

California and the West

Mexico Accused of Failure to Clean Up Plant

■ **Environment:** Groups on both sides of border hope NAFTA agreement will lead to removal of lead slag and debris near homes.

By KEN ELLINGWOOD
TIMES STAFF WRITER

TIJUANA—In the first attempt to use provisions of the North American Free Trade Agreement to address pollution along the U.S.-Mexico border, environmental groups from both countries Wednesday formally accused Mexico of flouting its own laws by failing to clean up a long-troubled battery smelting plant.

The complaint to the Commission for Environmental Cooperation, an international panel established under a NAFTA side agreement, says that tons of lead slag and other debris left behind by plant owners four years ago threatens the health of a neighborhood about a mile south of the border.

Cesar Luna, an attorney with the San Diego-based Environmental Health Coalition, called the action a "clear-cut test" of post-NAFTA environmental safeguards. The provisions were crafted to quiet fears that the accord would allow polluting companies to evade environmental oversight by moving their operations to Mexico, where enforcement is less rigorous.

Under the provisions, nongovernmental groups in the United States, Mexico and Canada can complain to the Montreal-based commission that one of the three nations is not upholding its environmental laws. The commission, which had received 18 previous submissions about environmental problems well inside Mexico and in the United States and Canada, has no enforcement power in such cases beyond reviewing the matter and publicizing its findings.

But Luna said public shame might help accomplish what authorities in Mexico and the United States have been unable to: getting the owners of the shuttered business, Metales y Derivados, to clean up the heaps of lead-tainted earth, rusted barrels and car battery cases atop a bluff in Tijuana's busy zone of assembly plants.

"We expect the CEC to do whatever they are capable of doing to clean this site," Luna said after a news conference at the site. As he spoke, the hum from a neighboring smelter filled the air.

Luna, joined by a Tijuana residents group named Citizens Committee for the Restoration of Canon del Padre, called for the extradition of owner Jose Kahn, a Chilean citizen who faces an arrest warrant in Mexico relating to plant pollution. He now runs the parent

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company, New Frontier Trading Corp., with his son in San Diego.

Jose Kahn could not be reached for comment Wednesday. His son, Reinaldo Kahn, declined to comment on the complaint.

Despite the charges of official neglect, the plant has attracted plenty of attention and attempts to clean it up during its 12 years of operation, in part because of complaints from neighbors. Mexican environmental officials who repeatedly cited the owners say they have done all they can. Nothing can be done with the four-acre site until the criminal case against Kahn is resolved, said Antonio Ibarra, second in command of the Tijuana branch of the federal environmental enforcement agency.

"This protest shouldn't be against us. We're on the same side. We can't do anything else," Ibarra said.

The plant, which recycled old car batteries into lead ingots, was shut down by the Mexican government in 1994 after failing to properly dispose of hazardous waste. The previous year, Kahn pleaded guilty in Los Angeles Superior Court to two charges of illegally transporting hazardous material. He was forced to pay a \$50,000 fine and agreed to take steps aimed at cleaning up the site.

But neighbors complain that nothing has been done to clean up the plant since Mexican authorities enclosed it with a concrete wall. The plant is now a skeleton. The block wall has gaping holes and protective covers are missing in places, exposing the lead-tainted dust.

Residents of Colonia Chilpancingo, a community of more than 2,000 at the foot of the bluff, say contaminants from the abandoned plant and neighboring factories are carried past their homes when winter rains turn the nearby gully into a rust-colored river. Community leaders suspect that contaminants are behind a high incidence of sometimes fatal brain disorders among children in the area. Other residents have complained of stomach ailments, dizziness and skin rashes, but no one has yet determined the causes of the health problems.

"The children play in the water, thinking it's clean water. They put their hands and their feet or their toys in it. They fall on the ground and the dirt is full of contamination," said Olga Rendon, a 25-year-old mother of two. She said the runoff flows next to her house. "What I'm asking for is that they clean up this factory."