements weren't  
4 fulfilled with the first denial.

5           A       Well, they were the ecological requirements.

6           Q       And what were those?

7           A       Well, a series of things, irregularities, as what I have  
8 said before.

9           MR. PEARCE: This is a good place for me to break, Mr.  
10 President, if it's good with you.

11           PRESIDENT LAUTERPACHT: Fine. Mr. Pearce would like to  
12 break off now, at 6:27, so we'll break off here and resume tomorrow  
13 morning at--we'll go back to the original timing--9:30, please,  
14 tomorrow morning.

15           Now, the witness will be--he can't be exactly sequestered,  
16 but what does one do about--

17           MR. PEREZCANO: Yes, I'm going to ask, Mr. President,  
18 someone to accompany Mr. Ramos back to his hotel.

19           PRESIDENT LAUTERPACHT: Someone who has not been involved  
20 in the case.

21           MR. PEREZCANO: A representative of the Embassy, but they  
22 have been present here.

1                   PRESIDENT LAUTERPACHT: Naturally, they accept the  
2 assurance.

3                   MR. PEREZCANO: Thank you.

4                   PRESIDENT LAUTERPACHT: And perhaps I should explain to Mr.  
5 Ramos that this little bit of discussion that there has just been  
6 between Mr. Perezcano and myself relates to the fact--not the fact--the  
7 requirement that you must not discuss the case with anybody while you  
8 are still giving evidence.

9                   Thank you.

10                  All right. Session adjourned.

11                  [Whereupon, at 6:28 p.m., the proceedings were adjourned,  
12 to reconvene on Wednesday, September 1, 1999, at 9:30 a.m.]

WEDNESDAY, SEPTEMBER 1, 1999

<u>WITNESS</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE CROSS</u>
Leonel Ramos Torres	3	44	-
Marcia Williams	92	241	242





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APPEARANCES:

On behalf of the Claimant:

CLYDE C. PEARCE  
PETER J. CLING

On behalf of the Respondent:

HUGO PEREZCANO DIAZ  
[Interpreted from Spanish]  
CHRISTOPHER THOMAS

C O N T E N T S

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Leonel Ramos				
Torres (resumed)		3	44	--
Marcia Williams		92	241	242

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P R O C E E D I N G S

PRESIDENT LAUTERPACHT: Good morning. We resume the hearing. This is the third session on Wednesday, September 1, 1999.

We ended yesterday in the course of the cross-examination of Mr. Ramos, and that is where we will resume today. I hope Mr. Ramos has had a pleasant evening on his own and is ready to face today.

Mr. Pearce?

MR. PEARCE: Yes, sir. Thank you.

Whereupon,

LEONEL RAMOS TORRES

resumed the stand and, having previously solemnly declared, was examined and testified further, through the interpreter, as follows:

CROSS-EXAMINATION (Continued)

BY MR. PEARCE:

Q Good morning, sir.

A Good morning.

Q Behind Tab 1 in the book, you will see a copy of the ayuntamiento's minutes of a December 5, 1995, Extraordinary Session. First of all, sir, can you tell me what does it mean when it's an extraordinary session?

A An extraordinary session is something that is not the normal or the monthly meeting.

1 Q So there is some particular reason that causes you to  
2 convene out of the ordinary?

3 A Yes.

4 Q And on December 5, 1995, what was that extraordinary  
5 reason?

6 A Well, to report about Metalclad's request with regard to  
7 the construction permit.

8 Q Was there a particular day of the month that the normal  
9 meetings were held?

10 A The regular meetings were held every last day--or first day  
11 of each month.

12 Q Had there already been a meeting held in December?

13 A Yes.

14 Q So this was the second meeting you had in December?

15 A That is correct.

16 Q Did you have a chance to--or would you take a moment,  
17 please, and look at that document? And I want to ask you some  
18 questions after that. Mainly, sir, what I wish to ask you is whether  
19 that document accurately reflects the action taken by the ayuntamiento  
20 on that date.

21 A Yes, it reflects it.

1 Q Will you please take a look, sir, at Slide Exhibit No. 1?  
2 This is a copy of a part of those minutes. Among the listed reasons  
3 for denial of the permit is a reason stated that seems to say that the  
4 company had already applied for a permit on October 1, 1991, and it had  
5 been denied. Is that correct?

6 A That is correct.

7 Q Can you tell us, sir, which part of the statutes mentioned  
8 that we talked about yesterday would support denying this permit  
9 application on the basis that it had been denied on October 1, 1991?

10 A It had been denied on the basis of a violation and the  
11 irregularities in order to carry out such construction.

12 Q What was the violation that you refer to?

13 A Yesterday I was saying that in the beginning or from the  
14 beginning there were 55,000 drums left outdoors without any norms of  
15 care about these materials.

16 Q And what would be the irregularities that you refer to?

17 A Well, that is one of them. Second, I mention again, as I  
18 said it yesterday, was that the request made for a construction permit  
19 was made when construction of part of the work had already been done.

20 Q So that I understand, sir, the violation involved a  
21 violation of environmental standards for having 55,000 barrels in the  
22 open?

1           A     Correct.

2           Q     And the second violation--I'm sorry, the irregularities  
3 included the fact that some construction had been begun for which there  
4 had been no local construction permit. Is that correct, sir?

5           A     That is correct.

6           Q     Will you please, sir, now look at Slide Exhibit 2?

7           PRESIDENT LAUTERPACHT: Just before you go to Exhibit 2,  
8 may I just ask a question of Mr. Ramos? Please, could you help me, Mr.  
9 Ramos? The application which was the subject of consideration in  
10 December 1995 related to an application made in November 1994. Is that  
11 correct?

12           THE WITNESS: Yes. What happens is that when I was  
13 President of the municipality, again, a request was made for such  
14 construction.

15           PRESIDENT LAUTERPACHT: You say when you were President of  
16 the municipality.

17           THE WITNESS: Yes.

18           PRESIDENT LAUTERPACHT: What was the date of that?

19           THE WITNESS: It was before the day of the meeting.

20           PRESIDENT LAUTERPACHT: So the answer to my question  
21 remains that the application under consideration in 1995 was the  
22 application made in November 1994?

1 THE WITNESS: Yes.

2 PRESIDENT LAUTERPACHT: So why was there such a long delay  
3 in considering the application?

4 THE WITNESS: The period is about 11 months starting from  
5 January 1, 1995.

6 PRESIDENT LAUTERPACHT: But the application was dated  
7 November 15, 1994.

8 THE WITNESS: That was done to another municipal council.

9 PRESIDENT LAUTERPACHT: But was that municipal council the  
10 municipal council of Guadalcazar?

11 THE WITNESS: Yes, with changes, because I became President  
12 January 1, 1995.

13 PRESIDENT LAUTERPACHT: I understand that. Let me ask you  
14 this: Let's assume that the delay was only from January to December  
15 1995. During that period, do you know whether work was done at La  
16 Pedrera?

17 THE WITNESS: Yes. They were already built instructions.

18 PRESIDENT LAUTERPACHT: And did that work continue during  
19 that period of 11 months?

20 THE WITNESS: Yes. It continued being done.

21 PRESIDENT LAUTERPACHT: Were the members of the council  
22 aware of that?

1 THE WITNESS: Well, from before, we knew that the landfill  
2 was closed. But even so, it was being observed that inside  
3 construction was being made.

4 PRESIDENT LAUTERPACHT: In that case, why was it that the  
5 council did not take a decision earlier?

6 THE WITNESS: In fact, in the beginning of each period,  
7 each presidency, there is a lot of work, such as planning works, start  
8 new projects, in order to begin to work. That's why I believe that  
9 there was no answer sooner to that matter.

10 PRESIDENT LAUTERPACHT: Why was the matter considered in  
11 December 1995?

12 THE WITNESS: Because it was when the company orally  
13 reminded us again about the request.

14 PRESIDENT LAUTERPACHT: Thank you.

15 Mr. Pearce?

16 MR. PEARCE: Thank you, sir.

17 BY MR. PEARCE:

18 Q Looking at Slide Exhibit 2, sir, this appears to be a  
19 second reason given for this action by the town council on December 5th  
20 ratifying the actions of a prior council as reflected in minutes of  
21 January 20, 1992, in which that council resolved to deny any permit



1 application that might aid in the continuation of the company in  
2 Guadalcazar; is that correct?

3 A Yes.

4 Q Can you tell us, sir, what basis in your statutes or laws  
5 is there to deny your municipal construction permit because a preceding  
6 ayuntamiento issued a resolution to ratify an earlier denial and  
7 resolving not to issue any other permits to the company?

8 A I believe that our ratification is based in the illegality  
9 because I don't know really how advanced that work was at that time.

10 Q At which time, sir? In October 1992?

11 A Mm-hmm.

12 Q Is that a yes?

13 A It is a yes.

14 Q Thank you. Slide Exhibit 3 appears to give a third reason  
15 for the denial by your council of the construction permit application.  
16 It refers to what's called an "obra nueva" or "new work." Does that  
17 mean that since the construction had already happened, you would not  
18 grant a permit for a new work?

