

Residents, Officials Reach Across International Boundary to Block Secret Toxic Landfill

By Talli Nauman | November 29, 2006

With citizen pressure mounting, U.S. environmental officials have told Mexican counterparts to guarantee public safety or reject the proposed La Choya hazardous waste landfill near the Arizona-Sonora state boundary. Indigenous government and environmental activists at the international crossroads want to nix the private, commercial project.

Mexico's federal Environment and Natural Resources Secretariat (Semarnat) initially authorized the toxic waste confinement on Oct. 13, 2005, without a public hearing. The landfill is a project of the fledgling firm Centro de Gestión Integral de Residuos (Cegire), headquartered in the Sonora state capital of Hermosillo.

According to the environmental impact statement Cegire submitted to obtain authorization, the project entails building and operating an eight-cell disposal area just off the highway between Hermosillo and the border town of Sonoyta. The 247.1-acre (1 square kilometer) site is 25 miles (41 kms) south of the U.S.-Mexico border in the municipality of Gen. Plutarco Elias Calles. It is conceived to handle 45,000 metric tons annually of hazardous industrial waste over a 50-year period.

In the most recent of numerous protest demonstrations, the non-profit Ciudadanos Comprometidos con Sonoyta (Committed Sonoyta Citizens) staged a symbolic closure of the strategic border crossing between Sonoyta and Lukeville, Ariz., on Nov. 26. The action was calculated to draw international attention by catching Thanksgiving vacationers returning to the United States from the Sonora beach resort of Puerto Peñasco.

U.S. environmental authorities have taken a more diplomatic approach to questioning the proposed dump. In a letter dated Nov. 7, 2006, EPA Region 9 Waste Management Division Associate Director David Jones told Semarnat's Acting Director of Integrated Hazardous Materials and Activities Management, Alfonso Flores Ramirez: "It is prudent to modify the design; impacts to air pose a potential risk that should be mitigated by preparing an emergency response plan; Semarnat should further assess and mitigate impacts to birds; and

Semarnat should directly consult with the Tohono O'odham nation to determine and mitigate concerns."

The 1983 La Paz Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area directs the United States and Mexico to "cooperate in the solution of the environmental problems of mutual concern in the border area" and to undertake "periodic exchanges of information and data on likely sources of pollution in their respective territory which may produce environmentally polluting incidents." Under the guidelines of a 1999 "consultative mechanism" pursuant to the agreement, Mexico should have been informing the United States about every step of La Choya's process beginning 30 days after authorities had knowledge of the proposal, because it concerns a hazardous waste project within 100 kilometers (62.5 miles) of the border.

Cegire's first permit application was submitted April 28, 2005. But Semarnat failed to advise the EPA in accord with the treaty rules until Sept. 28, 2005, well into the Mexican environmental agency's permitting process. Semarnat's evaluation of Cegire's environmental impact statement and the secretariat's conditions for approval were dated Sept. 6, 2005. Similarly, the corporation informed sympathetic authorities of the municipality when it applied for a land-use change permit on Jan. 11, 2006, but opponents within city hall somehow didn't get the message until a month later.

Mexican Federal, Corporate Secrecy Raises Hackles

To date, nobody knows what Semarnat's procedure will be in response to the EPA request for stiffer



environmental protection. For the moment, Semarnat hasn't officially done anything, because the matter fell to the municipal government in Sonoyta when the local officials denied Cegire's land-use permit application May 30, 2006. Only if the newly elected mayor and city fathers who took office in September 2006 revisit the licensing decision will Semarnat be compelled to react to EPA recommendations.

But one thing's for sure: Mexican government and corporate secrecy surrounding the process have raised hackles in widening concentric circles. On Nov. 22, the Hermosillo-based Asociación de Organizaciones no Gubernamentales del Estado de Sonora, No Alineadas (Sonora State Non-Aligned Non-Governmental Organizations Association) conducted a news media tour of the Cytrar illegal toxic waste burial site on the edge of the city. The facility has been the cause of years of protests and several international administrative and legal complaints.

