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FEATURES

Text Message from a Toxic-Waste Site

How do you build luxury condos on top of a Superfund site? Inside one of the most audacious, complicated, and controversial real-estate projects in the state.

by BRENDAN KILEY

Along the north shore of Tacoma, an irregular blip of land made largely of industrial waste extends out into the water. That industrial waste is slag from a nine-story copper smelter that used to stand here. For most of the 20th century, that smelter produced 10 percent of the nation's copper. The lucrative by-products of the smelting process—gold, silver, platinum—were stacked in sheets and ingots, and resold all over the world. The smelter was also the nation's only domestic producer of arsenic, refining and reselling it for insecticide, rat poison, and fertilizer—and resulting in massive amounts of slag laced with arsenic and lead. Vats of this molten waste were carried out in little hopper carts and dumped directly into Puget Sound with a hellish hissing and steaming. The slag was so hot, people say, it continued to glow orange underwater for long, dramatic minutes.

Enough of this industrial lava went into the Sound that it created a shelf of land, acres on which ASARCO—the corporation that owned the smelter—built more massive furnaces. The City of Tacoma noticed this unusual form of industrial land growth and suggested ASARCO build a marina. ASARCO agreed, and now there's a very nice, well-protected, 23-acre marina made of ossified poison.

This blip of land sits in its own tiny town—surrounded by the city of Tacoma—called Ruston. Founded in 1890 by the industrialist W. R. Rust¹, the 0.3-square-mile company town could afford its own mayor, town council, police force, and fire department because the smelter paid its weight in taxes.

Bill Baarsma, the current mayor of Tacoma, worked at the smelter as a young man, like his father before him. He remembers it as a 24-hour inferno—buildings as big as football fields with enormous furnaces and ladles of molten metal swinging around, conveyor belts of slag, deafening engines. Fair-skinned white men were never assigned to work in the "arsenic kitchen" because the toxic gases would burn and blister their skin. Trains stopped at the smelter and disgorged boxcars full of metal to be melted down and purified: guns, wiring, the entire guts of the decommissioned Nike missile system.

One time, Baarsma heard explosive popping from one of the furnaces. They'd just poured in a load of live ammunition.

"Occasionally, things would start blowing up," Baarsma says, "and you'd get the hell out of there." Furnaces would explode in the night, and nearby residents would lie in the dark and wonder who'd died.

Like many people in the area, Baarsma has unusually high levels of arsenic and lead in his yard. "We're just careful," he says cheerfully. "We wear gloves when we work in the yard, and we don't let the grandkids play outside." Baarsma's father was so full of arsenic, he could taste it when he ate. He used to do a magic trick where he gouged a finger into one nostril and poked it out the other. "As a kid, I couldn't figure out how he did it," Baarsma says. "But he had smelters' nose—Lord knows what burned that hole in his septum." Baarsma's father died of lung cancer at the age of 58. "It was tough, man," Baarsma says quietly. "It was real tough. When I visit that site, I see ghosts."

Soil tests by the Washington State Department of Ecology show arsenic fallout from Ruston over 1,000 square miles in three counties. In 1983, the Environmental Protection Agency (EPA) declared the smelter a Superfund site, and ASARCO invested over \$100 million in cleaning it up before going bankrupt. The town of Ruston was stranded without a major source of income, and the EPA was stranded with a 97-acre slab of industrial waste. The plan was to cap the site and hope for the best.

That slab of industrial waste happens to have some of the best views anywhere in the Northwest—Mount Rainier, Vashon Island, otters messing around in Puget Sound—and is a quick trip to either downtown Tacoma or Point Defiance Park. It's a perfect place to build, say, luxury residences, if you can forget it's a Superfund site. Developers had been drooling over the land for years, and Ruston hoped somebody could move in and pay the taxes that would continue to support the town in the manner to which it had become accustomed.

Mike Cohen—who's built custom homes in Thurston County, casinos in Lakewood and Renton, a Comfort Inn in Kent, and storage facilities in Puyallup—was one of those droolers. For years, he'd drive down to Ruston, look through the hurricane fence around the site, and dream of building something big. "But then I'd look at those smelter buildings," he says, "and say to myself: 'No way.'"

