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Toxic Tijuana waste site corrodes faith in NAFTA

By Joe Cantlupe
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When it rains, a rivulet of rust-colored water flows from the long-abandoned pile of battery acid and industrial waste toward an impoverished neighborhood in Tijuana.

To some environmentalists, the 6,600 metric tons of industrial waste lying a few hundred yards from Colonia Chilpancingo is one of the worst hazardous waste sites along the California-Mexico border.

"It looks like somebody just placed a bomb there and left," said Cesar Luna, a San Diego attorney who is battling to get it cleaned up.

To Luna and others, it also represents one of the great broken prom-

ises of the North American Free Trade Agreement. Six years ago, proponents of the three-nation pact incorporated measures to clean up the northern and southern borders of the United States as part of their push to get a deeply divided Congress to approve the controversial agreement.

The promise to clean up industrial waste and build sanitation facilities along the border — especially the southern border — was written into NAFTA through the creation of several binational institutions.

One of them was the Border Envi-

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Hazardous debris: Cesar Luna, a San Diego attorney and member of the Environmental Health Coalition, walked among piles of industrial waste scattered at a Tijuana site.

Toxic

Complaints go unheeded along both U.S. borders

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Environmental Cooperation Commission, an agency based in Texas and Mexico that develops environmental projects. Another was a government-funded bank that was to provide billions of dollars for environmental projects — the North American Development Bank.

But neither the money nor the programs have materialized.

In Tijuana, environmentalists have been trying to get someone — anyone — to clean up the abandoned hazardous waste site threatening Colonia Chilpancingo since authorities shut down the Metales y Derivados plant in 1994.

But they have met with little success.

The problem is not unique to Tijuana. Residents' complaints about lax environmental enforcement along the U.S. borders with Mexico and Canada have gone unresolved for years.

They are languishing before yet another little-known NAFTA environmental agency. Known as the North American Commission for Environmental Cooperation, the Montreal-based agency was formed under a NAFTA side-agreement approved by Congress to ensure that none of the North American countries uses lax environmental en-

forcement to gain trade advantage.

Residents are entitled to file complaints with the commission when they believe a NAFTA-member nation is allowing its environmental laws to be flouted.

Although the commission has no power to impose penalties, environmentalists have looked to the commission as a watchdog to ensure each country acts responsibly. The ultimate goal is a finding known as a factual record that must be accepted by a consensus of the countries.

Seventeen complaints involving sites in the United States, Mexico and Canada are still under review by the commission; 10 have been dismissed or withdrawn. Since the commission was formed, however, only one factual record has been made public. That report documented damage caused by construction of a pier near a coral reef off the Mexican resort island of Cozumel.

"Some (complaints) are pending an unacceptably long time," said David Shore of the World Wildlife Fund.

Environmentalists worry that even that sluggish pace may grind to a halt.

Recently, a coalition of 90 environmentalists from the United States, Mexico and Canada said the governments have been meeting secretly to discuss a Canadian proposal to weaken the right of citizens to file complaints. U.S. environmental officials insist citizens' rights will be maintained.

"By hiding these discussions from the public eye, the NAFTA

parties are not living up to the letter or the spirit of one of the key public participation and environmental enforcement guarantees of the agreement," said Jake Caldwell of the National Wildlife Federation.

The Tijuana case became part of the logjam at the commission in 1998 when a San Diego advocacy group, the Environmental Health Coalition, filed a complaint. The nonprofit organization accused Mexican authorities of refusing to clean up the site — or even to try to extradite the owner of the abandoned smelting plant, who had moved to the United States.

After nearly 18 months, the Montreal commission staff this month recommended that the agency look into Mexico's handling of the Metales site. But the agency has kept secret Mexico's response to the complaint and will not act until at least June, when environmental representatives from the three countries meet.

"We're not interested in bashing Mexico for inaction, we're more interested in getting it cleaned up," said Luna, a member of the Environmental Health Coalition. "If the CEC can identify it as part of the record, that will be a huge step."

Mexican authorities closed Metales in 1994, saying it had repeatedly ignored previous violations and promises to clean up the site. Arrest warrants were issued against the owner, Jose Kahn, who moved to San Diego. He lives in Point Loma.

Kahn operated the lead-smelting plant for nearly 20 years, first in an



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Danger! Environmental Health Coalition volunteers painted signs on the walls of this now-closed battery recycling plant in Tijuana warning of danger from contamination.

area of Tijuana known as the Los Pinos Industrial Center in the early 1970s.

A decade later, the company moved to Ciudad Industrial Nueva Tijuana, also known as Mesa de Otay Industrial Park, where it operated until its forced closure.

Kahn and his son, who run a business called New Frontier Trading Co. out of a small commercial center in Point Loma, declined com-

ment. A lawyer representing Kahn has been discussing with Mexican environmental officials the possibility of obtaining a loan to clean up the site, which could cost up to \$10 million.

Officials of the U.S. Environmental Protection Agency also are monitoring the situation.

In the meantime, the debris remains at the Tijuana site, which lacks a warning sign. Unwitting

neighbors have walked around the property without taking precautions.

A few years ago, Mexican officials built a cement containment wall and covered piles of waste with a plastic tarpaulin. But the wall has crumbled and the cover has deteriorated, officials said.

"Every day it gets worse, and it affects the people," Luna said.