



# The Senate of the State of Texas

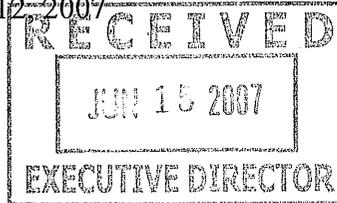
**COMMITTEES:**

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Nominations  
Transportation and Homeland Security  
Veterans Affairs & Military  
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and Closure - Chair  
Sunset Advisory Commission

**Senator Eliot Shapleigh**  
District 29

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800 Wyoming Ave., Suite A  
El Paso, Texas 79902  
915/544-1990  
Fax: 915/544-1998

June 12, 2007



EASTSIDE DISTRICT OFFICE:  
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Mr. Glenn Shankle  
Executive Director  
Texas Commission on Environmental Quality  
Post Office Box 13087  
Austin, TX 78711

VIA UNITED STATES MAIL

Re: ASARCO in El Paso

Dear Mr. Shankle:

I am writing to ask for your strong support for clean air and against 7,000 tons of new pollutants in the airshed of El Paso, Juarez, and Southern New Mexico. As you know, ASARCO has pending at TCEQ a request to renew the air permit on their century-old lead/copper smelter located in the heart of El Paso. Please consider the following information on ASARCO's impact on my community of El Paso as well as Juarez and Southern New Mexico:

1. Here is a chart of ASARCO's pending air permit, number 20345:

Pollutants (tons per year)	Allowables
Lead	7.69
Oxides of Nitrogen	230.04
Carbon Monoxide	287.68
Volatile Organic Compounds	7.66
Sulfur Dioxide	6,673.15
Particulate Matter	352.60
Particulate Matter (equal to or less than 10)	349.64
Sulfuric Acid	16.21

If renewed, the air permit would allow ASARCO to pollute my region's air with over 6,600 tons of sulfur dioxide per year. The smelter has been closed since 1999. On May 31, 2007, the mayors and city councils from the City of El Paso, the City of Juarez, and



Mr. Glenn Shankle  
Page 2  
June 12, 2007

the City of Sunland Park, New Mexico joined together to pass a resolution opposing the renewal of the air permit.<sup>1</sup> Enclosed is a recent El Paso Times Editorial and cartoon on the Asarco issue.<sup>2</sup> Recently, three regional mayors met to sign a historic resolution against Asarco.<sup>3</sup> Additionally, 11 legislators from the three-state region of Texas, New Mexico, and Chihuahua signed a bi-national joint resolution in opposition to the renewal of ASARCO's air permit.<sup>4</sup>

2. ASARCO declared chapter 11 bankruptcy in August 2005. In the pending federal bankruptcy, over \$24 Billion worth of claims have been submitted, many of them associated with the numerous environmental complaints from federal, state, and local agencies involving at least 94 sites across 21 states. Enclosed please find a portion of the claims register from ASARCO's bankruptcy and a related newspaper article.<sup>5</sup>
3. Between 1992 and 1997, ASARCO illegally burned 144,000 trainloads of hazardous waste in their El Paso smelter. ASARCO and its Corpus Christi subsidiary, Encycle, had a permit to extract metals from hazardous waste, but instead simply sent it to El Paso to be burned in an attempt to save money. As a result, more than 5,000 tons of waste was illegally burned in my city, including more than 300 tons of chemical warfare agents from the Rocky Mountain Arsenal outside Denver, Colorado. As a result, ASARCO was fined \$20 million by the EPA in 1999. Enclosed please find an October 11, 2006 New York Times article detailing the illegal burning of hazardous waste together with an internal EPA memo describing deep concerns about the treatment of the hazardous waste.<sup>6</sup>

I look forward to working with you to keep this unique three state, two country region free of over 14,000,000 pounds of new pollutants.

Very truly yours



Eliot Shapleigh

ES/de  
Enclosures

<sup>1</sup> Tammy Fonce-Olivas, "Mayors urge state to deny Asarco air permit," *El Paso Times*, June 1, 2007; Tika Milan, "The Dark Side of the Rio Grande: Tika Milan Reports on Asarco's Texas Refinery," *Rolling Stone*, March 9, 2007.

<sup>2</sup> El Paso Times Editorial and Cartoon

<sup>3</sup> Resolution, Border Cities Joint Resolution, Joint Resolution of Border Cities.

<sup>4</sup> Bi-national Joint Resolution in Opposition to Renewal of ASARCO's Air Permit.

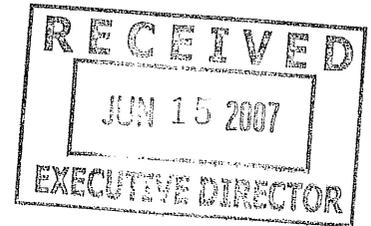
<sup>5</sup> Associated Press, "Feds' cleanup claims against bankrupt Asarco could top \$1 billion," *The Dallas Morning News*, August 2, 2006; Les Blumenthal, "Lawyers dissent Asarco's cleanup obligation in U.S.," *The Herald*, March 20, 2006.

<sup>6</sup> Ralph Blumenthal, "Copper Plant Illegally Burned Hazardous Waste, E.P.A. Says," *The New York Times*, October 11, 2006.

## Mayors urge state to deny Asarco air permit

By Tammy Fonce-Olivas / El Paso Times  
El Paso Times

Article Launched:06/01/2007 12:00:00 AM MDT



El Paso Mayor John Cook, Juárez Mayor Héctor Murguía and Sunland Park Mayor Ruben Segura, along with their councils, met Thursday on the banks of the Río Grande to sign a resolution opposing the reopening of Asarco's copper smelter in West El Paso.

The historic meeting was the first session of its kind to take place near Monument 1 on the riverbed where the states of Texas, New Mexico and Chihuahua come together.

Elected officials said the site was selected as a show of unity against Asarco.

For the past few years, Asarco has been seeking to have the Texas Commission on Environmental Quality renew its air permit from 1992. The smelter, at 2301 W. Palsano, has been idle since 1999.

The decision on whether to renew the air-quality permit is still months away, but the three mayors hope their resolution will help persuade the Texas commission to deny Asarco's request.

The mayors signed the resolution opposing the renewal of Asarco's air-quality permit after their councils approved it.

"I'm very hopeful that we are going to be able to convince them (TCEQ officials) that this entire region is opposed to Asarco reopening," Cook said. "There is no obligation by the state of Texas to issue an air-pollution permit, and that's what Asarco is requesting. They are requesting a permit to pollute our air, and we are saying no -- we don't want it. We appreciate everything Asarco has done for this community in the past, but their time has come to an end."

Larry Johnson, Asarco's environmental manager in El Paso, said air emissions from the copper smelter, if reopened, would not cause or contribute to air pollution or cause health risks. Johnson based his comments on independent studies he said were conducted by local, state and federal environmental departments.

Johnson said the reasoning for the municipalities' opposition to the air-quality permit was based on outdated scientific data.

"Looking at their resolution, again a lot of it is dated material. A lot of it is they are referencing to a copper smelter that doesn't exist anymore or a situation that doesn't exist," he said.

Johnson said that the smelter was modernized in the early '90s and that on May 1, 2007, the TCEQ executive director issued a favorable recommendation in support of the restart of the smelter. The recommendation, he said, states that the air emissions meet all the air-quality standards.

El Pasoan Laura Najera said she didn't want the smelter to reopen because of the potential health risks to El Paso and neighboring communities.

"We are hoping for their (TCEQ) support, because our health and our future is at risk," she said.

This week, a study released by UTEP's Institute for Policy and Economic Development -- and commissioned by Asarco -- indicated that the reopening of Asarco would bring hundreds of jobs to El Paso and a \$1.16 billion in regional economic output each year.

Frank Gallardo said that he worked for Asarco for nearly 30 years and that he would gladly return to work there. He said the smelter meets the standards on air emissions and, equally important, Asarco pays livable wages.

"We need to get back to work," he said.

Cook said Asarco's potential economic impact is not worth the possible health risks, which were outlined in the resolution.

"As I mentioned before, prostitution would also bring jobs, and it would bring money to our economy, and we could attract people from all over the United States and world for that, but there are some things you don't want to do for money," Cook said. "Having Asarco polluting our air is one of them."

Segura said he hoped the Texas commission recognized that renewing Asarco's air-quality permit would affect more than one Texas community.

"It's not just a local issue. But it is a regional issue that has far-reaching ramifications and impact. It is impacting another state, and it's impacting another nation," Segura said. "This gesture has to speak volumes to the state of Texas."

Murguía said the solidarity displayed by the municipalities on Thursday show that the more than 2 million residents of the three sister cities are speaking as one against the air-quality permit for Asarco. He said that one voice shouldn't be ignored.

Elected officials for the three cities also signed a resolution asking the federal governments from the United States and Mexico to provide adequate money to maintain and repair the Río Grande.

The three government bodies also voted in favor of creating committees for border relations to improve communication among El Paso, Juárez and Sunland Park.

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[Back to The Dark Side of the Rio Grande: Tika Milan Reports on Asarco's Texas Refinery](#)

# The Dark Side of the Rio Grande: Tika Milan Reports on Asarco's Texas Refinery

TIKA MILAN

*NOTE: We sent members of the I'm From Rolling Stone cast into the field to document America's eco-disasters. The result is a series of four reports from around the country. See a [full-index](#) of their work and tell us what you think [here](#).*

Perched on a hill above the Rio Grande, the smokestacks cast long shadows over both sides of the border. The giant exhaust towers belong to Asarco, one of the world's leading copper smelters. The company's refinery in El Paso, Texas, is ancient and dilapidated; its drab industrial buildings look like they haven't been upgraded since the original foundry was built in 1887. Despite the sign at the facility that reads 'Dedicated To Safety In El Paso For 110 Years,' the plant once emitted hundreds of tons of toxic chemicals each year — including lead, arsenic and cadmium that local residents believe have poisoned children in both El Paso and the Mexican border town of Juarez.