Association members dubbed La Choya "Cytrar II", warning that loopholes in the law mean any hazardous residues legally imported to Mexico from the United States for the stated purpose of "recycling" could eventually be dumped at the proposed new site in violation of the spirit of the 1989 U.N. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. The convention protects Mexico from imports of foreign hazardous waste destined for final disposition. The group is among many in solidarity with the Tohono O'odham (Papago) government's outright opposition to the project. On Oct. 12, a date recognized by numerous governments as Indigenous People's Day, the Tohono O'odham activists, whose nation spans southern Arizona and northern Sonora, organized protests against La Choya at Mexican consulates across the U.S. Southwest.

The Tohono O'odham are already besieged by the proposed U.S.-Mexico border wall approved in the 2006 U.S. Secure Fence Act, which would bisect their ancestral territory. They are overrun by U.S. border patrol and military activity. Their most sacred site in the traditional village of Quitovac would be profaned by La Choya, situated approximately 12 miles (20.9 kms) to the southeast.

Influential organizations including the International Indian Treaty Conference, Indigenous Environmental Network and Greenaction for Health and Environmental Justice have joined the non-profit O'odham Rights

Cultural and Environmental Justice Coalition in consular demonstrations against the toxic landfill. The groups sent a joint letter to Semarnat's Flores Ramirez to protest the project. Some 20 individuals from other U.S.-based organizations also signed the June 21 letter, including representatives of the O'odham Voice Against the Wall, at Sells, Ariz.; Mohave Cultural Preservation Program, at Parker, Ariz.; Just Transition Alliance, National City, Calif.; Grayson Neighborhood Council, Grayson, Calif.; Escuela de la Raza Unida, Blythe, Calif.; Children for a Safe Environment, Phoenix, Ariz.; La Cuna de Aztlan Sacred Sites Protection Circle, Blythe; Tri-Valley Citizens Against Ruining Our Environment, Livermore, Calif.; Diné Citizens Against Ruining Our Environment, Dilkon, Ariz.; Healthy San Leandro, San Leandro, Calif.; Western County Toxics Coalition, Richmond, Calif.; La Raza Centro Legal and San Francisco Day Labor Program; Global Community Monitor, San Francisco, Calif.; San Francisco Bay Newspaper; Alianza Indígena Sin Fronteras, Tucson, Ariz.; Center on Race, Poverty and the Environment, San Francisco; California Communities Against Toxics; and People Organized to Demand Environmental and Economic Rights, San Francisco.

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The Tohono O'odham activists led a 120-vehicle protest caravan to Sonoyta city hall in May that apparently influenced their governing council's vote against the project and sparked the wider resistance. La Choya would be located 92.3 miles (149.5 kms) southwest of Tucson, Ariz., and about 53 miles (88 kms) east of Puerto Peñasco.

Right after the consular protests, on Nov. 17, Arizona Department of Environmental Quality (ADEQ) Director Stephen A. Owens sent the EPA a letter stating that a draft assessment of Cegire's potential impact on the United States failed to address the specific questions of the Tohono O'odham Nation. Owens claimed that the assessment, commissioned by the EPA to the U.S. consultants Booz Allen Hamilton Inc., failed to take into account the issues raised by the O'odham in a June 6

document titled “Concerns about the Proposed Hazardous Waste Facility near Quitovac, Sonora”.

The persistence of “significant information gaps” on “important technical questions after many months of discussion with Semarnat and other project proponents”, as identified by the consultants “has led to concerns by key stakeholders, such as the Tohono O’odham Nation and community representatives in the Mexican municipality of Gen. Plutarco Elias Calles,” Owens wrote.

He was right in classifying Semarnat as one of the project proponents, although it is officially charged with being a regulatory and enforcement department. Unlike federal and state authorities north of the border, counterparts south of the border not only have been secretive, they have sallied forth to champion the project and to cover up for its shortcomings.



