

I am writing to ask if the GNEB can help draw attention to the concerns that I share with others regarding a proposed demolition of an 828ft smokestack built in 1967 by the now bankrupt American Smelting and Refining Co. (ASARCO) that sits within 1000ft from the Rio Grande and the international boundary of El Paso, TX and Ciudad Juarez, Mexico.

To give you some historical background, between 1969 and 1971 Asarco had emitted 1,012 metric tons of lead, 520 tons of zinc, 1.2 tons of arsenic, 12 tons of cadmium, and 230,500 tons of sulfur dioxide a year, or 640 tons a day. In 2006, the *New York Times* reported that Asarco secretly burned hazardous waste in a sham recycling scheme at the El Paso copper smelter. A 2007 United States Government Accountability (GAO) report confirmed the same. From 1991 to 1998, the Asarco El Paso smelter illegally received and incinerated hazardous waste from United States Department of Defense weapons facilities in Utah and Colorado. Shipments of this waste passed through Asarco subsidiary Encycle in Corpus Christi, where hazardous waste labels were removed and other slag content was added before being shipped to El Paso. These documented violations resulted in a \$50 million fine from the US Department of Justice.

After years of extraordinary environmental violations, fines, and debts, ASARCO declared bankruptcy in 2005 (see CNN story, particularly starting at 9:10 time -- <http://vimeo.com/5354253>) The bankruptcy court required that \$52 million be placed into an account to fund the remediation of the site. Under the settlement agreement, ASARCO's El Paso smelter property was placed in an environmental custodial trust and managed by a custodial trustee selected by the Texas Commission on Environmental Quality (TCEQ). The TCEQ selected Project Navigator, represented by Roberto Puga, as the custodial trustee to manage the remedial activities at the ASARCO-El Paso site. Mr. Puga is a licensed geologist from California, but not licensed in Texas.

We have numerous concerns, but as I am aware that you have other pressing matters to tend to, I will just mention some of the most pervasive aspects including the lack of transparency, outreach, and technical flaws that do not provide assurance of the short and long-term environmental or health impacts due to this demolition:

1. It doesn't appear that any of the documents have been translated into Spanish or made available beyond the internet. This would fall in the category of Environmental Injustice. People who live in the extremely poor communities in Juarez live approximately 2000 ft from the smokestacks. Residents who live in the extremely poor community of Calavera in El Paso also live within a couple thousand feet from the smokestack. The residents of Juarez, in particular, are being kept in the dark with regards to the demolition activities and those US residents who may be aware of the planned demolition are limited in understanding the activities because Spanish is their only (or dominant) language.
2. There are major concerns for contaminants that have not been tested that could be present in the walls of the smokestack and that may become airborne upon demolition. For example:
 - a. According to EPA documents, hazardous waste was illegally burned in this smokestack for nearly a decade. In 1998, the EPA submits a memo (which condemns ASARCO's illegal burning of hazardous waste in their El Paso plant. The memorandum states, " this activity, plain and simple, was illegal treatment

and disposal of hazardous wastes...”. Hazardous wastes included heavy metals such as but not limited to Arsenic, Chromium, Lead, Contatrchlorobenzene, hexachlorophenols, and pentachlorophenols.

- b. Analysis of contaminants analyzed in the flue was 3ft long core samples at heights of 10 ft, 50 ft, and 100 ft high, which would mislead concentrations by diluting it, whereas most of the contaminants would be within a few inches from the surface and at a lower elevation. This does not adhere to best Engineering Practices and probably does not adhere to an established protocol.
3. According to sampling plans, core samples of the stack were sampled for RCRA Metals plus COCs and Analyses of Interest (AOIs) but none for PCBs or Dioxins. Dioxins were not tested for in spite of the fact that evidence, such as EPA’s Dioxin inventory, indicates that metallurgical processes such as ferrous metal (e.g., copper and lead) produce dioxin-like emissions. PCB’s were not tested in spite of the fact that PCBs were commonly used as Dielectric fluids and transformers in primary and secondary metals smelting and refining, etc. for various applications until 1979 when the U.S. banned PCB manufacturing.
4. Asbestos was not sampled in spite of the evidence that should have directed the consultants to test asbestos. Virtually all mortar, brick, and cinder block buildings constructed prior to the mid-1980s may contain asbestos. In addition, according to “comprehensive asbestos” survey of the ASARCO site made in 2010 by ANE Consulting, Inc., asbestos was found in most of the buildings surrounding the smokestack. What is more, this report stated that according to the Occupational Safety and Health Administration (OSHA) regulations, the demolition contractor shall be notified if asbestos is suspected and the work must be stopped and the suspected material should be tested for asbestos. Asbestos was a substance the trustee failed to look for despite this report.
5. The small stack stands at 612’ high and is approximately less than 600’ ft away from the international border. The large stack stands at 828’ ft high and is approximately just under 100’ ft away from the international border. Plans are to bury the stack underneath the ground and within 500 ft. of the Rio Grande River, a primary aquifer source. No Environmental Impact Statement (EIS) or Environmental Assessment (EA) has been done for this.

How can this be allowed? In email exchanges with a community member, the EPA states that the remediation efforts occurring here are neither a State nor Federal action but they don’t state what type of action is occurring.

There are a significant number of people who are poor and who live in poverty. Historically, El Paso doesn’t carry the same political clout as regions in other areas of the state or nation. Furthermore, many of the people in this region have humble educations. The overwhelming majority of the people in this are Hispanic. This is a case of environmental injustice on a variety of levels. We are not aware of any PSAs regarding the scheduled demolition, no copies of the Draft Demolition Plan (released on March 21, 2013) are available in the library for people who don’t have access to the internet, no mention of an open comment period for the public on the Draft Demolition Plan, and no information that is available in Spanish on the Trust’s website, although thousands of residents living less than one mile from the stack speak no English.

What is equally incredulous is the lack of outreach to Mexico on the part of the Trustee. At a community meeting held on February 26th, 2013, the Trustee was asked if he had done any outreach to Mexico. He responded that he hadn't because he didn't have the authority. This was the same response he gave to a community member when the same question was asked two and a half years prior. In a presentation to El Paso City Council on March 26th, 2013, the Trustee responded that he was doing outreach to Mexico. In a span of a month, the Trustee is now doing outreach and now possesses the authority to do so? What entities and community members, exactly, have been contacted? Please see this link for a perspective from Mexico: <http://860noticias.com.mx/new/ciudad-juarez/politica/2069-danos-generados-por-asarco-son-irreversibles-senala-diputado>

The process that has been adopted to get to the point that we are at today – demolition of the two stacks – was done without full scientific assessment given the history of the stacks, without scrutiny for possible conflicts of interests on the part of the Trustee and firms that have been contracted, and without proper community outreach and participation on both sides of the border.

We need help now. What can you do to help us stop this demolition and do a thorough study before this turns into a major environmental and health disaster for generations to come?
Thank you for your attention to this matter.

Respectfully,
Andrea Tirres