19 A I understand that the request is made to begin a new work.  
20 Afterwards, if expansions or some other works will be done, a new  
21 request would be made.

1           Q     Does that mean, sir, that it was denied because the work  
2     had already been done and you understood this application to be for an  
3     obra nueva?

4           A     That is correct. In fact, they, the company, were  
5     requesting a permit to start a construction. Yesterday I was pointing  
6     out that my council denied it because such construction had already  
7     been done.

8           Q     Let's look at Slide Exhibit 4 now, please, which appears to  
9     be a fourth reason given by the ayuntamiento for the denial of the  
10    municipal construction permit. In particular, I refer to the language  
11    that the permit is denied for any reason that could be used to deny it.  
12    Is that correct?

13          A     That is correct. It was denied.

14          Q     Was that one of the reasons for its denial?

15          A     I repeat again, it was based in past or resolutions that  
16    were taken before and the analysis that was done at the time to make  
17    such a denial.

18          Q     Did someone outside of the ayuntamiento give advice to you  
19    and the council on the reasons to be listed for denying the permit that  
20    appear in this resolution?

1           A       In fact, the one that prepares the minutes and who carries  
2 out the analysis of the different data and different periods is the  
3 secretary of the ayuntamiento.

4           Q       Yes, sir. Did the secretary of the ayuntamiento have  
5 counsel from someone outside the town council in the preparation of  
6 those minutes?

7           A       With regard to laws, he was advised by a counsel who well  
8 has nothing to do with the municipality. He is from outside. At that  
9 time he was a friend of the ayuntamiento.

10          Q       I'm sorry. He was a friend of?

11          A       Yes, he was a friend of the ayuntamiento. I would like to  
12 tell you that even--that, unfortunately, the counsel has passed away.  
13 He's no longer with us. And to tell the truth, he was a very good  
14 lawyer.

15          Q       I accept that, sir. Did you discuss with Governor Sanchez  
16 your decision to deny the permit?

17          A       No, because this is a decision taken in the cabildo, not  
18 even a decision that I would make.

19          Q       Did you discuss it with Dr. Medellin?

20          A       No. I believe that this is an attribution of the cabildo  
21 because it is the maximum authority and the one who executes the

1 decisions. I'm the one that executes the decisions at that time, but  
2 the highest authority is the cabildo.

3 Q But that doesn't prevent you from seeking advice from other  
4 sources, does it?

5 A Of course not. If that was needed at the time, we could  
6 request it.

7 Q Are you aware, sir, of the law concerning municipal  
8 construction permits that requires you to make a decision within 10  
9 days or to set the amount of fees in the absence of a decision?

10 A Unfortunately, I am not a lawyer. Well, to say some of the  
11 decisions that were taken, well, some knowledge, like the questions  
12 you're asking me.

13 Q Would it be correct, sir, you are then unaware--let me  
14 finish please; the question isn't completed--that you are unaware of a  
15 law requiring no more than four months should elapse before this  
16 decision is made?

17 A No, I was not aware, to tell the truth.

18 Q Did the governor or his legal counsel or anyone from his  
19 administration advise you on this application for the construction  
20 permit?

21 A No, no, truthfully. It was only a decision by the cabildo,  
22 I repeat.

1 Q Was Leonel Serrato counsel to Guadalcazar in November 1995?

2 A We requested his advice.

3 Q And he was recommended to you by Governor Sanchez; isn't  
4 that correct?

5 A No. No. I knew Mr. Serrato for many years, and his site  
6 of origin actually is Elcano (?) casa, another municipality, but it's  
7 close to (?) casa.

8 Q Are you aware, sir, that Mr. Serrato has testified that he  
9 was contacted by the governor and asked if he would provide legal  
10 assistance to you?

11 A Well, truthfully, I do not know that detail. I sought him  
12 out for many matters and even nowadays for personal matters, even now  
13 when I'm no longer President.

14 Q Was Mr. Serrato a friend and adviser of the governor that  
15 you know?

16 A No, I wouldn't be able to tell you whether that's so.

17 Q Among other things, Mr. Serrato agreed to advise you on the  
18 municipality's response to the signing of the joint agreement, or the  
19 Convenio, between SEMARNAP and Metalclad; correct?

20 A For signing of the Convenio or the agreement of  
21 understanding? Excuse me. I'm not sure what you're referring to.

1           Q       In November of 1995, the federal government, through  
2       SEMARNAP, INE, and PROFEPA, executed an agreement with Metalclad that,  
3       among other things, would provide for the remediation at La Pedrera and  
4       its commercial operation. As a result of that, Mr. Serrato gave you  
5       counsel in preparing the municipality to respond to that Convenio;  
6       isn't that correct?

7           A       The negative response came at the root of a demonstration  
8       by--or expression by persons from Guadalcazar.

9           Q       But isn't it true that the ayuntamiento and those of you in  
10       municipal leadership felt a need to prepare a response to this  
11       Convenio?

12          A       Yes, that is so.

13          Q       And you and the members of the ayuntamiento felt that you  
14       needed to take some action to protect the municipality from the opening  
15       and the operating of La Pedrera; correct?

16          A       Yes, that is so.

17          Q       And it was after November '95 when Mr. Serrato, whether you  
18       sought him out or the governor sent him to you, began giving you advice  
19       that on December 5th the town council denied the construction permit;  
20       correct?

21          A       Yes, that is so.

1 A Yes, that is so.

2 Q And you signed the administrative appeal with Mr. Sanchez  
3 Torres on behalf of the municipality; is that correct?

4 A Yes, Mr. Sanchez Torres and I--well, he served as the  
5 municipal sindico, which carries out the functions of the public  
6 ministry when the public ministry agent is not present in the place.

7 Q I'm showing you, sir, what is Exhibit 123 to the counter-  
8 memorial. This is a document submitted by counsel for the Government  
9 of Mexico, and I am, in fact, referring to their English translation of  
10 what they deem to be a summary of the much larger document. I direct  
11 your attention, sir, to page 1 in the English, the third bullet on that  
12 first page of the summary. Counsel may need to help you locate that  
13 page.

14 Have you found that?

15 A No.

16 MR. PEREZCANO: Mr. Pearce, I understand that Mr. Ramos  
17 does not read English.

18 MR. PEARCE: I'm sorry. [inaudible] sensitive to that.

19 BY MR. PEARCE:

20 Q Have you been able to find it in the Spanish?

21 Inasmuch as I am relying on your English translation,  
22 perhaps I will go ahead and read it in English with the interpreter.

1 Q And Mr. Serrato gave you legal advice with respect to that  
2 action; is that correct?

3 A I don't recall precisely, but as I was saying a moment ago,  
4 apart from Mr. Serrato, when we did not have his support, then we did  
5 draw on the counsel of an attorney who I mentioned a while ago, an  
6 attorney who, like Mr. Serrato, is a personal friend, and I sought out  
7 his advice.

8 Q May I inquire as to the name of this other attorney, sir?

9 A His name was, because he's already passed away, his name  
10 was Concepcion or Jose Concepcion. I don't recall his--Anaya, I think,  
11 but I'm not really certain.

12 Q Can you tell me, sir, if either Mr. Serrato or Mr.  
13 Concepcion were aware that the permit had been pending for 13 months?

14 A I don't know if I told them this when I sought out their  
15 advice, but in any event, they weren't aware of this detail.

16 Q In December of 1995, the ayuntamiento filed an  
17 administrative action at SEMARNAP for a reconsideration and withdrawal  
18 of the Convenio agreement. Correct?

19 A Yes, that's so.

20 Q And Mr. Serrato was your legal adviser at the time?

21 A I believe so. I don't remember but I believe so.

22 Q You did have legal advice in doing that, did you not?



1 And if there is a problem with that later, your counsel can raise it.

2 It says this, Mr. Ramos:

3 "The Convenio de Concertacion is contrary to law because"--  
4 and I'm skipping to the second paragraph of the reasons. "It invades  
5 the jurisdiction of the municipality and contradicts the will of the  
6 people."

7 Skipping the next sentence--actually, I won't skip the next  
8 sentence. "The authorization of all acts relating to any type of  
9 construction and the operation of establishments are within the  
10 exclusive jurisdiction of the municipal authority. Therefore, only the  
11 ayuntamiento of the municipality of Guadalcazar may authorize COTERIN  
12 to construct the hazardous waste landfill facilities located at the La  
13 Pedrera site as well as the operation of the establishment, in  
14 accordance with the following recited laws."

15 Do you agree that that language was in the administrative  
16 appeal that you signed, sir?

17 A Yes, sir.

18 Q Two days following the signing of the Convenio, on November  
19 26, 1995, you met in another extraordinary session of the town council;  
20 correct?

21 A Yes.

22 Q And at that session Governor Sanchez attended and presided?

1           A     Yes.

2           Q     And you indicate that at that time, as a municipality, you  
3 were only partially informed about the federal agreement; correct?

4           A     Yes, that is so.

5           Q     In fact, didn't Governor Sanchez read to you at that  
6 meeting the press release from the federal government?