The access road to proposed La Choya toxic burial grounds shows typical Sonora Desert foliage. Source: CEGIR environmental impact statement submitted to Semarnat.

Semarnat’s Flores Ramirez promoted La Choya as a “resolution for the needs” of waste generators and transporters during a Feb. 7 meeting in Monterrey, Mexico, of the EPA-funded U.S.-Mexico Border Environmental Program “Border 2012”. Sonora state’s delegate in the federal office of the Attorney General for Environmental Protection, Ernesto Munro Palacio, was cited by Mexican national newspaper La Jornada as saying that the municipality has no land-use development plan, so state officials have already approved all necessary landfill permits and the municipality has no further say-so. However, the municipality does indeed have a land-use development plan and by law should have a voice in decision-making within its jurisdiction.

EPA Cites Proposal’s Technical Faults

Doubts over the technical aspects of the project were thrown into stark relief when the EPA publicly released the final Booz Allen Hamilton assessment on Nov. 9. The assessment gives ample reason to take pause. It raises questions about whether Cegire’s environmental impact statement even meets official criteria, and especially in regard to effects on water in the desert.

Due to hydro-geological characteristics of the zone, any pollution of surface or ground water from the landfill would flow to the southwest of the chosen location, it states. That’s in the direction of the fishing resort of Puerto Peñasco—known as Rocky Point by U.S. tourists—and to the Gulf of California, or Sea of Cortez. The gulf is internationally recognized as the Aquarium of the World, since late oceanographer Jacques Cousteau helped raise its profile to such high status that its islands and shorelines were designated as UNESCO Natural Heritage sites in 2005.

Without further hydro-geologic information or installation of monitoring wells, the water could be impacted in Quitovac, according to the assessment. “The Quitovac community uses the area groundwater for its drinking water. A two-acre pond, described as a ‘spring complex’ by the U.S. Fish & Wildlife Service, is present in Quitovac. In addition to being culturally significant, the pond is also habitat for the endangered Sonoyta Mud Turtle. Insufficient information is available to confidently determine if groundwater feeding the Quitovac spring has any relationship to the proposed landfill site.”

Independent of the proposal’s scant documentation of water resources, its design should be re-engineered to prevent leaching. Additionally, “The lack of detailed standard operation procedures for waste acceptance and handling of liquid hazardous waste streams limits the ability to assess the effectiveness of the proposed controls and treatment practices in limiting [air] emissions at the facility. The project also raises concerns about impacts to air quality from accidents such as explosions, large-scale fires, and operational activities.” Insufficient data has been provided for determining the facility’s ability “to prevent, control, and respond to incidents that could result in air emissions and potential atmospheric transport.”

The assessment continues: “The operations manual lacks the specificity typically required under U.S. standards for new facilities.

“The project raises a concern that transboundary migratory birds will be impacted due to contact with toxic chemicals resulting in their injury or mortality.” Tohono O’odham have reported storks at the Quitovac pond, for example. “Additional information would be needed to determine whether there are any transboundary migratory species that are potentially impacted.”

“EPA understands that significant cultural resources and practices occur in the vicinity of Quitovac, Sonora, and recommends that Semarnat discuss this issue directly with the Tohono O’odham Nation’s Legislative Council and Chairwoman Vivian Juan-Saunders to determine potential impacts and possible mitigation.”