In 2000, the world copper market had crashed, and by 2006, ASARCO—saddled with 20 other Superfund sites and several environmental lawsuits—was desperate to sell.

So Cohen stepped up, laid his money on the table, and began one of the most audacious real-estate projects in the state. In a complicated deal between ASARCO, federal bankruptcy court, and the EPA, Cohen bought the site and its liability for cleanup. Cohen and his investors paid \$20 million to

ASARCO and \$5.5 million to the EPA (it had a lien on the property), and he plans to pay \$30 million for infrastructure (sewage lines, roads) and \$30 million for the rest of the cleanup. Cohen says he also reimburses the EPA \$25,000 a month for its oversight costs.

Cohen is betting he can transform almost 100 acres of Superfund land—slag, polluted soil relocated from yards in Ruston, and a hill covering a 25,000-cubic-yard container full of the smelter's most toxic waste, including the remains of the arsenic kitchen—into a luxury waterfront village. The village, called Point Ruston, will have 36 custom homes, over 1,000 condominium units, a four-star resort hotel, a shopping district, 250,000 square feet of office space, and a mile-long waterfront promenade.

Cohen, in effect, has decided to become an alchemist. He's trying to turn lead into gold.

At full capacity, Point Ruston would triple the current population of Ruston. The first building has yet to be completed, the national real-estate market has soured, and Cohen is floating on a raft of controversy—protests, lawsuits—but people are already buying his dream.

On a recent visit to Point Ruston's sales office, a restored ferry moored in Tacoma's Thea Foss Waterway, a middle-aged couple pored over a floor plan while their son fidgeted and their salesman hovered, his face stuck in a tight smile. The couple wanted to know about the imaginary privacy of the imaginary porch of the imaginary condo they were thinking about buying. So far, according to Cohen, 35 condos at Point Ruston have been sold. Another sign that the world has turned on its head: Rich people want to live—to host dinner parties, to read magazines, to check e-mail, to watch TV, to have sex with each other, to raise their families—on a slag heap.

Not everybody is buying the dream. One afternoon last December, a group of activists drove into the wealthy Thurston County cul-de-sac where Cohen lives and inflated a big brown rat. Nearly two stories tall, the rat sat upright with red eyes, festering nipples, menacing claws, and lips peeled back in a sharp-toothed snarl. The activists had come to hand out leaflets to Cohen's neighbors telling them they live next to a greedy, deceptive bully and to give Cohen their "Grinch of the Year" award. (Cohen, it happens, was on vacation.) Activist Jacob Carton, a community organizer for Jobs with Justice—a nonprofit that coordinates unions, churches, and student groups to fight for social-justice causes—wrote in the labor newsletter the *Tahoma Organizer* that Cohen won the award for "getting rich off union-busting, corrupting our local democracy, tax-payer subsidies, and taking advantage of immigrant workers." Carton's most serious allegation: Cohen is exposing workers and residents next to Point Ruston to dust laced with arsenic and lead, and the EPA isn't doing anything about it.

Another organization—a union called the United Brotherhood of Carpenters—is also angry with Cohen and the EPA. "Remember, this is George Bush's EPA, where little bluebirds chirp on every hill and every industry self-polices," said Eric Franklin of the carpenters' union. "That's how those assholes

thought. And [Cohen's] son is an attorney. If we were saying anything that was untrue, why haven't we been sued?"

Twenty days after that boast, they got sued. Cohen filed suit against the United Brotherhood of Carpenters and Jobs with Justice, accusing them of defamation, property damage (slashing tires and gluing locks shut), and trespassing. Cohen is asking for \$20 million—about what he paid ASARCO for that 97-acre plot of land.

Jobs with Justice and the United Brotherhood of Carpenters have been running separate but parallel campaigns against Point Ruston, protesting outside the construction site, the floating-ferry sales office, and Cohen's home. According to Cohen's lawsuit, activists have held up large banners with inflammatory—and false, Cohen says—implications. One large banner read: "IS MIKE COHEN Poisoning Our Community?" Activists handed out leaflets outside the sales office claiming Point Ruston has:

A view to die for. Buyer beware. Pt Ruston is built on one of the most toxic sites in the nation that made rat poison. The rats at the EPA and the City of Tacoma aren't keeping us safe from the poisons that will remain next to the condos.