For years, people in the city say, a yellow haze hung over everything surrounding the smelter. "We didn't know any better to question why we were getting a yellow film on our car or why we smelled sulfur in the air all the time," says El Paso Mayor John Cook. "We just accepted it as a normalcy."

Eliot Shapleigh, a state senator from El Paso, recalls growing up under the haze of the Asarco smokestack. "I remember as a kid, going to the Sun Bowl, where the big football game was played every year," he says. "We could see this yellow smoke coming out of the Asarco smelter, and it would rain down little pieces of yellow dust that almost looked like sleet or snow. This dust was sulfur and other contaminants. If it landed on your tongue, it would immediately burn you all the way down to your lungs."

Asarco produces more than 400 million pounds of copper each year, and the smelting process — extracting metal from ore — can release high levels of arsenic and sulfur dioxide into the air. Long-term exposure to arsenic can cause skin and lung cancer; while sulfur dioxide can often severely decrease respiratory function and trigger asthma.

In El Paso, the company also smelted lead until the mid-1970s, and a 1975 study by Dr. Phillip Landrigan, published in *The New England Journal of Medicine*, found that more than half the children living near the plant had blood levels of lead that were considered toxic. Lead poisoning has been linked to learning disabilities and behavior problems in children, as well as nerve disorders and memory loss in adults.

Asarco denies that it is responsible for the dangerously high levels of lead and other contaminants in El Paso and Juarez.

But charges of environmental negligence are nothing new to the company, which is currently identified by the EPA as a potentially responsible party, at 37 Superfund sites that rank among the nation's most toxic. Facing thousands of environmental lawsuits — including 95,000 asbestos-related claims — Asarco filed for bankruptcy in 2005 in an attempt to evade cleanup costs that may exceed \$20 billion.

Referring to her experience with ASARCO, Sen. Maria Cantwell, D-Wash, says "We need to address the lax enforcement and loopholes that allow polluting corporations to manipulate bankruptcy laws and evade cleanup responsibilities." Daniel Tellechea, the former CEO of Asarco, all but admitted to the legal gambit when he acknowledged in a press release that one of the reasons for the bankruptcy was the numerous environmental-related lawsuits brought by government agencies and private parties.

In El Paso, the Asarco plant has been closed since 1999, and local officials and residents are fighting to force the company to keep the smelter closed permanently. "The city has spent hundreds of thousands of dollars to get their air-quality permit blocked," says Cook of the smelter. "Asarco is still fighting us tooth and nail -- but now that we're experiencing clean air, it's going to be hard to go back to yellow dust."

Residents say they're willing to sacrifice the hundreds of jobs that the company provided, in exchange for clean air. "Asarco has defined the town for a hundred years," says Shapleigh, who has made keeping the plant permanently closed one of his main legislative objectives. "We won't let it define the town for another hundred."

*NOTE: We sent members of the I'm From Rolling Stone cast into the field to document America's eco-disasters. The result is a series of four reports from around the country. See a [full-index](#) of their work and tell us what you think [here](#).*

Posted Mar 09, 2007 12:45 PM

**El Paso Times**A MediaNews Group newspaper  
Founded in 1881300 N. Campbell  
El Paso, TX 79901  
546-6100Ray M. Stafford, President and Publisher  
Dionicio "Don" Flores, Executive Vice President and Editor**EDITORIAL BOARD**Ray M. Stafford, President and Publisher  
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## Deny Asarco

### We're better than a smokestack

We don't believe reopening the Asarco copper smelter will mean more jobs and more money for the El Paso economy.

It would offer quite a few jobs, all right, but if that big belcher is stoked up again, it's highly likely other companies and persons with business ventures will shy away from relocating here. No way, not in a town with a megasmelter adjacent to its Downtown and its University of Texas at El Paso.

We are making good strides — historical strides — in erasing our image as a dirty border town.

Sorry, but that's what many people think about El Paso. That's the perception. And we're trying to change that thinking.

Now large-scale military technology is setting up in El Paso — billions of new dollars a year in positive economic impact.

We are placing our puzzle pieces to become a premier U.S. city in the biomedical/health care field — financing for the four-year Texas Tech medical school, the centerpiece for it all, has been approved by the Texas Legislature.

We no longer need a smelter in our midst.

A study commissioned by Asarco shows, sure, it will offer a lot of jobs — 291 directly and 1,819 indirectly. And at good pay and benefits.

The study, by the Institute for Policy and Economic Development at UTEP, also shows it would be worth \$1.16 billion a year to the economy.

We ponders what a "reverse economic impact study" would show — probably a loss of the \$2 billion from businesses and people not willing to relocate here or want to

continue to live here as the result of such a company being in operation.

Fort Bliss expansion will be good for some \$3 billion a year to our economy, and we hope to welcome all the ancillary business that will come to El Paso in hopes of tying into both the military and health care/health research that will call El Paso home.

We're afraid a lot of good, clean industry will shy away if we're still perceived as "that dirty border town."

Asarco points out it has the technology in place to meet air-quality standards set forth by the state of Texas.

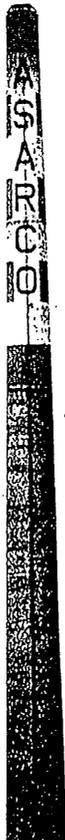
Air-quality standards allow for pollutants to be put into the air. Asarco would be permitted to put some 8,000 tons of pollutants into our air yearly and still meet air-quality standards.

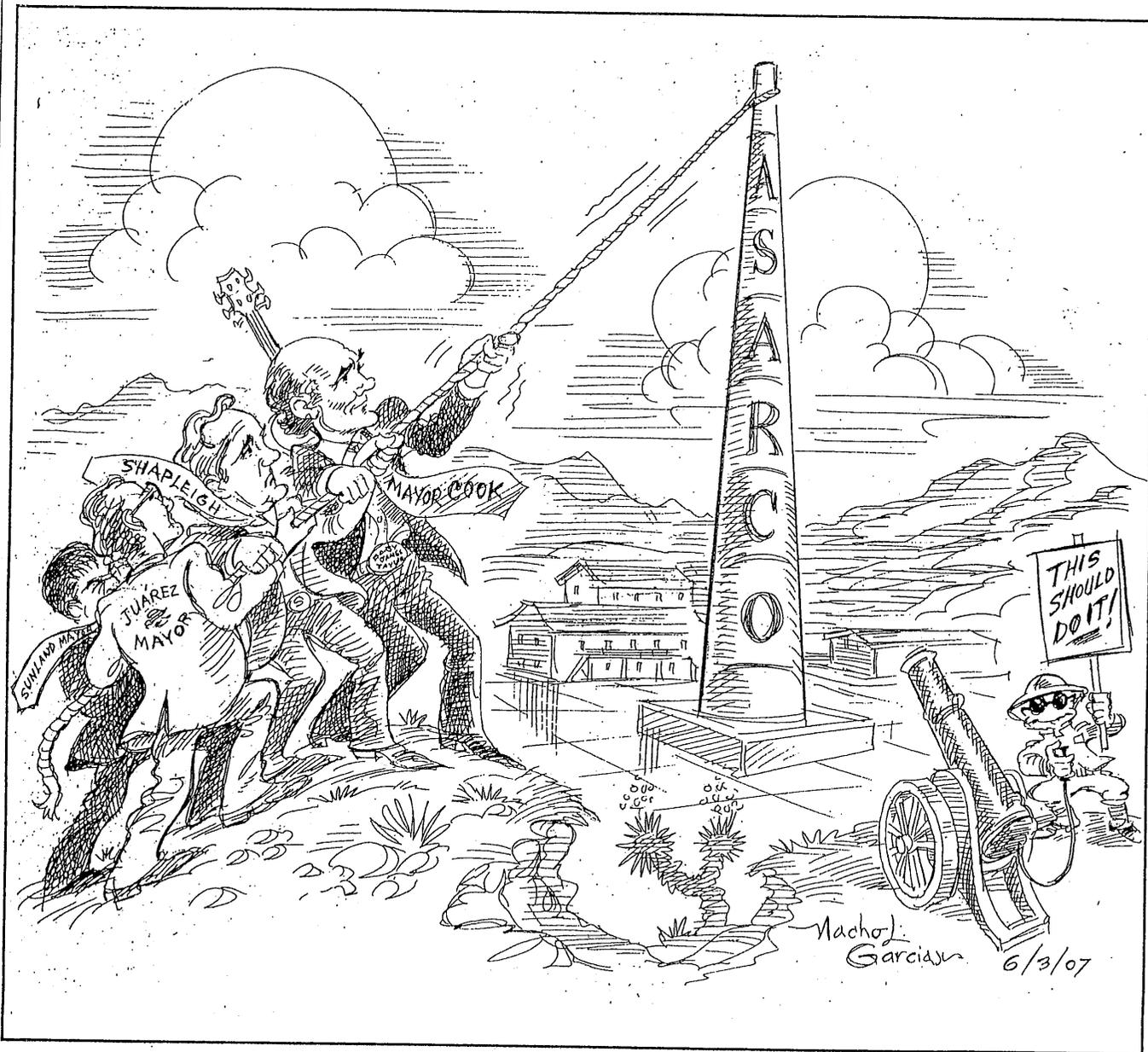
We don't want that to happen, and we think the vast majority of El Paso-area residents have the same sentiment. In fact the mayors and councils of El Paso, Sunland Park, N.M., and Juárez, Mexico, have strongly urged the Texas Commission on Environmental Quality to deny Asarco an air permit.

That's just not a few people living in the vicinity of the big smokestack and the 1800s-looking factory.

That's the leaders of three cities in three different states all saying we no longer need or want Asarco. We want to get better with business ways of the future.

Texas should deny Asarco its air permit. We don't want to live in a Charles Dickens novel where the populace relies on soot-caked smokestacks for its bread and butter.