7           A     Yes, but Mr. Sanchez Unzueta came to the council meeting at  
8 the request of the population of Guadalcazar. I understand that no  
9 person, even if governor, if not authorized cannot attend a town  
10 council meeting.

11          Q     Did you believe, Mr. Ramos, that Secretary Carabias or  
12 someone from the federal government should formally notify the town  
13 council about the agreement?

14          A     I think that all decisions made within the territory of a  
15 municipality, that municipality should be taken into account,  
16 especially the authorities, for in Mexico the municipalities and the  
17 states have autonomy even though there is a relationship among both,  
18 among the various authorities.

19          Q     Did you take it as an insult to the municipality's autonomy  
20 that the Secretary failed to notify the ayuntamiento?

21          A     Not a an insult, but as something that might happen to any  
22 public official.

1 Q Did Secretary Carabias or any other federal official  
2 contact you or, to your knowledge -- [tape ends] -- in Guadalcazar to  
3 discuss the Convenio agreement before it was signed?

T1B 4 A No. The Convenio that was signed was at the request of  
5 society and of the town council itself.

6 Q Are you aware that the federal government in negotiating  
7 the Convenio in November 1995 negotiated certain provisions in that  
8 agreement that affected the municipality of Guadalcazar?

9 A No. I found about this through the press, that is, the  
10 decision of the federal government, in this case the decision by Julia  
11 Carabias, with respect to the action sought to be taken in the  
12 municipality.

13 Q Let's look, please, behind Tab 7 of the witness book. I  
14 wish to refer to Article 13 in English, and it looks like it's on page  
15 6 in the Spanish. This is a document also provided by the Government  
16 of Mexico.

17 I note that Article 13, which is reciting obligations of  
18 the company, involves the creation of a citizens supervisor committee  
19 in which up to 15 persons will be designed by the city council of  
20 Guadalcazar. Do you see that?

21 [Pause.]

22 THE WITNESS: Yes.

1 BY MR. PEARCE:

2 Q And in Article 14, it says the company will provide access  
3 to the members of that committee upon a 72-hour notice; correct?

4 A Yes. Yes, that's what it says.

5 Q And in Article 15, the company promises to pay an amount of  
6 two new pesos per ton of waste that enters the treatment facility, and  
7 they agreed to adjust that amount based on the inflation index in  
8 Mexico. Then that article requires that the resulting amount of monies  
9 will be directed towards social works in the municipality of  
10 Guadalcazar. Correct?

11 A Yes, that's what it says.

12 Q And it also indicates in Article 16 that the company will  
13 give a 10 percent discount for all companies within the state of San  
14 Luis Potosi, which would include companies in Guadalcazar; correct?

15 A That's what it says.

16 Q And Article 17, the government negotiated this concession  
17 from the company: that it promises for one day a week to provide free  
18 medical consultation to the inhabitants of the municipality of  
19 Guadalcazar. Correct?

20 A Yes, that's what it says.

21 Q And in Article 18, the company promised to employ manual  
22 labor from the municipality of Guadalcazar, and to the extent that that

1 labor force from Guadalcazar did not meet certain technical training  
2 requirements, the company would give preference to the inhabitants of  
3 Guadalcazar for training. Correct?

4 A Yes, that's what it says.

5 Q And in Article 21, the company agreed to provide two  
6 courses per year on the management of hazardous waste to people in the  
7 public federal, state, and municipal sectors. Correct?

8 A Yes, that's what it says. That is correct.

9 Q Do you agree, Mr. Ramos, that those are activities and  
10 items and events that relate to the municipality of Guadalcazar?

11 A Yes. Well, that's what it says right here.

12 Q And no one from the federal government consulted with you  
13 or the town council about these things, did they?

14 A Yes, that is so.

15 Q The administrative appeal that the municipal filed was  
16 denied by Secretary Carabias; correct?

17 A Yes.

18 Q And soon after that, on January 31, 1996, the municipality  
19 filed an amparo action which was accepted by the court on February 6,  
20 1997--correction, 1996, wherein you sought an injunction of the  
21 implementation of the terms of that Convenio; correct?

22 A Yes, that is correct.

1 Q Except for those provisions relating to remediation,  
2 though; right?

3 A Yes, that is so.

4 Q A few minutes ago, we looked at the administrative appeal  
5 that you signed, and among the reasons set forward in that appeal was  
6 that construction and operation of establishments within the community  
7 are the exclusive jurisdiction of the municipal authority. But you did  
8 not make that argument in the filing of the amparo; correct?

9 A I don't recall, but I think so. The truth is I don't  
10 recall.

11 Q Okay. Thank you. And Mr. Serrato was your legal counsel  
12 at that time as well; correct?

13 A Yes. And, I repeat, Mr. Serrato and, when he was not  
14 available, the attorney who I mentioned earlier.

15 Q Yes, sir. Did you believe that that Convenio signed by the  
16 federal government with Metalclad was an illegal agreement?

17 A I think so because the municipal authorities weren't being  
18 taken into account, the population of Guadalcazar, in this case the  
19 citizenry.

20 Q Would another way of saying that, sir, be that the people  
21 weren't consulted?

22 A That is so.

1 Q Is it your position that the federal government had no  
2 authority to enter into the Convenio?

3 THE INTERPRETER: Excuse me. Could you just repeat...?

4 MR. PEARCE: What did I ask? Oh.

5 BY MR. PEARCE:

6 Q Is it your position that the federal government had no  
7 authority to enter into the Convenio?

8 A I don't know if they could or could not. I really don't  
9 know what is the scope of what the federation could do.

10 Q What part of the Convenio agreement, sir, do you consider  
11 to be unlawful?

12 A I think that it was all legal. The problem is that I think  
13 that the people of Guadalcazar were not being taken into consideration.

14 Q Were you aware of whether Mr. Serrato kept Governor Sanchez  
15 informed of these issues or not?

16 A No. I think that this is something very personal  
17 [inaudible]. Really, I could not tell you.

18 Q Did you believe that Mr. Serrato was discussing matters  
19 with the governor?

20 A I couldn't tell you the truth.

21 Q Do you believe that Mr. Serrato advised the town council to  
22 do anything that Governor Sanchez disapproved of?

1           A       He advised when the cabildo requested this assistance, and  
2       not vice versa, that Mr. Serrato was then going to the cabildo and  
3       advising by his--personally, by his own will.

4           Q       Did Governor Sanchez ever say to you that he approved of  
5       the actions you were taking regarding the municipal construction  
6       permit?

7           A       The actions that were undertaken were undertaken upon the  
8       initiative of the people of Guadalcazar, not even due to my own  
9       initiative or the initiative of the governor. That would be very  
10      difficult.

11          Q       I understand the source of the initiative, sir. I'm just  
12      asking if the governor ever said to you that he approved of what you  
13      were doing--not that he interfered, but if he approved of it.

14          A       At the beginning--and perhaps I'm going to go a little bit  
15      out of the question--the governor was really somewhat aside from the  
16      problem, and proof of this was that the people of Guadalcazar would  
17      demonstrate in the Plaza Guadalucazar and not in San Luis Potosi, so  
18      that the governor would intervene or so that the governor would become  
19      interested in the problem of Guadalcazar. So this was actually the  
20      request of the petition of the people of Guadalcazar until the governor  
21      took the matters in his hand. And he attended to the request of the



1 petitions to the needs and answered then the demands of the people of  
2 Guadalcazar.

3 [Pause.]

4 BY MR. PEARCE:

5 Q Would those petitions to the governor that you indicate  
6 were made by the members of the community include petitions from the  
7 citizens of Guadalcazar to have the governor issue an environmental  
8 decree that included La Pedrera within its confines?

9 A Yes, upon the petition of the citizenry of Guadalcazar and  
10 upon pressure of the citizenry of Guadalcazar, the governor was asked.

11 Q So is that what you meant, sir, when you said a moment ago  
12 that the governor took things into his own hands?

13 A I wanted to say there were different actions, not only  
14 this.

15 Q But that was one of them?

16 A Yes, that was one of them.

17 Q Following the filing of the amparo, the ruling of the court  
18 was to enjoin Metalclad from commercially operating the landfill just  
19 as you had requested; correct?

20 A I don't understand your question.

1 Q I'm sorry. The court in which you filed the amparo made a  
2 preliminary ruling that said Metalclad could not commercially operate  
3 and this is what you had asked them to do; correct?

4 A Yes, that is correct.

5 Q But another provision of that preliminary ruling provided  
6 for remediation as set forth in the Convenio; correct?

7 A Yes, that is so.

8 Q Is it also correct, Mr. Ramos, that your goals in  
9 initiating the amparo--that is, to stop commercial operations while at  
10 the same time having remediation--were the same as your reasons for  
11 denying the construction permit?

12 A I think that there is no--I think that one thing and the  
13 other really do to agree. They are two different things. The  
14 construction permit was denied for the reasons that I gave you before,  
15 and the remedy that was presented was to put a stop to the actions that  
16 Metalclad wanted to undertake.

17 Q Yes, sir. But in denying the construction permit, you  
18 achieved the purpose of denying commercial operations, didn't you?