In February, the United Brotherhood of Carpenters posted a nine-minute YouTube video with anonymous immigrant workers worrying about what they've been exposed to at Point Ruston. Over a soundtrack of mournful horns, three workers in silhouette say (in Spanish with English subtitles):

When we were given name tags in the office, the owner of Rain City told us if any of the guys at the job site ask questions we have to tell them that we took all the necessary training. We also didn't like that we were forced to use the names on the badges that they gave us and not to use our real names... We were sent there to start the footing where most of the contamination occurs. The rumor is that after we are done they are going to lay us off and we will be taken out of the site and other people who is [sic] not contaminated will be brought in so the only people who will be affected on that job is [sic] us.

The video sparked investigations by the Washington State Department of Labor & Industries (L&I). L&I found Point Ruston and one of its contractors, Rain City, guilty of skirting a few regulations. During the first investigation, according to internal L&I documents, Rain City owner Ed Diamond confessed to handing untrained workers—who were uninformed of the site's dangers—other peoples' safety-training badges and asking them to pretend they'd been trained. ("Never received training," one set of L&I field notes from an interview read. "It cost too much money.")

Other L&I internal documents reveal that some workers were not wearing air monitors to test their exposure to lead and arsenic, and that workers were not provided with the results of their urine tests for toxins. Four workers eventually tested over allowable limits for arsenic. L&I concluded that Rain City had committed "serious" and "willful" violations—had, in fact, cut corners and potentially compromised the safety of their workers to maximize profits—and fined Rain City over \$36,000.

(Kevin Rochlin, a project manager for the EPA, called the violations "deplorable" and said he was surprised L&I hadn't fined Rain City more heavily.)

The United Brotherhood of Carpenters filed a subsequent complaint with the National Labor Relations Board, alleging that Rain City identified, demoted, and fired workers who appeared in the YouTube video.

"National Labor Relations Board ruled against Rain City for \$40,000 in back pay," Franklin said. "It's rare that the labor board comes in and slaps somebody that hard." Rain City was also asked to post a memo of promises. Promise number four: "WE WILL NOT assign you to more arduous work, demote you, lay you off, or fire you because you complain about working conditions to a union or outsiders."

In the wake of the scandal, Point Ruston replaced Rain City with Diamond Concrete—a new company created by Ed Diamond, one of Rain City's previous owners.

The carpenters' union declared a labor victory, but the YouTube video stripped them of some credibility, making claims that were never substantiated. The silhouetted workers complained that "something like acid comes out and all people get headaches," of "burning in the throat" from poisoning, and that "slag and thousands of tons of smoke have poisoned everything within a five-mile radius of the plant." (Poisoned *everything*? That's just hyperbole.) I asked Jimmy Matta, of the United Brotherhood of Carpenters, several times to substantiate those claims about acid and poisoning—with a doctor, a witness, a document, anything—and he did not. Rochlin, from the EPA, said that the headaches and burning throats were "inconsistent" with the chemicals at the site and speculated they could have been caused by diesel fumes.²

Matta also suggested that a 30-year-old Point Ruston worker died because of site conditions. "They say he died of a heart attack," Matta said in an interview. "He was a 30-year-old construction worker, and those guys are healthy. There was never an autopsy, and the worker's body was flown back to Mexico." According to that worker's death certificate, he died of a heart attack due to pneumonia, and doctors found a pulmonary embolism—blood clots in his lungs. (The worker could have died of a pulmonary embolism because of inhaled poisons. Or he could have died from a pulmonary embolism just because. People have pulmonary embolisms for all kinds of reasons, from inflammatory bowel disease to smoking to taking birth-control pills.)