El Paso Times  
June 3, 2007

## RESOLUTION

**WHEREAS**, the City of El Paso is firmly committed to protecting the health, safety, and welfare of the citizens in our community and surrounding communities;

**WHEREAS**, in the City of El Paso, 1,097 residential homes have been found with lead contamination exceeding 500 parts per million, which the United States Environmental Protection Agency designated ASARCO as the "potential responsible party";

**WHEREAS**, pursuant to the July 2005 findings of the Administrative Law Judges, ASARCO failed to prove that its emissions will not cause or contribute to air pollution;

**WHEREAS**, pursuant to the July 2005 findings of the Administrative Law Judges, ASARCO did not prove that its compliance history during the last five years of operation warrants renewal of its air permit;

**WHEREAS**, according to ASARCO's permit application, an activated ASARCO will emit nearly 7,000 tons of pollutants into El Paso's, Ciudad Juarez's, and Sunland Park, New Mexico's environmental air shed;

**WHEREAS**, said pollutants will include 7.69 tons of lead, 230 tons of oxides of nitrogen, 287 tons of carbon monoxide, 7.66 tons of volatile organic compounds, 6,673 tons of sulfur dioxide, and 16.21 tons of sulfuric acid;

**WHEREAS**, ASARCO is a retrograde vestige of a 19<sup>th</sup> century environmentally negligent industry that is located in the core of El Paso with close proximity to 20,000 students at the University of Texas at El Paso and thousands of residents in El Paso, Ciudad Juarez, and Sunland Park, New Mexico;

**WHEREAS**, the City of El Paso is firmly committed to maintaining and attracting clean 21<sup>st</sup> century industries that are mindful and respectful of our region, health, and environment;

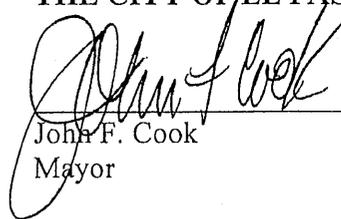
**WHEREAS**, the Mayor and City Council are firmly resolved to working with our constituents, Juarenses, and New Mexicans to protect the environmental integrity of our region.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

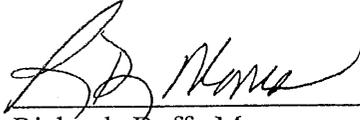
That the City of El Paso and its duly elected Mayor and Representatives will vehemently and staunchly oppose any and all efforts aimed at renewing ASARCO's air permit and declare that a reopened ASARCO is not welcome in this community.

ADOPTED this 4<sup>th</sup> day of May 2007.

THE CITY OF EL PASO:

  
\_\_\_\_\_  
John F. Cook  
Mayor

ATTEST:

  
\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Charles F. McNabb  
City Attorney

## BORDER CITIES JOINT RESOLUTION

**WHEREAS**, the communities of El Paso, Texas, Ciudad Juarez, Chihuahua and Sunland Park, New Mexico are all located on the banks of the Rio Grande River;

**WHEREAS**, the condition of the Rio Grande River, the levies, channels and other infrastructure designed to regulate the flow of water through the three communities must be properly maintained in order to avoid flooding and potential property damage and loss of life within the communities that abut the river;

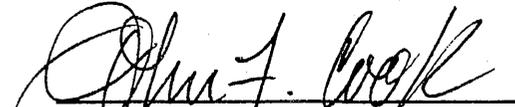
**WHEREAS**, the flooding events that occurred during 2006 have highlighted the need for additional resources to conduct maintenance on a regular basis to remove silt and other debris from the riverbed, fortify the levies and inspect and repair infrastructure intended to protect the three communities from flooding.



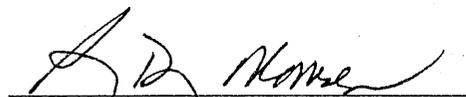
**NOW THEREFORE BE IT RESOLVED**, by the communities of El Paso, Texas, Ciudad Juarez Chihuahua and Sunland Park, New Mexico that the three communities will work together to secure adequate funding from both the United States and Mexican and Federal Governments to make the repairs to the Rio Grande River and its appurtenant infrastructure and levies necessitated by Storm 2006; and to increase the annual budgets of the agencies charged with the responsibility of maintaining the Rio Grande River to allow for more extensive and regular river maintenance.

PASSED AND APPROVED THE 31<sup>ST</sup> DAY OF MAY 2007.

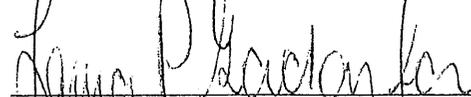
THE CITY OF EL PASO, TEXAS

  
\_\_\_\_\_  
John F. Cook  
Mayor

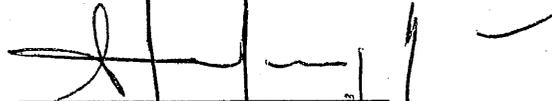
ATTEST:

  
\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Sylvia Borunda Firth  
Senior Assistant City Attorney

CIUDAD JUÁREZ, CHIHUAHUA

  
\_\_\_\_\_  
Héctor Murguía Lardizábal  
Mayor

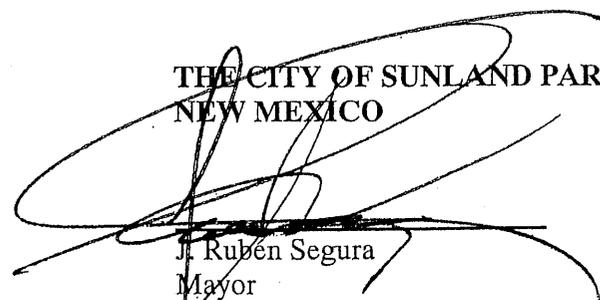
ATTEST:

  
\_\_\_\_\_  
Jorge A. Alvarez Compean  
Secretary of the City Council

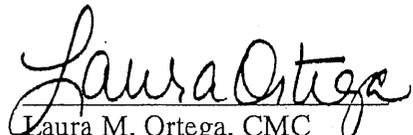
APPROVED AS TO FORM:

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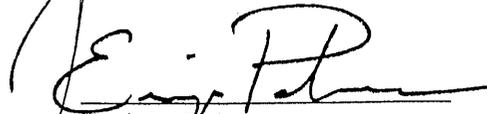
THE CITY OF SUNLAND PARK,  
NEW MEXICO

  
\_\_\_\_\_  
J. Rubén Segura  
Mayor

ATTEST:

  
\_\_\_\_\_  
Laura M. Ortega, CMC  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Enrique Palomares  
City Attorney

## JOINT RESOLUTION OF BORDER CITIES

**WHEREAS**, in 1971 an El Paso investigation found that in one year ASARCO spewed 1,012 tons of lead, 508 tons of zinc, 11 tons of cadmium, and 1 ton of arsenic into our border region;

**WHEREAS**, in the City of El Paso 1,097 residential homes have been found with lead contamination exceeding 500 parts per million, and the United States Environmental Protection Agency (EPA) has found ASARCO to be the potential responsible party;

**WHEREAS**, according to a 1998 EPA memorandum, ASARCO violated its permit in the past by illegal treatment and disposal of more than 5,000 tons of hazardous waste, thereby posing other health risk to our border region;

**WHEREAS**, according to ASARCO's permit application, a re-activated ASARCO will admit nearly 7,000 tons of pollutants into El Paso's, Ciudad Juárez's, and Sunland Park, New Mexico's environmental air shed;

**WHEREAS**, said pollutants will include 7.69 tons of lead, 230 tons of oxides of nitrogen, 287 tons of carbon monoxide, 7.66 tons of volatile organic compounds, 6,673 tons of sulfur dioxide, and 16.21 tons of sulfuric acid;

**WHEREAS**, El Paso, Ciudad Juárez, and Sunland Park, New Mexico, would also face other air quality concerns if ASARCO is reopened, including elevated levels of airborne particulate matter and ground-level ozone pollution, which will negatively effect our environment;

**WHEREAS**, for over a century, residents of El Paso, Ciudad Juárez, and Sunland Park, New Mexico, have been exposed to high levels of air pollutants, contaminated soil, and a contaminated Rio Grande river, which has resulted in the development of serious health conditions;

**WHEREAS**, the ASARCO plant located in El Paso is less than a mile from the borders of Mexico and New Mexico and has posed a transborder health concern for over a century and continues to pose a health concern because of the contaminated soil that remains in all three of our border cities;

**WHEREAS**, lead, arsenic, and cadmium are toxic to humans and are responsible for very serious health issues, including nerve disorders, reproductive problems, and cancer, and that these substances are especially harmful to children, affecting their physical and mental development;

**WHEREAS**, children with blood lead levels above 10 micrograms per deciliter have demonstrated severe and permanent injury to brain and neurological functions that include learning disabilities, decreased growth, hyperactivity, and impaired hearing; and that such high levels of lead has been found in a large number of children living in the surrounding area of ASARCO;

**WHEREAS**, human exposure to arsenic and cadmium creates a lifetime cancer risk, since both contaminants are carcinogenic;

**WHEREAS**, it is well known that serious medical conditions require medical care and treatment, which results in thousands of dollars in related health-care costs that are borne by the individual and the community;

**WHEREAS**, a dirty industry such as ASARCO, with its 828-foot and 615-foot smokestacks, jeopardizes economic development because clean businesses do not want to invest or move into our communities, thereby negatively affecting future jobs and the long-term growth of our communities' tax bases;

**WHEREAS**, ASARCO is a polluting vestige of a 19th-century environmentally negligent industry that detract from the development of tourism throughout this border region;

**WHEREAS**, the EPA has been using Superfund money to remove contaminated soil from some of the affluent residences near the smelter, the contamination problem has yet to be addressed in the poor areas of El Paso, Ciudad Juárez, and Sunland Park, New Mexico; and

**WHEREAS**, the City of El Paso, Ciudad Juárez, and Sunland Park, New Mexico, are firmly committed to attracting clean 21st century industries that are mindful and respectful of our region, health, and environment.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, THE CITY COUNCIL OF CIUDAD JUÁREZ, AND THE CITY COUNCIL OF THE CITY OF SUNLAND PARK, NEW MEXICO:**

That the City of El Paso, Ciudad Juárez, and the City of Sunland Park, New Mexico, and their duly elected Mayors and Representatives, oppose the renewal of the air permit that would allow the reopening of ASARCO in El Paso, and find that it would be detrimental to our border communities' environment, health, and economic prosperity.