19 A That is so.

20 Q So your objection to the facility--let me rephrase. The  
21 denial of the construction permit really had nothing to do with the  
22 timing or the quality of the construction; rather, your objection was

1 to the manner in which the facility was going to be used. Isn't that  
2 right?

3 A I think so. The problem was the construction permit was  
4 denied for what had already been said before.

5 [Pause.]

6 BY MR. PEARCE:

7 Q Sir, I refer you to the last paragraph on page 5 of your  
8 counter-memorial statement. The particular language to which I wish to  
9 refer is behind Tab 8. Here, sir, you were talking about the October  
10 1996 negotiations, and regarding the issue of the municipal  
11 construction permit, you say, "This must be analyzed within its proper  
12 context. The construction license will not be a problem if the final  
13 agreement was regarding remediation, nor would it be if the agreement  
14 were for the operation of a non-hazardous waste landfill or if the  
15 community had given their consent."

16 Was that your position, sir, in October 1996?

17 A I would like to make a comment with regard to this  
18 statement. The agreement taken with Mr. Carvajal, if you read  
19 carefully the agreement of understanding, at no time does it mention  
20 that this construction permit will be granted. This was a comment made  
21 by one of the councilmen in the sense that once the initial agreement  
22 had been signed, there would be no problem with what would continue

1 regarding negotiations for agreements, but not for that particular  
2 permit. That is not even mentioned in the acuerdo. This was an  
3 observation made by (?) Carvajal at that time, and, well, we never  
4 said that.

5 Q What I'm asking, sir, is for your response to the language  
6 that's in your declaration that we just read. In fact, in your  
7 declaration, you say some of what you just said. And you suggest that  
8 Mr. Carvajal seems to imply that you had committed yourselves to the  
9 issuance of the municipal construction permit. And while that's  
10 another issue, your statement in clarification of that is that it must  
11 be analyzed within its proper context. And if the company had agreed  
12 to remediation, the construction permit would not have been a problem.  
13 If it was to be a non-hazardous waste landfill, the construction permit  
14 would be no problem. And if the community gave its consent, no  
15 problem.

16 Isn't that your testimony, sir?

17 A That is so. Yes, that is so.

18 Q So your position and intent as President of the  
19 municipality was to prevent La Pedrera from ever opening as a hazardous  
20 waste landfill by withholding the issuance of the municipal  
21 construction permit; is that correct?

1           A       Such permit was not denied at a personal level. I was not  
2 denying it. It was the cabildo was denying it.

3           Q       And the cabildo denied it for the reasons that I just  
4 suggested; isn't that correct?

5           A       That is so.

6           Q       So your goal was to--yours and the cabildo's goal was to  
7 prevent the company from using the facility as a hazardous waste  
8 landfill; correct?

9           A       Yes, and I would like to repeat, this is not a decision  
10 that pertains only to the cabildo. This represents the will and the  
11 consensus of the population or the people of Guadalcazar.

12          Q       Mr. Ramos, why did you not just simply state in your denial  
13 of the permit that this permit is denied because the community of  
14 Guadalcazar doesn't want a hazardous waste landfill at La Pedrera?

15          A       That's it.

16          Q       Why did you not put that language in the denial?

17          A       I don't know, but the truth is that the ones who opposed,  
18 the people of Guadalcazar, and they have received support at the time  
19 upon the request of the society or the people has been the cabildo.

20          Q       During your administration, sir, how many construction  
21 licenses were denied because the work was finished before the permit  
22 was submitted?

1           A       I don't think that there have been works of that type that  
2       have damaged the environment that were built or they started building  
3       them before and then afterwards requested the construction permit.

4           Q       So you don't recall any?

5           A       No.

6           Q       Is it fair to say, sir, that based on your testimony--I'll  
7       withdraw that.

8                     Isn't it correct that the acuerdo that you were negotiating  
9       memorializes the fact that you and the other local officials were  
10      negotiating the circumstances under which the municipal construction  
11      permit would be issued?

12          A       The municipal permit for the construction was going to be  
13      issued by our town council, but I don't think so because from the very  
14      beginning I have stressed that that permit was not granted because of  
15      what I have told you many times.

16          Q       And if the negotiations that took place during that time  
17      that we're talking about had concluded to your satisfaction and the  
18      satisfaction of the other leaders of the municipality, this same  
19      construction permit in your words would not have been a problem even  
20      though the facility had already been constructed; correct?

21          A       It would be difficult to on a personal level say or explain  
22      the future criteria or opinion or to really think what the people of

1       Guadalcazar would say because I don't think it's in my hands to say  
2       what decision would have been taken.

3               Q       But if those negotiations had ended in an agreement where  
4       the company would remediate, it would not have been a problem to give  
5       them the construction permit, would it?

6               A       I could not really think what the decision of the cabildo  
7       would have been. This is something that I believe personally. But I  
8       don't know what to tell you with regard of what would have been the  
9       wishes of the cabildo and the society.

10              Q       But it could have been granted, couldn't it?

11              A       It could have been granted, that's a superstition,  
12       hypothesis.

13              Q       And, of course, a permit that would have been granted under  
14       those circumstances would be valid under the law that you talked about  
15       earlier, wouldn't it?

16              A       If it would have been granted, yes.

17                   MR. PEARCE: I'm about to enter a new area, Mr. President,  
18       if it's your choice to break at this point.

19                   PRESIDENT LAUTERPACHT: Yes. We'll break until 11:20.

20                   [Recess.]

21                   PRESIDENT LAUTERPACHT: You have a new topic to turn to.

22                   MR. PEARCE: Yes, sir.

1 BY MR. PEARCE:

2 Q I'd like to direct your attention, sir, to your counter-  
3 memorial testimony at page 3, paragraph 11. It's behind Tab 11.  
4 That's the same page and paragraph in both English and Spanish. It's  
5 Tab 11, counter-memorial, page 3, paragraph 11.

6 I wish to direct your attention to the statement that you  
7 make: "I can guarantee the Tribunal that almost total opposition to  
8 the landfill facility exists." And you go on to question the results  
9 of some evidence to the contrary; correct?

10 A That's correct.

11 Q And you refer, sir, to a poll by a group of local  
12 economists in August of 1995 that shows that 97 percent of the people  
13 in the surrounding area favor the landfill's opening; right?

14 A Yes, sir.

15 Q And in that same poll, you cite, It showed that in the  
16 large community 33 percent of the people were not informed on the  
17 project, 38 percent favored the project, and 31 percent weren't even  
18 interested; correct?

19 A That is correct.

20 Q So it appears from that poll, sir, that almost two-thirds  
21 of the people in the larger community didn't know or didn't care,  
22 doesn't it?



1           A       That is correct.

2           Q       You seem to also question, Mr. Ramos, a petition with 530  
3 signatures from community residents who were in favor of the project;  
4 right?

5           A       That is correct, as the text indicates.

6           Q       And it's your belief that those people were possibly misled  
7 into signing the petition?

8           A       I'd like to make a point here. This survey was addressed  
9 only to individuals in the area where the hazardous waste landfill is  
10 located, and these are individuals who were being employed by the  
11 company. I, when I was the head of the municipality, understood the  
12 facts, and I even suggested to these people that they conduct a  
13 plebiscite in all the communities of this area, not simply in the  
14 municipality. And that's why I've pointed out it's difficult for me to  
15 believe that those signatures, all those signatures were really in  
16 support of opening up the landfill. I really do not believe that.

17          Q       It's not your position, is it, that all 530 people who  
18 signed were employed at the landfill?

19          A       No. The actual number of people were 79. However,  
20 somebody hired by the company really represents the whole family with a  
21 number of members in it. And interestingly enough -- [tape ends].

T2A

1 Q I'm sorry. I hadn't finished the question yet. By  
2 professors at the University of San Luis Potosi that showed that 82  
3 percent were in favor of the landfill project. Do you have any--is  
4 that correct, sir?

5 A That's correct.

6 Q Do you have any personal knowledge that the poll done by  
7 the group of local economists was not done properly?

8 A Yes, I believe so.

9 Q You have evidence that the poll was not conducted properly?

10 A What I would like to suggest and might give you as an  
11 example is that we have a population of 27,000 people, and 500  
12 signatures do not represent the adult or the active population of the  
13 community.

14 Q I understand that, sir. I'm referring now not to the  
15 petition with the 530 signatures. In fact, I'm referring to the poll  
16 by the local economists that showed 97 percent of the people in favor  
17 and asking if you have any knowledge that that poll was improperly  
18 conducted.

19 A , I thought it was done legally, but I repeat that it was  
20 done within the area where the landfill is located and that these were  
21 people employed by the landfill.

1           Q       And the numbers that refer to the greater community, do you  
2       have any reason to question their legitimacy as not being properly  
3       done?

4           A       No, it was conducted normally. But my point is that it was  
5       done--it was conducted with people who worked, were employed by the  
6       company, and not with everybody living in Guadalcazar, which massively  
7       protested against the landfill.

8           Q       Do you think, Mr. Ramos, that the people who live nearest  
9       the landfill are more likely to be impacted by it than those who live  
10      in the city of Guadalcazar?