Ed Diamond, of Rain City/Diamond Concrete, happened to be sitting with me on a plane ride from Arizona recently. (Small world.) I asked about the dead worker. Diamond said he was just an alcoholic in poor health. I asked what he thought of the United Brotherhood of Carpenters. He dismissed them as using the social-justice talking points as weaponry in an internecine labor fight. Diamond said—echoing what Cohen has said—that the carpenters' union wanted in on the Point Ruston project and

were rejected. (Franklin, of the carpenters' union, has denied this.)

Last June, according to Cohen's lawsuit, Matta (from the carpenters' union) and Diamond (then from Rain City) met in a sandwich shop on Ruston's only commercial street. Allegedly, Matta tried to convince Diamond to hire laborers from the United Brotherhood of Carpenters. From the lawsuit:

Diamond listened to Matta's comments and then asked: "How does this benefit my company?" Matta responded: "I will stop harassing you, leave you alone, and not spank you." Matta continued by stating that this was not the first time that he had "spanked" someone... Matta stated that Rain City was the union's number-one target and that he was going to "get Rain City."

Cohen says the protests—people showing up at Point Ruston with banners, leaflets, and air horns—began a few weeks later. The YouTube video surfaced a few months later, prompting the L&I investigations.

Jobs with Justice, the other vocal critics of Point Ruston, is slightly harder to dismiss as having ulterior motives. Whereas the carpenters' union stood to gain something from Point Ruston and didn't get what it wanted (according to the lawsuit, anyway), Jobs with Justice is a bunch of sincere do-gooders with beards. Where Jimmy Matta comes across as a fast-talking negotiator, Jobs with Justice's Jacob Carton is methodical and pious. During one of our conversations, he impressed upon me that even moderates were involved in the fight against Point Ruston, not just "people who go to sleep every night and wake up every morning thinking about how to get justice like I do." He also impressed upon me that the United Brotherhood of Carpenters is not a Jobs with Justice member organization. (It turns out that a local chapter of the United Brotherhood of Carpenters—local 1797—is, in fact, listed on Jobs with Justice's website as a member organization.)

Carton dresses in black jeans, a button-up shirt, and tortoiseshell glasses. He has the soft speech and seriousness of a true believer, building rhetorical mazes that end in questions that only have one answer, like when he's talking about trying to get Cohen to build low-income housing so all the janitors, dishwashers, groundskeepers, and other maintenance workers won't have to drive into work every day: "So why would you want to put taxpayer money toward a luxury development that's only going to increase traffic congestion, which is bad for the environment, and sprawl for workers forced to live on the outskirts of a city?" (There is no low-income housing planned for Point Ruston.) "Why would you want to publicly subsidize something that's only going to hurt your community?"

Well, when you put it like that, it *does* sound a little stupid.

Among other tactics—the protests, the leaflets, the inflatable rat—Carton and a few others snuck aboard the ferryboat-turned-showroom during a Point Ruston sales-pitch cruise. In the middle of the presentation for prospective buyers, Carton, his colleague Adam Hoyt (also bearded), and the others began asking, according to Cohen's lawsuit, "inflammatory questions that contained false allegations

and suggestions intended to intimidate and discourage potential buyers." Carton says they got themselves on the invitation list legitimately (although he admits he came as someone else's "guest" and shaved his beard), merely asked questions about Point Ruston in moderate tones, and didn't cause a scene.

That embarrassment to Cohen and Point Ruston happened in March. By April, Cohen had filed his lawsuit against the United Brotherhood of Carpenters and Jobs with Justice, as well as Jacob Carton, Adam Hoyt, Jimmy Matta, and another carpenters' union member named Jimmy Haun.

The suit doesn't faze Hoyt. Jobs with Justice has been sued before, recently for racketeering—which Hoyt calls "ridiculous, since we don't profit off anything we do"—by the Smithfield Packing Company and the Tomlinson Linen Service. (Tomlinson won the Grinch of the Year award in 2008 and has since settled the suit. Hoyt's lawyers advised against discussing all the terms, but Hoyt says Jobs with Justice paid no money, ended their campaign against Tomlinson, and reserved the right to pursue campaigns against them in the future.)