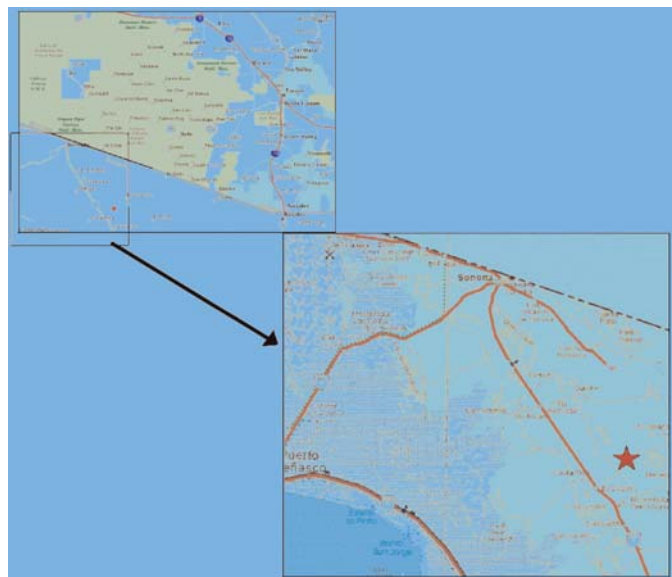
“Little or no information was found for several aspects of the project. Including, for example, detailed procedures related to the treatment of liquid wastes and sludges and their subsequent placement in landfill cells.”

Despite the many criticisms, the assessment and EPA’s letters were mildly worded in comparison to indigenous comments. Not surprisingly given its stake in the scheme, the Tohono O’odham Nation’s condemnation is among the most strident and eloquent. “We oppose this outright threat to our O’odham way of life by storage of hazardous chemicals in our sacred lands and near our scared ceremonial grounds,” traditional O’odham leaders of Sonora said in a written statement.

The nation’s constitution as a limited sovereign land under U.S. jurisdiction requires its government to “encourage ... harmony between members of the nation and the environment [and] to promote efforts which will preserve and protect the natural and cultural environment” of the tribal enrollment regardless of residential location. With a clear directive from tribal members, the Tohono O’odham Legislative Council unanimously adopted a resolution opposing the project on June 7, 2006. Chairwoman Juan-Saunders signed it, and in a letter dated Sept. 26, 2006, sent it to the EPA with comments reiterating the position.

Mexico Unprepared to Handle Hazardous Waste

Mexico has only one commercial hazardous waste confinement site, located near the northern industrial city of Monterrey, in Mina, Nuevo Leon. The country is in no condition to open others. It has no national mandatory standards for reporting toxic industrial releases and transfers. It has made international commitments to establish a toxics inventory such as those in the other countries belonging to the Organization for Economic Development and Cooperation and to the North American Free Trade Agreement. But officials and corporate chamber representatives oppose public interest groups’ proposed standards to make the public register an effective tool for deciding where to locate confinement sites. As a result, any statistics authorities issue on industrial toxic waste generation have no basis in fact and are strictly speculative.



The star indicates proposed La Choya toxic burial dump in Sonora state just south of the Arizona state border. Source: U.S. EPA commissioned Final Assessment of Potential Impacts to the United States of the CEGIR Hazardous Waste Landfill in Sonora, Mexico, by Booz Allen Hamilton, Inc.

What’s more, the 2003 federal General Integrated Waste Management and Prevention Law is considered weak by environmentalists, and remains to be fully instituted at the state level. The law has no regulations written under it that would require security bonding or other activities mandated in comparable U.S. legislation. Even if these existed, officials are the first to admit, the government does not have enough resources to provide enforcement adequate for achieving accountability.

The federal waste law and Mexico's General Ecological Equilibrium and Environmental Protection Law direct authorities to prioritize the decrease of factories' and workshops' toxic inputs. In line with environmentalists' best hopes, the legislation calls for reduction, re-use and recycling, leaving confinement of hazardous materials to be developed as a last resort.

The municipality of Gen. Plutarco Elias Calles is a centerpiece of the sensitive Sonoran Desert, an ecosystem esteemed by naturalists worldwide and a focal point of cross-border environmental protection activities.

However, in point of fact, environmental officials have done just the opposite. Since the administration of President Ernesto Zedillo and right up to the present, they have actively pushed a policy favoring willy-nilly private sector proposals for industrial waste confinement sites, while taking little action to encourage reduction, re-use and recycling measures or facilities. This has had disastrous implications for investors, community life, and public health.