11          A       Yes, in the short run, they would be the most highly  
12      impacted.

13                   MR. PEARCE: Muchas gracias, senior.

14                   PRESIDENT LAUTERPACHT: Mr. Perezcano, would you like to  
15      come around and conduct your examination from this side?

16                   MR. PEREZCANO: Yes, Your Honor. I need one minute.

17                   [Pause.]

18                   PRESIDENT LAUTERPACHT: Mr. Perezcano, just before you  
19      begin, may I ask how you feel about interpretation? Since you will be  
20      examining the witness in Spanish, presumably, could we have  
21      simultaneous interpretation both of your questions and of his answers?

22                   MR. PEREZCANO: Si, Senior Presidente.

1 [Pause.]

2 REDIRECT EXAMINATION

3 BY MR. PEREZCANO:

4 Q Mr. Leonel, please refer to the minutes of the ayuntamiento  
5 meeting held, let's see, in 1995 where the municipal license or permit  
6 is denied. And if you don't have it, that is the document that Mr.  
7 Pearce just a moment ago referred to.

8 A Yes.

9 Q Mr. Leonel, would you please read the name of each one of  
10 the members of the cabildo that were present, and if you're kind  
11 enough, please indicate on the Guadalcazar map that you have just  
12 behind you approximately where each one of them lived.

13 THE INTERPRETER: If he's out of range of microphone, I  
14 will not be able to hear him.

15 THE WITNESS: The members of the cabildo, while I chaired  
16 it, Mr. President--

17 THE INTERPRETER: Thank you, sir.

18 THE WITNESS: The members of the cabildo that I chaired are  
19 the following, and where they live are the following, too:

20 Mr. Leonel Ramos, myself, I come from the community of  
21 Abregon (ph) in Guadalcazar.

1           Professor Philipon (ph) Martinez came from the community of  
2 Buena Vista. It's here. Guadalcazar is just located here, and here is  
3 where Mr. Martinez lived, about 35 kilometers away from the municipal  
4 part.

5           Third council member--second council member was not present  
6 at this meeting because of his work, because of his job. This  
7 gentleman came from Chaco Blanco, and this is on Highway 57, about 21  
8 kilometers from the municipality.

9           Third council member is Mr. Gonchao (ph), and he comes from  
10 the community San Jose, agricultural (?) San Jose, but it's changed  
11 here. It's right here. Here it says San Antonio. It is about just  
12 here. Some of the communities here are changed. This is wrong. The  
13 information here is wrong. This gentleman lives about 21 kilometers  
14 away.

15           Mr. Candelario (ph) Bosaras, the fourth councilman, is from  
16 the community of Abregon, and he comes from opposition party member two  
17 of the cabildo.

18           The fifth council member was Mr. Nicolas Alevo of the  
19 community of Cosa de Santana, near La Pedrera. Insofar as distance  
20 goes, he's the closest. He is linearly about 20 kilometers away from  
21 La Pedrera and 45 minutes away from Guadalcazar municipality.

1           Then Mr. Alejandrino Sanchez Torres from the community of  
2 Las Sanchas, and that community is about 8 kilometers from Guadalcazar.

3           Madam Maria Savilda Yesar (ph), first constitutional mayor,  
4 comes from the community of Abregon where I come from.

5           Mr. Josiento (?) Nueva, second mayor, he comes from the  
6 municipal area so--I'd like to say something that I omitted, a detail.  
7 Mr. Jimenahildo Limon (ph), he comes from La Ventana (ph), a community  
8 of the northern part of the municipality which is about 75 or 80  
9 kilometers away, more or less, somewhat farther away than where the  
10 landfill of La Pedrera is located.

11           As you will see, they are making up the cabildo, and it's  
12 made up of people belonging to different parties, some nominal, that  
13 is, appointed, they were not elected by the people, but because of the  
14 vote that they obtained during the elections, they were able to have a  
15 representative before that cabildo.

16           PRESIDENT LAUTERPACHT: Mr. Ramos, could you kindly point  
17 out to us where La Pedrera is, please, on that map?

18           THE WITNESS: La Pedrera is here, Guadalcazar is around  
19 here [indicating].

20           BY MR. PEREZCANO:

21           Q     Thank you, Mr. Leonel. Could you tell me if you held  
22 meetings with the commissioners during that period about La Pedrera?

1           A       Yes. We always were careful not to take any decisions, but  
2 with the cabildo as it is, as a representative of the people, we made  
3 public everything that had to do with La Pedrera. That is why we would  
4 call commissioners from the (?) and councilmen on the main  
5 authorities from each one of the other communities so as to inform them  
6 about what was happening with this regard, and not just for this but  
7 also for the different programs and projects of different works and  
8 about support for agriculture and livestock activities.

9           Q       Thank you, Mr. Leonel. The (?) commissioners, could you  
10 please tell us where they would be located on the map?

11          A       They are length- and wide-wise in the entire territory.  
12 There are 56 (?) . In total, we have 96 communities, from 56 to 96,  
13 (?) the small congregations and towns.

14          Q       Thank you, Mr. Leonel. Let me show you this document.  
15 It's Exhibit 10 to the statement made by Mr. Zaragoza in the counter-  
16 memorial, and it's the order to close the landfill made by the  
17 municipality or issued by the municipality. This is Exhibit 10 to the  
18 statement made by Mr. Zaragoza in the counter-memorial. I'm sorry that  
19 I haven't made any photocopies before.

20                   Take your time, Mr. Leonel, to just review it.

21                   [Pause.]

1 MR. PEREZCANO: Yes, sir. It's in the documents. It is an  
2 exhibit or an annex, an attachment to Mr. Ramiro Zaragoza's statement.  
3 It's dated October 26, 1994.

4 [Pause.]

5 BY MR. PEREZCANO:

6 Q I would ask you, Mr. Leonel, if you've finished reading it,  
7 I underlined some parts of the first paragraph, and if you could please  
8 read them for the Tribunal aloud.

9 A This is the beginning of some minutes, Guadalupe, San  
10 Luis Potosi at 12 o'clock, October 26, 1994, Manuel Castro Castanera  
11 (ph), main councilman of Guadalupe, San Luis Potosi, acting legally,  
12 witnessed, La Pedrera--

13 THE INTERPRETER: We don't have this in the booth. It's  
14 very difficult to follow this gentleman like this.

15 [Pause.]

16 THE INTERPRETER: Thank you.

17 PRESIDENT LAUTERPACHT: Mr. Ramos may continue, please.

18 [inaudible] begin his answer again.

19 BY MR. PEREZCANO:

20 Q I would ask you to please read again, to read the document  
21 from the beginning.



1           A        Guadalcazar, San Luis Potosi, 12 hours on October 26, 1994,  
2       Mr. Manuel Castro Castanera, sindico municipal of the municipality of  
3       Guadalcazar, San Luis Potosi, acting before a number of witnesses here  
4       present, arrived at the rural property called La Pedrera located  
5       between the ajidos(?) of Losamales (ph) and El   (?) of the same  
6       municipality, site which there are highly contaminated industrial waste  
7       landfill is pursuant to the mandate given by the Municipal President.  
8       He declares to be truth the following materials, and it is before its  
9       own site.

10           Q        Please go, sir, to the last page or the one before last  
11       where I underlined some other section. Please read it aloud.

12           A        Based on Articles 2, 3, 4, 47, 31, 53, Section 2 of the ley  
13       (?) of the municipal libre, 3 municipality act as well as Article 155  
14       of the Constitution, we issue an order to close work of the works that  
15       are being carried out. The construction shall remain in the same  
16       status as of this time.

17           Q        Thank you, Leonel. That is one of the measures taken by  
18       the municipio, the municipality, because of a lack of a municipal  
19       construction permit?

20           A        Yes, that is true, and it was in the ayuntamiento in 1994.

21           MR. PEREZCANO: Thank you, Leonel. I do not have any more  
22       questions, Mr. President.

1           PRESIDENT LAUTERPACHT: Just before Mr. Ramos leaves, in  
2 the section which you've just been reading--what's happened to that?

3           MR. PEARCE: She's coming down.

4           PRESIDENT LAUTERPACHT: Could you let Mr. Ramos have the  
5 document he was reading, please?

6           THE INTERPRETER: Sir, could you give Mr. Ramos earphones  
7 so that he can understand what you're telling him, please?

8           PRESIDENT LAUTERPACHT: Mr. Ramos, you have before you the  
9 closure order which you have just been examining, and you have referred  
10 to a passage directed--you were directed to a passage by Mr. Perezcano  
11 in the middle of the second page.

12           Following the sentences that you read, there are two  
13 sentences: "We advised the company that in case this decision is not  
14 respected, there will be sanctions that are established in accordance  
15 with the organic law of the free municipality, and in this case to the  
16 final closing of said works, with the effect of making sure that the  
17 present order is followed and complied, it will be up to the Popular  
18 Ecological Commission, whose names are listed enclosed with this one.  
19 Besides the people municipal parties, also present in this act, Dr.  
20 Medellin, general ecological coordinator of the state government."