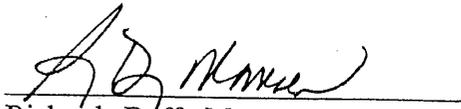
**ADOPTED** this 31st day of May 2007.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

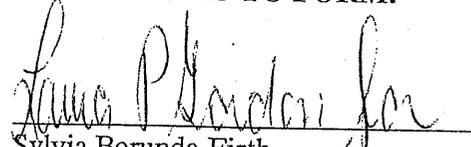
THE CITY OF EL PASO

  
John F. Cook  
Mayor

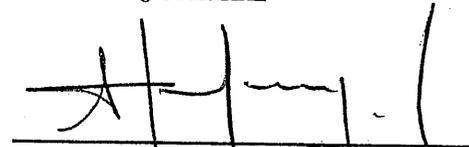
ATTEST:

  
Richarda Duffy Momsen  
City Clerk

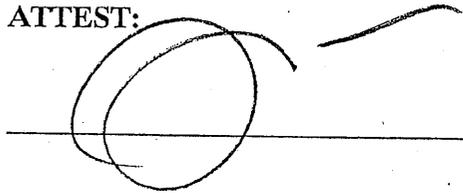
APPROVED AS TO FORM:

  
Sylvia Borunda Firth  
Senior Assistant City Attorney

CIUDAD JUÁREZ

  
Héctor Murguía Lardizábal  
Mayor

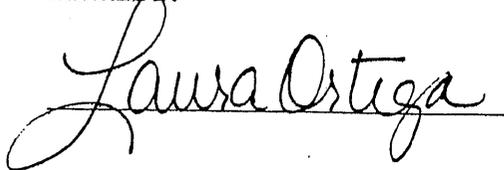
ATTEST:



THE CITY OF SUNLAND PARK,  
NEW MEXICO

  
J. Ruben Segura  
Mayor

ATTEST:



## **Bi-national Joint Resolution in Opposition to Renewal of ASARCO's Air Permit**

**Whereas**, lead in children's blood is a serious health hazard; as children with blood lead levels above 10 micrograms per deciliter have demonstrated severe and permanent injury to brain and neurological functions that include learning disabilities, decreased growth, hyperactivity, and impaired hearing; and

**Whereas**, continued exposure to arsenic creates a life-time cancer risk; and

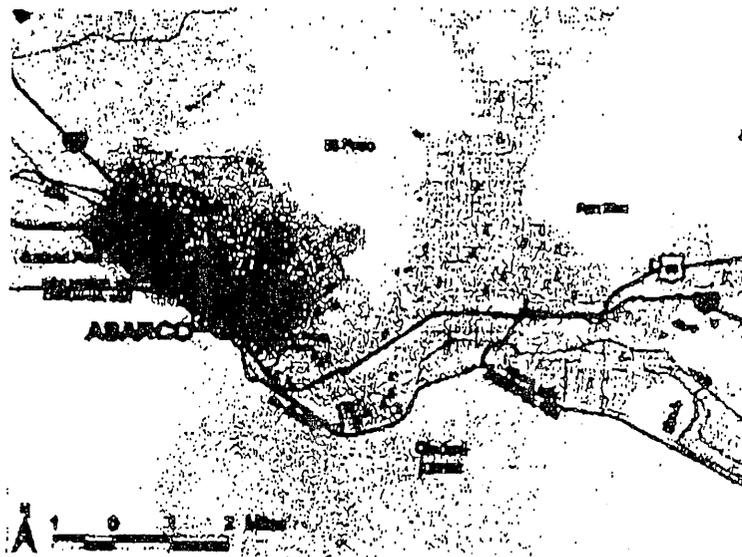
**Whereas**, in 1973, as a result of serious health complaints, Centers for Disease Control and Prevention (CDC) and others did health tests in the Smelertown area, in Southern New Mexico and in the Anapra, Cd. Juarez area, finding that over 53% of the children had harmful levels of blood lead, resulting in the evacuation of all families in the Smelertown area; and

**Whereas**, a 1996 study of children's blood lead levels in Anapra, Cd. Juarez concluded there is an ongoing threat to children's health from exposure to lead in contaminated soil; and

**Whereas**, thousands of children on both sides of the International Border have been exposed to ASARCO's emissions; and hundreds of thousands border residents have lived in the shadow of the smelter; and

**Whereas**, in 2001, after property at the University at Texas at El Paso was found to have lead levels of over 2,200 parts per million (ppm), a request was made by State Senator Eliot Shapleigh to the Texas Department of Health, the Texas Commission on Environmental Quality (TCEQ) and the EPA to investigate lead and arsenic deposits our area; and

Whereas, the EPA and others completed testing in El Paso Texas and of the 3,638 properties 1,097 had toxic levels of lead and arsenic, with the borders of contamination demonstrated in the map below, which must be removed at an estimated total cost of \$80 million; and



Whereas, on April 28, 2004, ASARCO appeared before the state to renew its Air Quality Permit No. 20345, which would allow ASARCO to operate and emit over 7900 tons of contaminants into the region, as shown in the chart below;

Pollutants (tons per year)	Allowables
Lead	7.69
Oxides of Nitrogen	230.04
Carbon Monoxide	287.68
Volatile Organic Compounds	7.66
Sulfur Dioxide	6,673.15
Particulate Matter	352.6
Particulate Matter (equal to or less than 10)	349.64
Sulfuric Acid	16.21

Whereas, pursuant to the TCEQ order that the application be referred to the State Office of Administrative Hearings for a hearing in the public interest; and

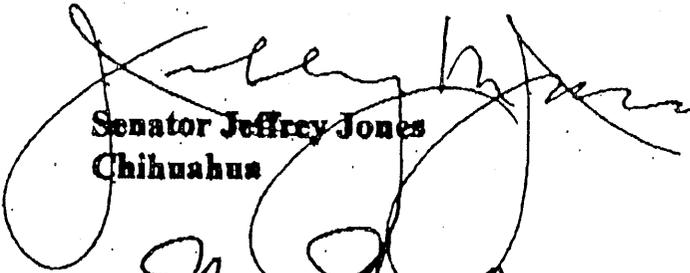
Whereas, on October 27, 2005, the Administrative Law Judge's (ALJ's) recommendation to the TCEQ concluded that ASARCO failed to prove that its operation under Permit 20345, warranted renewal; and

Whereas, considering that the Chihuahua State Commission on Human Rights in Cd. Juarez, Chihuahua has stated that the responsibility to prove that the quality of the environment will not be affected by the renewal of the permit lies on ASARCO and ASARCO has not proved it, and that sufficient evidence exists to deny Permit No. 20345.

Now therefore, be it resolved, the legislators that sign below representing Cd. Juarez, Chihuahua, MX, El Paso, Texas and Southern New Mexico and her citizens oppose the reopening of Asarco, oppose any new air permit that would allow contaminants into the air and into the soil, and stand strongly to vigorously contest the company's air permit application; and

Be it further resolved, that Cd. Juarez, Chihuahua, MX, El Paso, Texas and Southern New Mexico and her citizens hereby request that the Texas Commission on Environmental Quality deny the renewal of Permit No. 20345, consistent with the opinion of the ALJ's.

Legislators



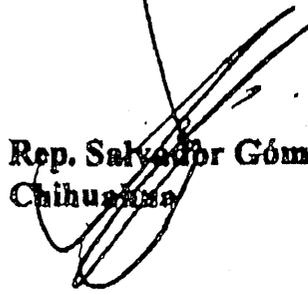
Senator Jeffrey Jones  
Chihuahua



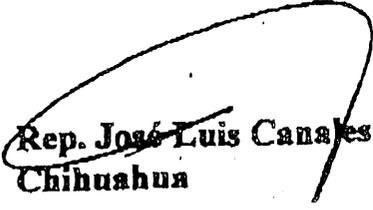
Rep. Ramon Galindo  
Chihuahua



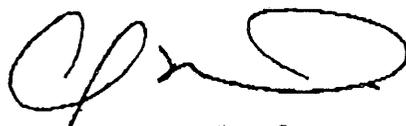
State Senator Elliot Shapleigh  
Texas



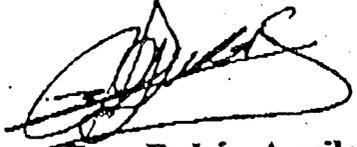
Rep. Salvador Gómez  
Chihuahua



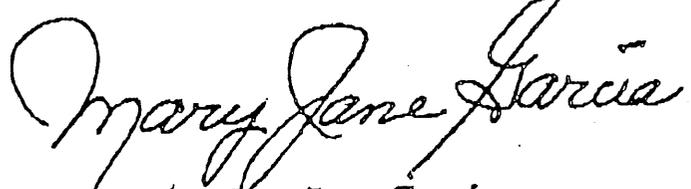
Rep. José Luis Canales  
Chihuahua



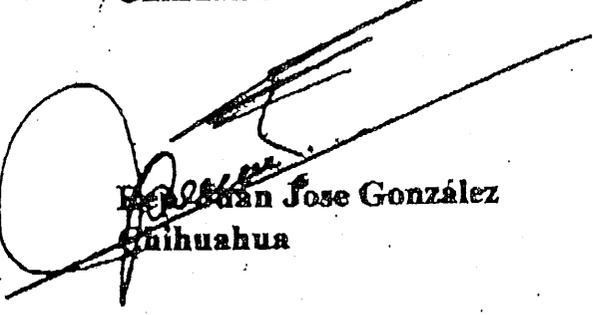
Rep. Yolanda Morales  
Chihuahua



Rep. Rubén Aguilar  
Chihuahua



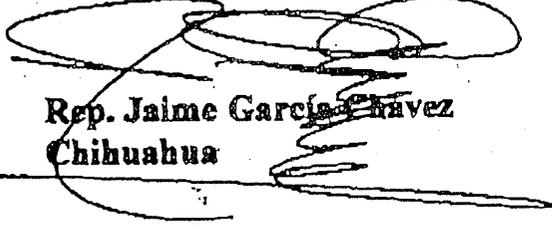
State Senator Mary Jane García  
Nuevo México



Rep. Juan José González  
Chihuahua



Rep. Andy Nuñez  
New Mexico



Rep. Jaime García Chávez  
Chihuahua

**NEWS** Texas/Southwest

## Feds' cleanup claims against bankrupt Asarco could top \$1 billion

08/02/2006

Associated Press

Federal officials have lodged claims that could easily top \$1 billion against Asarco LLC for environmental damage left at 31 sites operated by the bankrupt mining and smelting company.