Mexican Authorities' Promotion of Toxics Confinements Backfires

In the late 1990s, the federal government promoted construction of a for-profit, industrial toxic waste confinement at La Pedrera in the rural municipality of Guadalupe, in the central state of San Luis Potosi. Local residents demonstrated against it repeatedly when they discovered they had been duped about its real purpose; the municipal government blocked it by denying its building permit; and the California corporation Metalclad sued Mexico under international treaty law for lost investment. Taxpayers are footing the bill for the lawsuit and the toxic waste remains to pollute the community at the facility, which has never been operational.

Next, Metalclad tried to open an industrial toxic waste confinement in the rural municipality of El Llano, in the adjacent central state of Aguascalientes. Company representatives misled the population to believe the development would be a municipal domestic waste landfill. Once the truth came out, residents staged a weeklong sit-in at the gates of the proposed site. Officials of the municipality sent a letter to the state governor opposing the facility. Strife mounted to include a suicide blamed on the division in the community caused by the proposal. The company dropped the venture. Investors, who lost money, were furious over both ventures.

In both, the local denizens of agrarian communities recoiled at the idea of accepting the hazards of waste generated by distant development that did not benefit them. They identified environmental and social threats not addressed in impact statements, and they resented tactics used to achieve the projects without their participation in decision-making. Non-governmental organizations became important interlocutors, since the communities were meeting unforeseen challenges. The pattern is being repeated at La Choya.

The municipality of Gen. Plutarco Elias Calles is a centerpiece of the sensitive Sonoran Desert, an ecosystem esteemed by naturalists worldwide and a focal point of cross-border environmental protection activities. It is part of a proposed national park. The homeland of the Tohono O'odham and other tribes for centuries, it features saguaro, ocotillo and cholla cactus, as well as rich diversity of wild animals. The Pinacate Biosphere Reserve, about 46 miles (77 kms) northwest of La Choya, is a salient attraction of the area, distinguished by volcanic cinder cones, craters and lava fields. The seat of government, the border town of Sonoyta (population 17,000), is the main border crossing for U.S. tourists en route to and from Puerto Peñasco.

"Sonoyta is an ecologically clean municipality where there is no industrial activity and U.S. tourist traffic to Puerto Peñasco is considerable, with the possibility of developing future tourist projects," says former council member Ernesto Castro Hernandez. "We can't accept first being contaminated and later getting development promotion; that goes against real municipal development planning."

After numerous protests against the landfill proposal, area residents successfully petitioned for an open-door council meeting when the land-use permit came to a

vote. Some 600 citizens showed up. The vote against the permit was unanimous.

Within the last decade, residents on opposite sides of the international border have cited the La Paz agreement to win struggles against developers' faulty proposals for toxic burial sites at Spofford and at Dryden, Texas, as well as for a radioactive dump at Sierra Blanca, Texas. The border agreement may be crucial in the case of La Choya. In addition, Semarnat quietly has approved six more hazardous waste burial site proposals: The ones for Baja California and Coahuila states would be subject to the terms of the agreement, while the one for Hidalgo state would be exempt because of its distance from the border.

The Sonora State Non-Aligned Non-Governmental Organizations Association maintains that a viable alternative would be regulation guaranteeing public oversight and strict control of industrial imports and production inputs, return of toxics to their point of origin, and the best available technology for confinement of any remaining waste in controlled above-ground housing that is easily monitored. Investors have argued that such processes are too expensive. But, an association statement concludes: "Nothing can be more expensive than the loss of our loved ones and the deterioration of the environment, especially when we put economic interests before life."

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RESOURCES:

Semarnat
www.semarnat.gob.mx

Border 2012
www.epa.gov/usmexicoborder

Indigenous Environmental Network
www.ienearth.org

International Indian Treaty Council
www.treatycouncil.org

GreenAction
www.greenaction.org
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History of toxic and radioactive burial conflicts in U.S.-Mexico region
<http://www.laneta.apc.org/emis/sustanci/confinam>

Talli Nauman, "Public Due Consideration on New U.S.-Mexico Border Toxic Waste Site Proposal," (Silver City, NM: International Relations Center, February 27, 2006).
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