21           Now, Mr. Ramos, I would just like to ask you this: Is it  
22 correct that work did not stop at La Pedrera?

1 THE WITNESS: What happens is that I do not understand  
2 English.

3 PRESIDENT LAUTERPACHT: Mr. Ramos, I'm speaking in English.  
4 Do you hear me now in Spanish? Why don't you put it on your ears  
5 first? Try it on your ears first. The interpreter will, I'm sure,  
6 assist you by saying, "Testing, 1, 2, 3." Have you got that now in  
7 Spanish?

8 Mr. Ramos, I hope we can now have a more satisfactory  
9 relationship.

10 You were reading from the order to stop work made on 28  
11 October 1994. Mr. Perezcano directed you to a passage on the second  
12 page of that order, which begins after the list of items which are to  
13 be found at the site. You read two sentences in the middle of that  
14 paragraph. Can you see the paragraph I'm referring to?

15 THE WITNESS: How does it start?

16 PRESIDENT LAUTERPACHT: The paragraph begins with the  
17 words, "On these, it is understood..." It is the paragraph which  
18 begins--oh, my goodness--[In Spanish].

19 MR. : Thus pursuant to Articles 2, 2.

20 PRESIDENT LAUTERPACHT: Can you find that, Mr. Ramos? The  
21 long paragraph in manuscript.

22 MR. : [In Spanish]

1                   PRESIDENT LAUTERPACHT: Now, Mr. Ramos, please would you  
2 look at the end of that paragraph where it says, "We advised the  
3 company that in case this decision is not respected"--it's at the  
4 bottom of the last page but one, [In Spanish] . Do you see that? "We  
5 advised the company that in case this decision is not respected, there  
6 will be sanctions that are established in accordance with the organic  
7 law of the free municipality, and in this case to the final closing of  
8 the said works." Then it goes on: "With the effect of making sure  
9 that the present order is followed and complied, it will be up to the  
10 Popular Ecological Commission, whose names are listed enclosed with  
11 this one." Then there follows a list of names at the end of the  
12 document.

13                   My question is this, Mr. Ramos: Did the Popular Ecological  
14 Commission follow up the order and make sure it was complied with?

15                   THE WITNESS: What happens is that this was done by the  
16 ayuntamiento while I was not the President. This was in 1994. In  
17 1994, the Municipal President was someone else and the cabildo was  
18 someone else, and the municipal sindico two, it was the one before to  
19 the one that was with me.

20                   PRESIDENT LAUTERPACHT: When did you become President?

21                   THE WITNESS: January 1, 1995.

1           PRESIDENT LAUTERPACHT: Then the situation was that there  
2 was a period of 11 months or 12 months, nearly, under your presidency  
3 during which the order was either complied with or not complied with.  
4 Is that correct? You were in charge for 11 months in 1995.

5           THE WITNESS: That is true, sir.

6           PRESIDENT LAUTERPACHT: When you were in charge, what  
7 measures were taken to follow up the closure order?

8           THE WITNESS: The period of 11 months, as I said in my  
9 statement, was followed with a follow-up but not immediately, just when  
10 the company requested again this construction permit.

11          PRESIDENT LAUTERPACHT: Supposing the company had not  
12 repeated its request for a construction permit, does that mean there  
13 would have been no follow-up?

14          THE WITNESS: Yes, in fact, there has to be follow-up. I  
15 repeat. When one begins to take office as Municipal President, there  
16 are many problems, many projects at the outset. Therefore, there needs  
17 to be follow-up on everything that was left pending and also follow-up  
18 on the new work plan that we were bringing to the municipality. I  
19 think that that's why that 11-month lapse occurred.

20          PRESIDENT LAUTERPACHT: What is the relationship between  
21 your position as President and the Popular Ecological Commission?

1           THE WITNESS: Well, they are people from the municipality  
2 who I know, and the relationship, well, it's definitely been a good  
3 relationship. This doesn't mean there were never any problems with  
4 them, for they in their desire to defend the environment sometimes came  
5 out against my administration, the one that I presided over at that  
6 time, pointing out certain details, for example, calling for more  
7 persistence in seeking a solution to the remediation problem and also  
8 for following up on the problem of the landfill.

9           PRESIDENT LAUTERPACHT: Was there anything to stop the  
10 Popular Ecological Commission from continuing with the work of  
11 following up the closure order? In other words, while I entirely  
12 understand your answer that you were busy because you had newly come  
13 into office, what was there to stop the Popular Ecological Commission  
14 from doing what they had been told to do?

15          THE WITNESS: Well, I believe that this is a very  
16 particular decision on its part because at that time the act and the  
17 municipal sindico has entrusted this problem to them. I believe that  
18 it was their decision at that time and not our decision since we had  
19 just come into office.

20          PRESIDENT LAUTERPACHT: --that you're saying that it was  
21 their decision and not yours. But can you offer any suggestion as to  
22 why they should have decided to do nothing?

1           THE WITNESS: The truth is I don't know why. I don't know  
2 why they did not take actions which--if it was these persons' function,  
3 it was the function of this Ecological Commission, I don't know, the  
4 truth be told, why they didn't take these actions at that time. The  
5 truth is I think it was their decision.

6           PRESIDENT LAUTERPACHT: Within the local administration of  
7 Guadalcazar, of which you were the President, are there any permanent,  
8 full-time officials whose term of office continues from one presidency  
9 to another?

10          THE WITNESS: I believe not. I believe this is unusual in  
11 city governments or in municipal governments. Prior to my  
12 administration, there was that problem, which is that people would  
13 persist in a given post for a long period of time. Nonetheless, when I  
14 became President, one of the concerns in terms of thinking about  
15 changes in key posts--or one of these concerns was to do so because it  
16 was thought that new people would bring in new ideas. They could be  
17 people who were better prepared.

18           I think we did things in our own way. This is one of  
19 those. I had to remove some people who had been in their posts for up  
20 to 12 years. The truth is I came in and brought about a radical  
21 change, and also as an example for future generations of city  
22 government or municipal government.

1           PRESIDENT LAUTERPACHT: What I'm not sure I understand from  
2 you is your reference to a number of people being in their posts. Are  
3 these people elected people who form part of your council, or are they  
4 administrative personnel?

5           THE WITNESS: Administrative personnel for the council  
6 members, and the members of the ayuntamiento are elected by the people,  
7 by popular vote. The administrative posts or positions of trust, that  
8 I believe is decided in due course by the cabildo or by the Municipal  
9 President.

10          PRESIDENT LAUTERPACHT: --time trying to clarify. Would  
11 any of those long-term administrative officials have had any  
12 responsibility for drawing to your attention the fact that work was  
13 continuing at the site and that the Popular Ecological Commission was  
14 doing nothing about it?

15          THE WITNESS: Reviewing the state, I don't believe that  
16 there are any persons who continued--or review the list, rather, I  
17 don't believe there are any persons who continued in the following  
18 administration. I see here the names of many people I know, but they  
19 really didn't continue in their posts in the following administration  
20 with us.

21          PRESIDENT LAUTERPACHT: --looking at is a list of members  
22 of the Popular Ecological Commission; is that correct?



1 THE WITNESS: Yes.

2 PRESIDENT LAUTERPACHT: The people about whom I'm asking  
3 you are not the members of the Popular Ecological Commission. Also,  
4 they are not the members of your committee or commission. The people  
5 that I'm asking about are administrative officials who sit in their  
6 municipal offices all day, presumably. Were there any such officers?

7 THE WITNESS: It's curious to note that in our municipality  
8 the employees are not unionized. Therefore, each new Municipal  
9 President, taking stock of the needs, makes changes. This is why many  
10 people, even if secretaries, sometimes need to step down from their  
11 post every three years.

12 PRESIDENT LAUTERPACHT: --office, did you change all the  
13 administrative personnel?

14 THE WITNESS: All of the administrative personnel. All in  
15 their entirety.

16 PRESIDENT LAUTERPACHT: --that there was no administrative  
17 continuity between the regime before yours and your own?

18 THE WITNESS: No, there was not. And referring to the  
19 problem before us, the persons with responsibility for ensuring  
20 continuity or follow-up on this problem were the Director of Public  
21 Works, the cabildo or town council in plenum, who were people who in  
22 the previous--after the previous administration had to leave.

1           Now, administrative personnel, you had the Director of  
2 Public Works who had to be removed, and another person, a different  
3 person took that post.

4           PRESIDENT LAUTERPACHT: Thank you.

5           MR. PEREZCANO: Mr. Chairman, perhaps for purposes of  
6 clarification, I'd like to ask the Tribunal permission to ask a  
7 question which might help clarify at this point.

8           PRESIDENT LAUTERPACHT: Yes. [Tape ends.]

T2B

9           BY MR. PEREZCANO:

10          Q       Don Leonel, do you know on what date the construction of  
11 works at the landfill was concluded?

12          A       The landfill works were carried out in different stages, I  
13 don't believe consecutively. When environmental audit was carried out,  
14 it's mentioned at some point, it says that it was shut down, it was  
15 closed. But even while this environmental audit was being carried out,  
16 the people from the company were building. The site was closed down.  
17 Personnel from the ayuntamiento inspected the place, and it was found  
18 that works were being carried out within the property.