The claims are based on Asarco cleaning up the sites, and it could rise significantly if the Environmental Protection Agency is required to do the work, government lawyers say.

The Department of Justice filed the claim before a deadline Tuesday for submitting claims to an administrator appointed by a federal bankruptcy judge in Corpus Christi.

States are seeking additional cleanup money. Last week, Washington state filed a claim for up to \$600 million.

The company also faces asbestos-exposure claims from individuals that could run into the hundreds of millions. Those claimants have until Sept. 30 to file.

A lawyer for Asarco said the company, a Tucson, Ariz.-based subsidiary of Grupo Mexico SA, was not surprised by the size of the government's claim, and said it wouldn't prevent the company from eventually emerging from bankruptcy.

"We expected the government to file a big number," said the lawyer, Jack L. Kinzie. "The government asserted everything it possibly could recover if it had the best day possible in the courtroom."

Kinzie, who also worked on Halliburton Co.'s effort to limit asbestos claims through the bankruptcy of a subsidiary, said even if the government won all the claims, Asarco could recover from bankruptcy because of the strength of its mining business and the high price of copper and other metals.

The federal claim against the company centers on sites in 14 states, including some on the Superfund list of contaminated areas. Justice Department lawyers said hazardous substances had been released, or threatened to be released, at each site.

The claims vary in precision. Some are for work that EPA has already done and were calculated to the last dollar. Others — totaling in the hundreds of millions — are estimates of future costs.

Asarco has several facilities in Texas, including smelters in Amarillo and El Paso and a recycling center in Corpus Christi.

Federal officials say the El Paso smelter, which is now closed, caused unacceptable levels of lead and arsenic in soil and groundwater along the Rio Grande. They are seeking \$26.4 million in claims to clean up residential yards.

The government is seeking a penalty of more than \$2 million because the Corpus Christi center failed to live up to an agreement to recycle about 260 tons of nickel, copper and chrome per year.

The federal lawyers said they couldn't estimate future cleanup costs at Houston's Federated Metals site, which was used to dump ship channel dredgings and other waste, some of it radioactive. State officials have indicated they plan to seek a cleanup.

The Justice Department filed the new claim on behalf of several federal agencies, including the EPA and the Interior Department. It updates previous government filings, and in many cases increases the amount of money for cleanup projects.

Government lawyers said the cost of some renovation projects isn't known, and the claims against Asarco could grow. They also indicated that others might also be held responsible for the contamination.

Asarco filed for bankruptcy protection in August 2005. Even rising copper prices failed to restore the company to profitability.

In 2003, the Justice Department agreed to let debt-laden Asarco sell one of its most valuable assets, a controlling stake in a Peruvian copper-mining company, to Grupo Mexico.

The company has spent millions to clean up some of the sites. Last week, federal officials announced an agreement that would let Asarco sell contaminated shoreline land near Tacoma, Wash., to a developer to speed cleanup work at the site of a former copper smelter.

# Lawyers dissect Asarco's cleanup obligation in U.S.

By *Los Blumenthal*  
The (Tacoma) News Tribune

TODAY: Lawyers with claims against Asarco say its parent corporation, Grupo Mexico, "cannibalized" the company and abandoned its obligations. The case exposes weaknesses in the Superfund law.

WASHINGTON - It is one of Mexico's most secretive companies, run by a politically connected family that is no stranger to the bare-knuckle world of international mining.

Now, Grupo Mexico S.A. de C.V. could find itself on the hook for Asarco's bankruptcy and for paying off creditors of the century-old American mining and smelting company.

The stakes are enormous.

Asarco owes more than \$1 billion to clean up environmental contamination at 94 sites in 21 states, including the company's former copper smelter in Ruston, according to court filings.

In addition, more than 85,000 asbestos exposure-related claims worth an estimated \$500 million have been filed against Asarco, and more are expected.

Over the coming months, lawyers will try to convince a federal bankruptcy judge in Texas that Grupo Mexico "systematically cannibalized" Asarco since buying it six years ago, and should be ordered to help cover its debts.

"They stole the piggy bank," said John Tate, a San Antonio lawyer representing asbestos claimants in the bankruptcy. "Absolutely, we will go after them. They are the deep pockets."

The Asarco saga, however, is about more than just the financial collapse of a once profitable company following its unexpected takeover. It is also about more than corporate maneuvering to gain control of some of the world's most valuable copper mines high in the Andes of Peru.

The Asarco bankruptcy has exposed weaknesses in one of the nation's premier environmental programs, the Superfund.

The fund was created in 1980 to clean up the nation's legacy of toxic pollution. It was financed with a special corporate tax that expired in 1995.

The Superfund's \$3.8 billion surplus has been spent, and it is now living off annual appropriations from Congress. Unless Congress approves another funding mechanism, taxpayers will increasingly pay for the environmental cleanups. Asarco's bankruptcy will only add to the burden.

Some regulators fear that other companies with major environmental liabilities will follow Asarco's lead and seek bankruptcy protection. A report last year from the Government Accountability Office said officials in eight of EPA's 10 regions expect more such bankruptcies.

The GAO report also said bankruptcy laws allow companies to potentially skirt their Superfund obligations, and added that the EPA is ill-equipped to deal with the situation.

EPA and Justice Department officials say they aren't worried. They have adequate staff to deal with additional bankruptcies,

they say, and the law is on their side.

"The EPA and the Justice Department generally find that bankruptcy filings are rarely due to environmental liabilities," EPA spokesman Dave Ryan said in an e-mail, which was the only way he would respond to questions.

#### 'Self-assurance' OK'd

Companies with Superfund responsibilities are supposed to offer financial assurances that they will clean up their sites. But the GAO, the investigative arm of Congress, found they don't always follow up.

Asarco promised it would clean up the Ruston smelter site, offering a "self-assurance" to the EPA. Self-assurances are allowed if a company passes a complicated financial test that hasn't been adjusted for inflation since 1982.

The EPA's Inspector general reported that one of the agency's regional offices found that almost a third of the companies with Superfund obligations were out of compliance with their financial assurances.

The 1980 Superfund law required EPA to issue a comprehensive regulation covering financial assurances. The regulation has never been written.

The GAO, the EPA Inspector general, the EPA Environmental Financial Assurance Board and a team of senior EPA managers have criticized EPA for not acting in 25 years. Several EPA officials said privately it is all but impossible to write a one-size-fits-all regulation that would cover every industry, and the political pressures would be enormous if they tried.

"EPA is at a disadvantage when it comes to these corporate maneuvers," said Christine Fishkin, who wrote the GAO report. "It's not a level playing field, and the solution is tougher financial assurances."

#### Takeover red flags

Grupo Mexico's takeover of Asarco in 1999 touched off warning bells in the EPA and the Justice Department.

Asarco was considered an attractive takeover target because of its 54 percent interest in the Southern Peru Copper Co. The Peruvian company owns two mines in South America's rich copper belt, and in 1999 had announced the discovery of major new reserves.

Federal regulators were concerned about Asarco's mounting environmental liabilities and a balance sheet that was steadily tipping toward insolvency. But they were powerless to stop the takeover.

Founded in the 1950s by Jorge Larrea Ortega, Grupo Mexico has a reputation as an exceedingly private company. It's the third largest copper producer in the world, controls Mexico's largest and most profitable railroad, and is reportedly interested in buying Aeromexico, one of Mexico's major airlines.

Larrea died in 1999 at age 87, and the company is now run by his son, German Larrea Mota-Velasco. As major players in the international mining market, the family is considered sophisticated and shrewd. But it is a cutthroat industry.

#### Peru mines key

In filings in the Texas bankruptcy court and in a New York case, lawyers for the asbestos claimants allege that Grupo Mexico's "bust-up" acquisition of Asarco was aimed squarely at acquiring control of the Peruvian mines.

"After less than six years of pillage by Grupo Mexico, Asarco today is a depleted, denuded vestige of a once vibrant, century-old mining enterprise," one brief said.

Within days of the takeover in November 1999, Grupo Mexico named some of its corporate officers, including Larrea, to top positions at Asarco. Grupo moved Asarco's corporate offices from New York to Phoenix, where it shared office space with another Grupo mining subsidiary, Americas Mining Corp.

Less than a month later, Asarco began selling its nonmining assets to pay for its own takeover, the asbestos lawyers claim. Asarco sold its specialty chemicals division, Enthone, for \$503 million and its aggregates division, American Limestone, for \$211 million. The proceeds from both sales were used to pay for Grupo Mexico's buyout of Asarco.

The asbestos lawyers say the "fire sales" of Enthone and American Limestone exacerbated Asarco's financial problems and served as a prelude to Grupo Mexico's plan to acquire control of Asarco's "crown jewel" - Southern Peruvian Copper Co.

Takeovers are often financed by selling a company's assets. But it could be illegal, under certain circumstances, if it is part of a deliberate scheme to force a company into bankruptcy or limit its financial liabilities. It's known as "fraudulent transfer" under the bankruptcy code, but it can be difficult to prove.

"It was a classic leveraged buyout carried out by the fraudulent conveyance of Asarco's assets, and they got SPCC almost for free," said Alan Rich, a Dallas lawyer representing asbestos claimants.

Grupo Mexico initially sought to purchase the Peruvian mines for \$640 million in summer 2002, a price tag the asbestos lawyers insist was outrageously low. EPA and Justice Department lawyers, in a step believed unprecedented, secured a temporary restraining order in federal court to block the sale.

"It was a Texas Hold 'Em move," said an EPA regulator who would speak only on the condition of anonymity. "We knew we could make it difficult for them, but it was a bluff. There really wasn't much we could do."

#### Concerns grow

Though no two cases are exactly alike, EPA is no stranger to bankruptcies involving companies with major Superfund obligations.

In one case, MagCorp filed for bankruptcy protection in 2001 seven months after the Justice Department filed a lawsuit seeking \$900 million in fines for toxic waste violations, according to the GAO. The bankruptcy court allowed MagCorp to sell its assets to a new company, US Magnesium, which was controlled by the same owner as MagCorp.

In another case, Gulf Resources and Chemical Corp., which faced potentially massive cleanup costs resulting from its northern Idaho mining interests, sought bankruptcy protection in the mid-1990s after a succession of buyouts.

In Asarco's case, the EPA grew increasingly anxious about whether Asarco would be able to fulfill its written assurances to clean up the Ruston smelter and other sites after the company sold its chemicals and aggregate divisions.

Asarco had approached EPA about a "global settlement" covering its environmental liabilities. With the temporary restraining order in place, government and Asarco lawyers intensified settlement negotiations.

In early 2003, they reached an agreement allowing Grupo Mexico to take control of the Peruvian mines for \$765 million, which was \$125 million more than the original purchase price. Grupo Mexico also agreed to fund a \$100 million trust dedicated to cleanups at Asarco's mining and smelting sites. EPA and the Justice Department agreed not to pursue any enforcement actions against Asarco for three years.

"EPA and the Justice Department took a pittance to roll over and go away," said Tate, the San Antonio asbestos-claims lawyer. "We would like to undo the entire transaction or have them pay a reasonable amount for SPCC."

With the price of copper currently at record levels, the Peruvian mines could be worth three or four times as much as they were in 2003.

In agreeing to the settlement, EPA officials said the \$100 million trust was better than nothing, considering Asarco was on the edge of bankruptcy.

"The United States believed at the time and continues to believe that the settlement was in the best interest of maximizing environmental cleanups," said Cynthia Magnuson, a Justice Department spokeswoman.

#### Trust fund targeted

The environmental trust fund could become part of the bankruptcy proceedings.

Asbestos lawyers won't reveal their legal plans, but EPA managers around the country said they worry the asbestos-claimants might try to tap the trust fund as part of any Asarco reorganization to pay off creditors. The next annual distribution - the first since the bankruptcy filing - is due in June.

Since the bankruptcy filing in August, the asbestos lawyers say Grupo Mexico has taken steps to force Asarco to halt operations and liquidate its remaining assets rather than reorganize.

Almost immediately after Asarco sought bankruptcy, its board of directors resigned. Two new board members were named, but one resigned a month later, leaving Carlos Ruiz Sacristan running the company.

Ruiz also is on the board of directors of Southern Peru Copper Co. and was Mexico's minister of communications and transportation in the late 1990s when Grupo Mexico purchased its first railroad from the Mexican government.

The asbestos lawyers claim Ruiz prolonged a labor strike last year at the Asarco mines in Arizona, allowing Southern Peru Copper to maximize its profits and steal customers from Asarco. They say the four-month strike cost Asarco up to \$50 million.

They also believe that Ruiz might resist any decision by Asarco to pursue action against Grupo Mexico.

"By reducing copper production at a 'deliberately failed' Asarco reorganization, Grupo Mexico will benefit from increased copper prices as well as increased copper profits from its other mining operations," the lawyers said in one court filing.

'We have stabilized'

In late December, the bankruptcy judge agreed to appoint two U.S. businessmen without ties to Grupo Mexico to the Asarco board of directors.

Grupo referred questions about the bankruptcy to Asarco. Lawyers for Americas Mining Corp., Grupo Mexico's mining subsidiary that Asarco is now part of, failed to return repeated phone calls seeking comment.

But in court filings, Americas Mining dismissed the asbestos lawyers' allegations as "innuendo and speculation."

For its part, Asarco could be forced to turn on its corporate parent and join the asbestos lawyers in trying to recover money from Grupo Mexico. Under the federal bankruptcy code, Asarco's fiduciary responsibilities are now to its creditors rather than its stockholders. The company may have no choice but to go after Grupo Mexico, said Jack Kinzie, an Asarco lawyer.

While Kinzie said the company is investigating that possibility, the federal bankruptcy judge hearing the case, Richard Schmidt, hinted during a December hearing that Asarco may be required to take such a step.

The federal government, through the Justice Department, and more than a dozen states, including Washington, could face similar decisions.

Kinzie said the decision by Asarco to seek bankruptcy protection came so "precipitously" that the company hadn't even hired a financial adviser to help guide it. Since then, a financial adviser has been hired, a legal team assembled and \$75 million in debt financing secured to keep the company operating.

"We have stabilized the company," Kinzie said. "We now need to start dealing with the creditors."

Trying to prove that Grupo Mexico was at the heart of the Asarco bankruptcy won't be easy. Bankruptcy experts say such cases are always difficult to prove, and the task is even harder because of Grupo Mexico's involvement.

"It's not easy to bring a foreign company into a bankruptcy case," said Lelf Clark, a bankruptcy judge who also teaches at the University of Texas law school. "It's not impossible, but it is difficult."

Even serving court papers to foreign parties in a bankruptcy case requires a complicated process spelled out in a 1910 international treaty. And if a judgment against Grupo Mexico is ever ordered, it might be difficult to collect and may require going into a Mexican court.

The asbestos lawyers aren't deterred.

"Grupo Mexico has been pretty brazen," said Alan Rich, the Dallas asbestos lawyer. "They aren't afraid to play hardball, and neither are we."

"How could this not have been made public before?" said State Senator Eliot Shapleigh, Democrat of El Paso, who has long campaigned against the company and tracks developments on his Web site. "I was not aware of it."

Mr. Shapleigh added: "In the American West, the modern trail of tears is the lead and arsenic left behind from Asarco."

Michael D. Goodstein, who as a Justice Department environmental lawyer helped negotiate the 1999 settlement with Asarco, said the E.P.A. memorandum detailing Asarco's violations was for internal use and was not meant to become public.

"This was the E.P.A. position, and it was addressed in the enforcement actions and the settlement approved by the judge," Mr. Goodstein, who is out of the government, said in an interview. Although the 122-page settlement does not spell out misdeeds, it commits Asarco to lengthy remedies, including the proper recycling of hazardous waste.

Terry Clawson, a spokesman for the Texas Commission on Environmental Quality, also said, "You can't say this was unknown."

Mr. Clawson pointed to an E.P.A. news release in 1999 that announced the settlement of federal and state claims against Asarco. But the release, while citing the company for "failing to properly manage hazardous waste and otherwise engaging in unlawful recycling practices" and accepting "shipments of unmanifested hazardous waste," does not say specifically that the company burned the waste under a subterfuge.

Although the company has filed for Chapter 11 bankruptcy protection, it is also awaiting action from the Texas commission on an application to renew smelting in El Paso, and it still faces a mountain of litigation and enforcement actions. As recently as August, the Justice Department filed a claim under the bankruptcy proceedings to assure Asarco's compliance with terms of the agreed-upon cleanup at Encycle.

At the same time, Mr. Shapleigh said a tabulation showed that legal claims filed against Asarco amounted to more than \$21 billion.

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October 11, 2006

## Copper Plant Illegally Burned Hazardous Waste, E.P.A. Says

By RALPH BLUMENTHAL

HOUSTON, Oct. 10 — A bankrupt copper giant facing billions of dollars in pollution claims across the nation pretended for years to recycle metals while illegally burning hazardous waste in a notorious El Paso smelter, according to a newly released Environmental Protection Agency document.

The agency, in a 1998 internal memorandum, said the company, Asarco, and its Corpus Christi subsidiary, Encycle, had a permit to extract metals from hazardous waste products but used that as a cover to burn the waste until the late 1990's, saving the high costs of proper disposal.

Among the more than 5,000 tons the company was accused of misrepresenting as containing metals for reclamation were more than 300 tons of nonmetallic residues from the former Army chemical warfare depot at the Rocky Mountain Arsenal outside Denver. (It is not clear what the arsenal's material contained.)

"This activity, plain and simple, was illegal treatment and disposal of hazardous waste," the environmental agency said in the memorandum, long held confidential but recently obtained by two El Paso environmental groups opposed to the smelter. "Encycle's own business records provide compelling evidence of sham recycling."

There was no response to messages left for an Asarco spokeswoman at corporate offices in Tucson and for the El Paso plant manager. But a company history states, "Asarco is committed to responsible management of our natural resources."

Asarco was founded as the American Smelting and Refining Company in 1899 and was bought by Mexican interests in 1999. It has long faced complaints of contaminating broad swaths of downtown El Paso and borderland areas of Mexico with lead and other dangerous metals, and it has been the target of federal, state and local complaints involving at least 94 sites in 21 states.