19          Q       But do you know on what date the works concluded  
20 definitively?

21          A       Well, no, that would be difficult, for after that, the  
22 works continued within the property, and this, because we sent people

1 to review the scene. Indeed, periodically, we were looking in from  
2 outside through binoculars because from the fence to where the work was  
3 going on was quite some distance. Indeed, there was movement of  
4 machinery. There were details suggesting that they continued  
5 operating, working. Indeed, they never stopped working within the  
6 facility.

7 PRESIDENT LAUTERPACHT: --follow up your last answer, Mr.  
8 Ramos. You said that--I'm just following up your last answer, Mr.  
9 Ramos. You said that you sent people to review the scene and that they  
10 used binoculars. Now, when did you do that?

11 THE WITNESS: That was done during the three-year period.  
12 We took care through the person in charge, which was the Director of  
13 Public Works, to check whether work was going on inside because this  
14 problem was exclusively under the Director of Public Works, who was the  
15 one who initiates a request or application for construction.

16 PRESIDENT LAUTERPACHT: You said you did this during the  
17 three years. My question ought to be, therefore, more specific. Did  
18 any of this observation take place during the period from January to  
19 December 1995?

20 THE WITNESS: On different occasions in different forums,  
21 including when we were told the result of the audit, we pointed that  
22 out, that having a permit or an audit, that this corresponded to the

1 federal or state government, the famous environmental audit on  
2 ecological factors. And in tandem, the construction work was going on.  
3 So during the three years, it was being asked, Why is construction  
4 going on when there's no construction permit?

5 PRESIDENT LAUTERPACHT: Forgive me for repeating the  
6 question, because I want a very specific answer. During the period  
7 from your assumption of office on 1 January 1995 until the order of--  
8 the rejection of the application in December 1995, did any of this  
9 observation take place?

10 THE WITNESS: Well, I believe so. If we didn't do so in  
11 writing, I think we did so orally in different places we went to or  
12 before different courts to specify that those works were continuing  
13 works that never ceased on the inside.

14 PRESIDENT LAUTERPACHT: The wording of your answer suggests  
15 to me that I may not have made my question clear because the answer to  
16 my question cannot involve whether written or oral observations were  
17 made to any tribunal. My question simply arises out of the last answer  
18 you gave to Mr. Perezcano when you said that you had sent the people to  
19 look at the site and that they looked at it through binoculars. My  
20 question is: When did those people go to the site and look at it  
21 through binoculars? Did they do it during the first year of your  
22 administration?

1           THE WITNESS: Yes, it was done periodically. I don't  
2 remember exactly when it began, but it's my understanding that we did  
3 this after the second permit was requested for building; that is the  
4 time we were reminded of it. I think that from there we paid closer  
5 attention, and this is why they went to inspect this site on a  
6 continuous basis.

7           MR.                 : A point of clarification on the  
8 translation. He mentioned that it was done periodically during the  
9 first year and continuously.

10          MR.                 : I would like to point out that he said  
11 that after the second request was done, they start reviewing and  
12 checking the site.

13          PRESIDENT LAUTERPACHT: Well, I think we had better clarify  
14 the matter with Mr. Ramos.

15          Mr. Ramos, my question to you was whether during your first  
16 year of administration in 1995 any observation, visual observation, was  
17 carried out at the site, and on your left and your right I'm getting  
18 different answers from what the interpreter said. So, please, could  
19 you repeat your answer and the interpreter alone will interpret it?

20          THE WITNESS: Yes, sir. It's difficult to remember, but it  
21 is my understanding that in due course the problem was the landfill,  
22 and it's my understanding that the Director of Public Works had to make

1 his observations, had to go to the site, if not specifically on that  
2 mission, in passing while looking, checking on other public works. And  
3 the truth is, I believe, that those observations were also made prior  
4 to this date. And that could only be said in due course by the  
5 Director of Public Works.

6 PRESIDENT LAUTERPACHT: I think I understand you to be  
7 suggesting, if, as you suggest, during the year 1995 the Director of  
8 Public Works was examining the site and was discovering that work was  
9 going on, should he have reported that to you?

10 THE WITNESS: Yes. Yes, the truth is that I had to be  
11 informed. He had to inform me. He had to inform me in the meetings  
12 that we held of the council, the meetings of the cabildo, and certain  
13 other details.

14 Now, I believe what you're asking me apart from this is why  
15 is it that in that 11-month period we didn't take any actions, and as I  
16 said earlier, it was the beginning of the year, perhaps we didn't take  
17 note of it during that time period. But the truth is that as soon as  
18 the opportunity arose, actions were taken, and as soon as there was a  
19 claim or a request or petition once again from the company. And this  
20 is why, I repeat, it was not until 11 months that we had to hold a  
21 special meeting, and this happened after the company presented its

1 claim, which is to say, continued to persist in its request or  
2 application for a building permit.

3 PRESIDENT LAUTERPACHT: Mr. Ramos, Guadalcazar is a  
4 relatively small place; is that correct?

5 THE WITNESS: Well, it's the second largest municipality  
6 after Santo Domingo, and the largest in area of the entire state.

7 PRESIDENT LAUTERPACHT: Is it the sort of place in which  
8 you would meet the Director of Public Works from time to time, either  
9 officially or casually?

10 THE WITNESS: No. In fact, we had our agreements, everyone  
11 in his or her own area, that we had to meet with one another. I  
12 understand your question why in such a long period of time did we take  
13 no action. I think that's where your question is directed, and I  
14 repeat, because of the workload that we had and some other  
15 considerations, this is why decisions were not made quickly.

16 PRESIDENT LAUTERPACHT: I don't mean to bother you very  
17 much longer, but the impression that your answer conveys is that the  
18 problem of La Pedrera was not a problem of major importance.  
19 Otherwise, something would have been done about it during those 11  
20 months.

21 THE WITNESS: The truth is that all problems are important,  
22 especially when heading up an administration. I think that

1 environmental affairs, the question of the landfill was very important.  
2 But, also, at the same time, at the beginning of the year, one had to  
3 organize and propose projects and works, seek resources, take steps  
4 vis-a-vis the authorities, vis-a-vis the Congress, the President of the  
5 Republic, the federal government, so as to obtain resources for  
6 carrying out works. I believe that everything is aimed at a take-off  
7 after change in administration.

8 Now, I understand that you ask why such a lengthy lapse of  
9 time, sir. The truth is that when heading up a municipality there are  
10 a great many things to do, and the truth is you are right in saying,  
11 well, if this was already there previously, why was it not resolved. I  
12 think that apart from the fact of us not wanting to do anything so  
13 quickly at that time in the area of environmental affairs, we were  
14 concerned about it, and evidence of this is that we continued after the  
15 11 months and until the end of my administration dealing with this  
16 problem, which was one of the major concerns of the citizenry of  
17 Guadalcazar.

18 PRESIDENT LAUTERPACHT: I won't ask you any more questions,  
19 but Mr. Siqueiros would like to put a question to you.

20 ARBITRATOR SIQUEIROS: Mr. Ramos, you have told us that in  
21 the first years of your administration, which began in January of 1995,  
22 there were many priority issues that made it impossible to make a



1 decision as to whether to grant a building permit at La Pedrera.  
2 Nonetheless, on March 10th of that same year, an event that was of  
3 importance beyond the municipality, I would say of state-level  
4 importance or federal-level importance, which was the frustrated  
5 inauguration of La Pedrera on March 10, 1995, which was already during  
6 your period of government. There was this major popular demonstration  
7 in opposition to the delegation that the company had organized for the  
8 inaugural event. And you must necessarily have been involved in one  
9 way or another, not just you but I think most of the members of the  
10 cabildo and of the ayuntamiento.

11 So the logical question is: Why, after that very important  
12 event, which you must necessarily have been aware of, why were the  
13 appropriate actions not taken in one direction or the other by the  
14 council? That is my doubt.

15 THE WITNESS: Well, I'd answer as follows: The actions  
16 that were taken in this regard, in regard to the inauguration,  
17 represented an initiative by the society of Guadalcazar, by the people  
18 of Guadalcazar, and I would tell you as follows: I believe that the  
19 building permit did not interfere with the actions being undertaken by  
20 the company and by the society. This was a gesture by the company to  
21 the presidency, so I would repeat: Perhaps it was not followed up--the  
22 request or application was not followed up on at the outset of my

1 administration, and we went back to this. We took it up when the  
2 people from the company reminded us and told us that we had applied for  
3 a building permit before the previous municipal government, and we now  
4 come to orally remind you that this application had been made. And  
5 they were right, and they had the right to remind us.

6 And from there, we took actions. We dedicated ourselves  
7 more to this matter, and that is when we culminated in that no, in that  
8 refusal, and at the initiative of people, at the initiative of the  
9 council, which was the highest level authority, I repeat, my  
10 responsibility is to execute; those who authorize this and make the  
11 decision is the cabildo, the municipal council, and with the support of  
12 the population of Guadalcazar.