But although the environmental agency reached a landmark national \$20 million cleanup and penalty settlement with Asarco in 1999, the details of the violations had never been disclosed. The El Paso plant was shut down in 1999, but the company is now seeking permission to reopen it.

The long-confidential records were obtained from the Texas Commission on Environmental Quality through public information requests by the two citizens groups, the Get the Lead Out Coalition and the Sunland Park Grassroots Environmental Group, which provided copies to The New York Times.

"They were supposed to recycle reusable residues," said Heather McMurray, a teacher who requested the records. "They just burned them."

Ms. McMurray said the disclosure came as news to her and other activists who had been opposing Asarco for years with claims that pollutants released by the plant caused untold sickness.



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JUNE 1, 2007

50 CENTS

# El Paso Times

elpasotimes.com



## SPELLING BEE



Bill Clark / Special to the Times

Samir Gupta participated in the Scripps National Spelling Bee on Thursday in Washington, D.C.

## 'Scytodepsic' knocks EP speller out of competition

By Zahira Torres

El Paso Times

As Samir Gupta reviewed root languages and spelling techniques for the 2007 Scripps National Spelling Bee, the 13-year-old worried that he would not fare much better than he

Online

# 3 CITIES, 1 MESSAGE: DON'T REOPEN ASARCO



participated in the competition last year. But by Thursday afternoon, the St. Clement's Episcopal Parish School seventh-grader, who represented El Paso and the El Paso Times at the two-day competition in Washington, D.C., had surpassed his modest expectations.

► California teenager spells to national bee win 2A

Gupta reached the second round of the semifinals at the national bee and tied for 16th place after competing against 286 spellers throughout the two-day event.

"I think I was underestimating myself," he said. "I also got a little bit lucky because the words that I got were kind of difficult, but there were worse ones out there."

Spelling "infantry," "paseo," "pasquinade" and "biwa" was no problem for Gupta — who smiled and returned the high fives of other competitors after completing the last word. But "scytodepsic" proved to be a bigger challenge.

Scytodepsic means of, like or pertaining to tanning leather. "Since tanning has to do with the skin, I used the prefix 'cyto,' which is 'cell' in Greek," Samir said about his choice of spelling for the word that knocked him out of the competition.

Please see **Speller 2A**

Juárez Mayor Hector Murguía, left, Sunland Park Mayor Ruben Segura and El Paso Mayor John Cook signed a resolution Thursday opposing the renewal of Asarco's air permit.

# Mayors urge state to deny smelter air permit

By Tammy Fonce-Olivas

El Paso Times

El Paso Mayor John Cook, Juárez Mayor Héctor Murguía and Sunland Park Mayor Ruben Segura, along with their councils, met Thursday on the banks of the Rio Grande to sign a resolution opposing the reopening of Asarco's copper smelter in West

El Paso.

The historic meeting was the first session of its kind to take place near Monument 1 on the riverbed where the states of Texas, New Mexico and Chihuahua come together.

Elected officials said the site was selected as a show of unity, against Asarco.

For the past few years, Asarco

has been seeking to have the Texas Commission on Environmental Quality renew its air permit from 1992. The smelter, at 2301 W. Paisano, has been idle since 1999.

The decision on whether to renew the air-quality permit is still months away, but the three mayors hope their resolution will help persuade the Texas com-

mission to deny Asarco's request.

The mayors signed the resolution opposing the renewal of Asarco's air-quality permit after their councils approved it.

"I'm very hopeful that we are going to be able to convince them (TCEQ officials) that this entire region is opposed to Asarco reopening," Cook said. "There

is no obligation by the state of Texas to issue an air-pollution permit, and that's what Asarco is requesting. They are requesting a permit to pollute our air, and we are saying no — we don't want it. We appreciate everything Asarco has done for this community in the past, but their

Please see **Asarco 2A**

## Raid of Downtown hotel nets 68 in U.S. illegally

By Adriana M. Chávez

El Paso Times

► A breakdown of who was caught 2A

Sixty-eight undocumented immigrants were found in a Downtown hotel where a similar bust occurred last year.

Immigration and Customs Enforcement agents working with the Border Enforcement Security Team, or BEST, received a tip Thursday morning about a group of immigrants staying at the Gateway Hotel, 104 S. Stanton.

ICE spokeswoman Leticia Zamarripa said the 68 immigrants included two Nicaraguans and 66 Mexican nationals, including three Mexican juveniles.

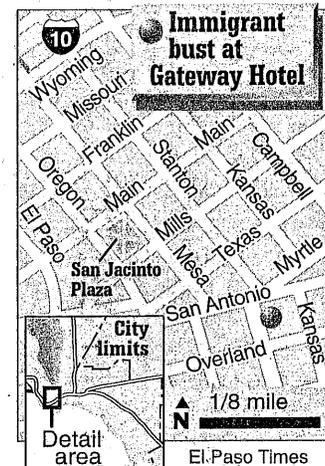
Zamarripa said that agents interviewed each immigrant indi-

vidually and that some were interviewed more than once. She said the Mexican immigrants found would be returned to Mexico within 24 hours of the bust.

"With Mexican illegal aliens, oftentimes they're removed to their country the same day," Zamarripa said.

No arrests were made Thursday because the group had been left without a guide, which is common in cases such as this, Zamarripa said.

In March 2006, ICE agents and El Paso County sheriff's



Please see **Raid 2A**

## Principal facing grievance takes similar job in Austin

By Gustavo Reveles Acosta

El Paso Times

Daniel Girard — the Bel Air High School principal named in a grievance by 12 teachers who claimed they were harassed and forced to work during duty-free hours — will leave El Paso and take a principal position in Austin.

Officials of the Austin Independent School District confirmed that its board of trustees had approved Girard's appointment as principal at Akins High School.

Girard told his staff about the move Tuesday, Bel Air teachers said.

"While I have been at Bel Air, the community and students



Girard have embraced and welcomed both me and my family," Girard said in a written statement released by the Ysleta Independent School District. "I am confident that Bel Air and the students will continue to succeed towards excellence and wish every student, teacher and parent the very best."

Girard was one of two out-of-state high-school principals Ysleta Superintendent Hector Montenegro hired in 2005. Both are now working in the Austin

Please see **Principal 2A**

96° / 67°

SUNNY  
Details, 10B

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**Med students help at clinics**

**BUSINESS**  
**Western's Giant deal**  
El Paso-based Western Refining completes its \$1.4 billion acquisition of Giant

### WEB TRACK

elpasotimes.com

The five most-viewed stories on elpasotimes.com as of 8 p.m. Thursday:  
► 1. 11-month-old boy's death

Calif., aced "serrefine" Thursday night to become the last youngster standing at the 80th annual bee. He triumphed after a tense duel with Nate Gartke of Spruce Grove, Alberta, who was trying to become the first Canadian to win.

Evan won a trophy and a \$35,000 prize, plus a \$5,000 scholarship, a \$2,500 savings bond and a set of reference works. He said he knew how

music I like to let out ideas by composing notes — and the spelling is just a bunch of memorization."

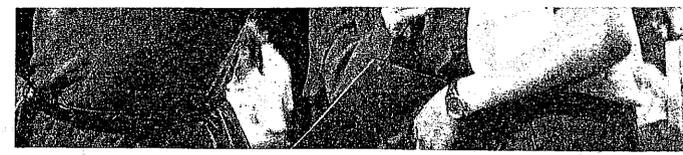
Evan and Nate went head-to-head for three rounds, matching each other's correct spellings until Nate flubbed the medical word "coryza" by adding the letter "h." Until then, Nate had been quite the showman, waving celebritylike to the audience after each word and basking in

point, Evan calmly cleaned his glasses while Nate spelled a word. The day began with 59 spellers remaining from the record 286 who started the competition Wednesday.

The field was narrowed to 15 finalists, but eight were gone after the initial round, and two more faltered in the next round, leaving a fivesome of Evan; Nate; 14-year-old

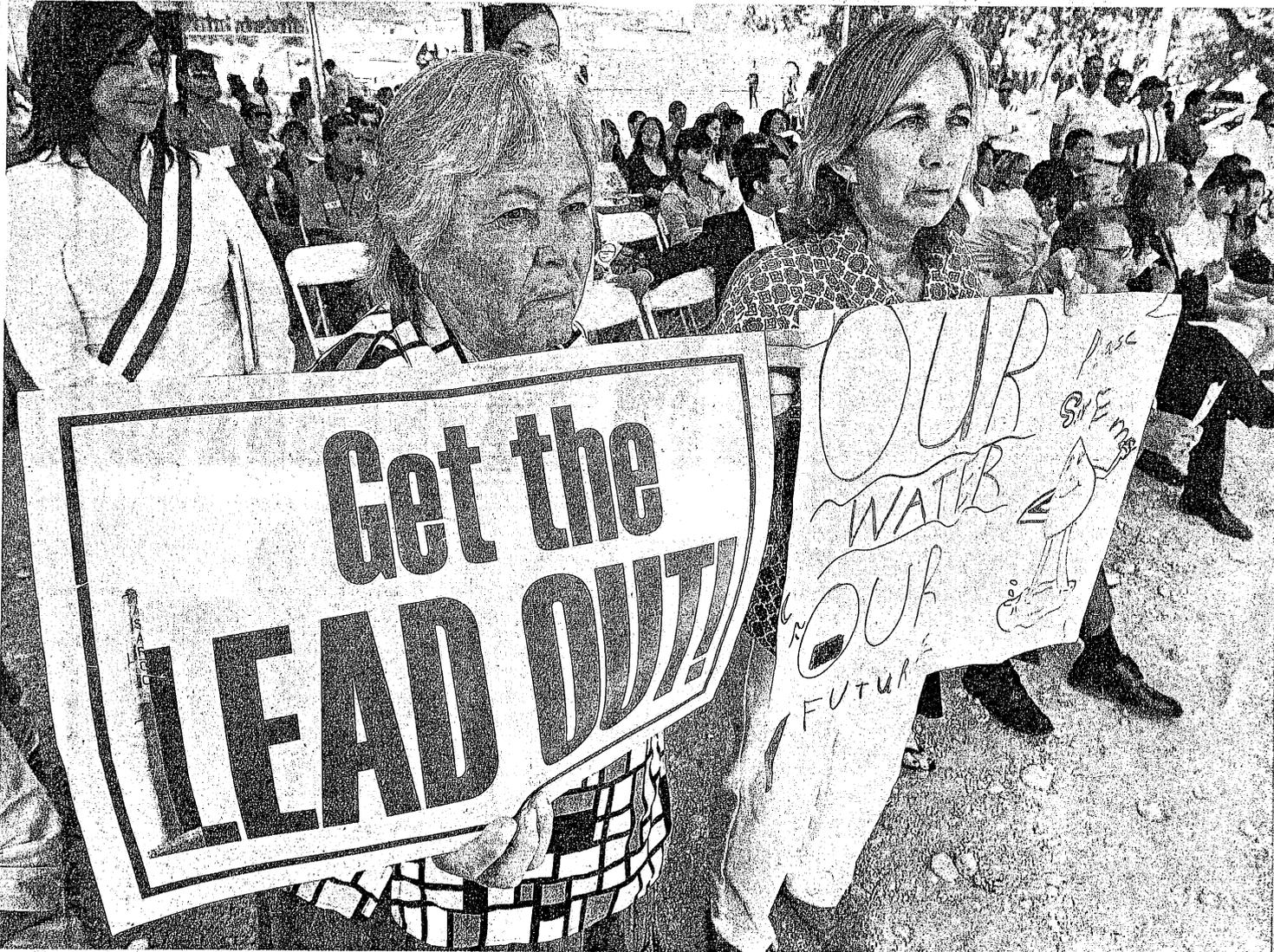
eliminated early in the finals, including last year's sixth-place finisher, Jonathan Horton, 14, of Gilbert, Ariz., who stumbled on "girolle" (a kind of mushroom).

Tia Thomas, 12, of Coarsegold, Calif., competing for the fourth time, misspelled "zacate" (a grassy plant) and had to settle for a big hug from her father and a seat on his lap as the competition continued.



Jacquelyn Martin / Associated Press

Michael O'Dorney, left, and Jennifer O'Dorney, embraced their son Evan M. O'Dorney, 13, of San Ramon, Ca., after he won the 2007 Scripps National Spelling Bee with the word "serrefine."



Mark Lambie / El Paso Times

Aurelia Roque, left, of El Paso and Natalia Francis, right, of Sunland Park held signs opposing Asarco on Thursday during a meeting of the mayors of Juárez, Sunland Park and El Paso. The mayors signed

a resolution opposing the renewal of the copper smelter's air-quality permit. The meeting took place at Monument 1 on the riverbed where the states of Texas, New Mexico and Chihuahua come together.

## Speller

Continued from 1A

Last year, Gupta finished in the top 100 of 275 students competing at the national bee.

Tej Gupta, Samir's father, said it was encouraging to see his son's motivation to succeed in the latter rounds of the spelling bee.

"I was probably more nervous than him," he said. "It is a little nerve-racking to be sitting on the other side as a parent. He did very good. I wasn't expecting him to go that far."

Samir Gupta has one more year

of eligibility for the bee, and he said he was already thinking about how to improve his strategy for next year's competition.

Nick Cobos, head of St. Clement's Episcopal Parish School, who watched parts of the spelling bee on his computer, said Gupta's commitment is as an example for other students on campus.

"He spent a lot of hours working toward this, and he was going up against some of top spellers in world," Cobos said. "I have no doubt that he will win next year because he has that kind of determination."

Zahira Torres may be reached at ztorres@elpasotimes.com; 546-6156.

## NATION

### Graduates of high school razed by tornado honor 2 who died

Associated Press

ENTERPRISE, Ala. — The senior class of a southern Alabama high school destroyed by a tornado graduated Thursday night — but made sure that their two classmates killed in the storm were part of the ceremony, too.

Two chairs on the field at Enterprise High School were left empty in memory of Michael Tompkins and Jamie Ann Vidensek, both 17. On the seats of each were the cap and gown the two would have worn, and their diplomas.

"To Jamie and Mikey, we wish you were here. We will carry your memory with us forever," said a

and Melinda Gooch, two of the 21 students who were named valedictorians after achieving a 4.0 GPA.

The two were among eight students killed March 1 when a hallway collapsed as students huddled in the corridor. The same storm system killed an elderly woman in Enterprise, another man in Alabama and nine people in Georgia.

Parents cheered and shouted when their children's names were announced and balloons were released into the air, but many of the roughly 340 graduates said the storm was never far from their minds as they sat on the football field surrounded by the ruins of

# Asarco

Continued from 1A

time has come to an end."

Lairy Johnson, Asarco's environmental manager in El Paso, said air emissions from the copper smelter, if reopened, would not cause or contribute to air pollution or cause health risks. Johnson based his comments on independent studies he said were conducted by local, state and federal environmental departments.

Johnson said the reasoning for the municipalities' opposition to the air-quality permit was based on outdated scientific data.

"Looking at their resolution, again a lot of it is dated material. A lot of it is referencing to a copper smelter that doesn't exist anymore or a situation that doesn't exist," he said.

Johnson said that the smelter was modernized in the early '90s

l, 2007, the TCEQ executive director issued a favorable recommendation in support of the restart of the smelter. The recommendation, he said, states that the air emissions meet all the air-quality standards.

El Pasoan Laura Najera said she didn't want the smelter to reopen because of the potential health risks to El Paso and neighboring communities.

"We are hoping for their (TCEQ) support, because our health and our future is at risk," she said.

This week, a study released by UTEP's Institute for Policy and Economic Development — and commissioned by Asarco — indicated that the reopening of Asarco would bring hundreds of jobs to El Paso and a \$1.16 billion in regional economic output each year.



Johnson

worked for Asarco for nearly 30 years and that he would gladly return to work there. He said the smelter meets the standards on air emissions and, equally important, Asarco pays livable wages. "We need to get back to work," he said.

Cook said Asarco's potential economic impact is not worth the possible health risks, which were outlined in the resolution.

"As I mentioned before, prostitution would also bring jobs, and it would bring money to our economy, and we could attract people from all over the United States and world for that, but there are some things you don't want to do for money," Cook said. "Having Asarco polluting our air is one of them."

Segura said he hoped the Texas commission recognized that renewing Asarco's air-quality permit would affect more than one Texas community.

"It's not just a local issue. But it is a regional issue that has far-reaching ramifications and im-

state, and it's impacting another nation," Segura said. "This gesture has to speak volumes to the state of Texas."

Murguía said the solidarity displayed by the municipalities on Thursday show that the more than 2 million residents of the three sister cities are speaking as one against the air-quality permit for Asarco. He said that one voice shouldn't be ignored.

Elected officials for the three cities also signed a resolution asking the federal governments from the United States and Mexico to provide adequate money to maintain and repair the Rio Grande.

The three government bodies also voted in favor of creating committees for border relations to improve communication among El Paso, Juárez and Sunland Park.

Tammy Fonce-Olivas may be reached at tfonce@elpasotimes.com; 546-6362.

# Principal

Continued from 1A

school district.

Montenegro said he was happy with the work Girard did at Bel Air.

He "has provided exemplary leadership and guidance at Bel Air" Montenegro said. "I wish to thank him for the dedicated service given to the children of our community."

Under Girard's tenure, math and science scores at Bel Air on the Texas Assessment of Knowledge and Skills made double-digit increases.

He also oversaw the work needed to receive the Governor's Excellence Award Grant for academic excellence.

But Girard did face criticism from at least 12 teachers at his school, who earlier this year filed a grievance claiming that they were forced to work during their

They also claim that since filing the grievance, they have been subject to harassment from Girard and other administrators.

The Ysleta Board of Trustees last month decided enough merit existed to have the grievance heard by the board in executive session.

The board is scheduled to hear the grievance during its June 14 meeting.

Teri Sanchez, president of the Ysleta Teachers Association, said the grievants she represents never wanted Girard to leave Bel Air.

"The removal of the principal was not our purpose ... that's not what we were looking for," she said.

"Bel Air is a great school and, of course, it is still salvageable," Sanchez added. "It just needs some good, strong leadership."

Ysleta officials said the process to replace Girard would start and that a new principal could be named by the time the new school year starts in August.

Gustavo Reyles Acosta may be reached at gacosta@elpasotimes.com; 546-6100.

# A closer look

Sixty-eight undocumented immigrants found Thursday included:

► Sixty-six Mexicans and two men from Nicaragua.

► Among the Mexican immigrants were three juveniles — two girls and one boy.

► Also found were 17 Mexican women and 44 Mexican men.

# Raid

Continued from 1A

Although the hotel remained open to customers already staying there as the investigation continued Thursday afternoon, room rentals were put on hold and the public was kept outside while agents searched rooms and carried boxes out of the hotel.

Hotel management could not be reached for comment Thursday.

Zamarripa said that Thursday's bust took place at a time of year that traditionally sees similar cases of undocumented immigrants trying to enter the United States.

"It's very feasible that this group was waiting to be taken to various final destinations," Zamarripa said.

"It's sad that with these hot temperatures at this time of year, these immigrants are putting themselves more at risk."

Adriana M. Chávez may be reached at achavez@elpasotimes.com; 546-6117.

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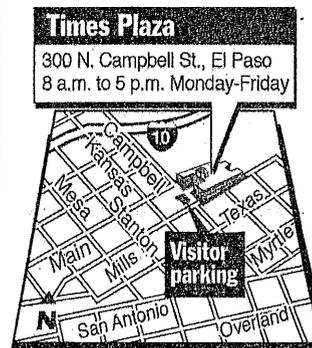
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