13 This is why in due course the only thing I would want to  
14 tell you is that I don't know why it wasn't followed up on at the time.  
15 The truth is I don't know why. It was followed up on as soon as the  
16 company reminded us.

17 PRESIDENT LAUTERPACHT: Thank you, Mr. Ramos.

18 Now, Mr. Pearce, do you need to re-examine further?

19 MR. PEARCE: No.

20 PRESIDENT LAUTERPACHT: Have you finished, Mr. Perezcano?

21 MR. PEREZCANO: [In Spanish.]

1           PRESIDENT LAUTERPACHT: Just one minute. We didn't get an  
2 interpretation. Can the interpreters hear us? We can't hear the  
3 interpreters.

4           [Pause.]

5           THE INTERPRETER: Can you hear me now? Channel 2, yes.  
6 Thank you, sir.

7           BY MR. PEREZCANO:

8           Q     Don Leonel, do you recall the demonstration of the 10th of  
9 March of 1995 that Mr. Siqueiros made reference to? Do you recall that  
10 at that date the construction of the landfill had already been  
11 concluded?

12          A     I understand that the majority of the facilities had  
13 already been built because it was going to be--there was going to be an  
14 opening for their operation. I want to repeat that they continued  
15 working, but I think that the basic thing, they already had that, and  
16 afterwards they continued constructing, but I think that the basic part  
17 was already built and the facility that almost was constructed in order  
18 to be able to operate.

19          MR. PEREZCANO: That is all, Mr. President, on my behalf.

20          PRESIDENT LAUTERPACHT: Mr. Civiletti?

21          ARBITRATOR CIVILETTI: During the time that you were  
22 President, Mr. Ramos, what was done with the waste or refuse?

1           THE WITNESS: Curiously, our municipality is a municipality  
2 that is relatively small. The activities of the municipality are  
3 agricultural and livestock activities. It doesn't have any industry.  
4 So, therefore, we did not have hazardous waste. The hazardous waste  
5 occasionally come from the capital of the state or outside the state,  
6 but we do not have industry in our area.

7           ARBITRATOR CIVILETTI: --hazardous waste, I talk simply  
8 about garbage or waste or refuse. Did you have landfills? Did you  
9 have an incinerator? Did you have a dump? How was it handled?

10          THE WITNESS: The municipality has a municipal dump for  
11 trash, and right now we have a better dump site because we have  
12 sanitary landfill. It has been improved, but we do have this deposit.

13          ARBITRATOR CIVILETTI: But you've never--other than La  
14 Pedrera and questions about it, you've never had a hazardous waste  
15 facility in Guadalcazar?

16          THE WITNESS: No, there has never been a landfill at  
17 Guadalcazar aside from at that land.

18          ARBITRATOR CIVILETTI: --anything with used motor oil,  
19 paint, batteries, acids, how is that disposed of in Guadalcazar?

20          THE WITNESS: The producers of this waste, it is in this  
21 case mechanical shops, mechanic shops, they keep it; possibly they sell  
22 it to the capital of the state.

1           ARBITRATOR CIVILETTI: Let me ask a different question. I  
2 think in your statement you indicated that at least during the time of  
3 your presidency, the municipality had about 27,000 inhabitants; is that  
4 correct?

5           THE WITNESS: That is correct.

6           ARBITRATOR CIVILETTI: If you know or if you can  
7 approximate, how many were adults over 18?

8           THE WITNESS: The active floating population approximately  
9 is 10,000 individuals. These are floating individuals, that is to say,  
10 not all of them are active within Guadalcazar. Many of them go to  
11 Matawalos (ph), San Luis Potosi, to work in other companies.

12           ARBITRATOR CIVILETTI: And would about 10,000 be the  
13 approximate voting population of Guadalcazar?

14           THE WITNESS: I think that this is a difficult number  
15 because this fluctuates according to the will of the people. What  
16 should be the voting population? Well, more or less this is what it  
17 represents, but I repeat that many people, when elections are held,  
18 they are not within the municipality, and curiously, and I say actually  
19 unfortunately, we live actually in the highlands of San Luis Potosi  
20 where there is not really a great deal of employment. So many times  
21 they have to go to work to larger cities, San Luis Potosi, Matawala,

1 some of them from (?) Nueva Leon. People who are actually then  
2 given support to--economic support to the people of Guadalcazar.

3 ARBITRATOR CIVILETTI: In the United States of America, out  
4 of all the eligible voters, frequently less than one-third of those  
5 eligible actually vote. It's a great shame. Could you tell me, during  
6 your term and during your election, approximately how many votes were  
7 cast in your election in 1995?

8 THE WITNESS: We have an electoral pattern of--we have more  
9 than 7,000 voters, and quite curiously, in the last elections, the  
10 citizenry has participated a great deal, and we've had more than 80  
11 percent of people who are voting. More than, I think, 6,000 votes  
12 elected the different candidates. This does not only include the votes  
13 that favored me, but there were other votes for other candidates at  
14 that time. But as a whole, this is the number that it represents.

15 ARBITRATOR CIVILETTI: In your statement filed in the case,  
16 you refer from time to time to the approval of the people or the  
17 consent of the people being necessary for the granting of the  
18 construction permit and the operation of La Pedrera as a waste disposal  
19 facility. I believe that's correct.

20 THE WITNESS: Yes, I think it is correct. I have made  
21 reference to a landfill of industrial waste or hazardous waste  
22 landfill, and this is actually shown or evidenced by the analyses that

1 have been carried out by the economist University of San Luis Potosi  
2 and the National Autonomous University of Mexico.

3 ARBITRATOR CIVILETTI: I take it that you and your other  
4 council members also were familiar with Governor Sanchez's position,  
5 which would be there would be no construction or operation or reopening  
6 of La Pedrera unless it was the will of the people; is that correct?

7 THE WITNESS: That is so. Personally I think that my  
8 decision would not count if it would only be my decision here. What is  
9 important is the negative attitude from the citizenry, and I think that  
10 this is why we--it is that way that we get the support for that  
11 decision. That's what makes that decision.

12 ARBITRATOR CIVILETTI: Now, with regard to the consent of  
13 the people or the approval of the people, what does the law indicate as  
14 the method of determining that approval or consent?

15 THE WITNESS: The law in the municipality follows what is  
16 provided by the ecological law of equilibrium of the state, the Mexican  
17 Constitution of the republic and also of the state, aside from this,  
18 with regard to percentages, the organic law of the municipality of the  
19 state of San Luis Potosi. Each municipality has an organic law that  
20 has the power, that is to say, to issue fines or taxes in order to be  
21 able to receive resources or channel resources to the ayuntamiento.

1           ARBITRATOR CIVILETTI: I meant if you are trying to  
2 determine in order to grant or deny a permit whether the people approve  
3 or disapprove of it, do you determine that by a survey? Do you  
4 determine it by a plebiscite, by a referendum? How is it determined?

5           THE WITNESS: This is determined, well, by a recount. This  
6 count or this survey is done observing--there was never a referendum.  
7 At least, the municipality never did it. But we do know the  
8 population. We know the people. We know the communities. And, well,  
9 we saw the interest in order not to give--or to deny that permit. I  
10 want to repeat that this is the will of the people, and I think that it  
11 is fair to respect the decision of the people.

12           ARBITRATOR CIVILETTI: And speaking of the people, how many  
13 of the people would it be necessary to determine that the people  
14 approved or consented or it was that will? Is it a substantial  
15 minority? Twenty percent? Does it require a majority or what?

16           THE WITNESS: The truth is that I would actually tell you  
17 that 90 percent or 80 percent of the people of Guadalcazar were against  
18 this project, against this landfill. I think that the will of the  
19 majority makes the decision. Even though it would be different, I  
20 think that every citizen in Guadalcazar has the same opportunity, they  
21 enjoy the same rights. No one has more weight or carries more weight  
22 than others because there is an equality of rights in our country.



1 Therefore, since they represented the majority, or even are being the  
2 majority, I imagine that--I think that this should be taken into  
3 consideration. And I dare say that it represents 80 percent or 90  
4 percent that rejects or does not accept this landfill.

5 ARBITRATOR CIVILETTI: If I understand your testimony  
6 correctly, as opposed to the use of the landfill for waste, that there  
7 was never any intention on your part or on the part of the council to  
8 allow reopening for hazardous waste; is that correct?

9 THE WITNESS: That is so, and I would like to say  
10 something. Personally, I opposed and am opposing. Personally, I would  
11 not count my own opinion. I am opposing because the highest authority,  
12 which is the cabildo, and also the consensus of the majority of the  
13 population was asking this of me. I think that at a personal level if  
14 I would say something different as to what has been indicated to me,  
15 well, my decision would have not been taken into account.

16 ARBITRATOR CIVILETTI: Thank you very much, Senor Ramos.

17 PRESIDENT LAUTERPACHT: Could I ask Mr. Pearce whether he  
18 could guide us to any evidence on the side of Metalclad indicative of  
19 when work stopped on the site? In other words, when was the  
20 construction completed presumably in that period of the first months of  
21 '95?