Hoyt believes these suits are tactical, deployed by business owners to silence activists and drain their comparatively meager resources. (According to tax returns, the national chapter of Jobs with Justice operates on a \$1.2 million budget. The local chapter operates on \$211,000.) "Michael Cohen says our free speech has had a \$20 million effect on his \$1.2 billion investment?" asks Hoyt, a steel and construction worker who volunteers with Jobs for Justice. "He's just trying to silence our community organizing and drag us through the judicial system, where he has the financial advantage."

Hoyt and Carton say they're not categorically opposed to developing the site. "It would be better for something to be built there," Hoyt says. "We just want it to be done safely and done right."

In 2006, Bob Ashmore was driving home from work when he saw dust coming off the ASARCO site. Point Ruston workers were demolishing the foundation of ASARCO's old arsenic smokestack. He didn't like the looks of that dust—there should've been sprays of water to keep it from blowing around. Ashmore is a lifelong construction worker with hazardous-waste training and a degree in civil engineering. He also worked on an ASARCO cleanup in Everett in 2001, and, he said in a sworn declaration filed with the Pierce County Superior Court in 2008, "I have first-hand knowledge of the seriousness of the hazards contained on ASARCO smelter and arsenic production sites."

He called a Point Ruston contractor, who said they were having trouble with a meter on the fire hydrant. When Ashmore got to his home in Browns Point, across Commencement Bay from Point Ruston, he says he kept watching dust blow off the site.

Over the years, Ashmore called in concerns about Point Ruston's dust and silt fences (plastic barriers

to keep dust from blowing off-site) to the state Department of Ecology, the county health department, and city council members, all of whom told Ashmore to call EPA project manager Kevin Rochlin. Rochlin, Ashmore says, "did not return many phone calls and responded to only one e-mail that did not answer my inquiries."

Mike Tallman, who lives near the old arsenic kitchen, says quantities of dust from the demolition of its foundation blew onto his property and he had to badger Rochlin to test them. Tallman's yard, like many yards in Ruston, had been dug up and hauled away by the EPA after it tested too high for arsenic and lead, then backfilled with clean soil. (This April, the EPA announced it would spend around \$7 million of its federal stimulus package cleaning up Ruston and another \$5 million cleaning a Superfund site on Bainbridge Island.) According to King County Public Health, soil around Puget Sound averages 7 parts per million (ppm) of arsenic. The strictest state standard for arsenic says residential areas should not exceed 20 ppm and industrial sites should not exceed 200 ppm.

Tallman's property had been cleaned by the EPA to the 20-ppm standard. His new dust from the Point Ruston project tested at 209 ppm. He wrote some letters and left some phone messages.

Rochlin responded that the EPA has set an "action level" of 230 ppm at the Point Ruston site—and that he hadn't found more than a few teaspoons of dust on Tallman's property anyway. Tallman countered that Rochlin hadn't shown up to test until after a windstorm had blown it all away.

The way Kevin Rochlin at the EPA tells it, the 97-acre shelf of dirt and slag is almost squeaky clean. We met in his downtown Seattle office, where he handed over lab results from air monitors around the site (to measure dust blowing into nearby neighborhoods) and air monitors worn secretly by construction workers at Point Ruston. The results from January through March of this year show almost comically low levels of arsenic and lead. Washington State gets interested if between 5 and 10 micrograms of arsenic are floating in a cubic meter of air. Most of the Point Ruston measurements showed fewer than 0.05 micrograms per cubic meter. The highest was 1.1.

The action levels set by the EPA—levels at which the EPA and Cohen start to talk about what should change to prevent further exposure—are half of what a worker is allowed to be exposed to during an eight-hour workday over a 30-year career.

Curiously, Rochlin failed to mention that the personal air-monitoring results come from a period when Point Ruston workers were doing surface work. They'd finished digging foundations and working in the dust, where most of the toxins sit. He also failed to mention that Rain City was fined—and Point Ruston was cited—by L&I for failing to monitor its workers' exposure to airborne arsenic. L&I also found that Rain City failed to "inform employees about the nature, level, and degree of exposure to hazardous substances they're likely to encounter" and failed to give workers their urine-

test results for arsenic exposure.

Rochlin was careful, during our interview, to delineate between the EPA's responsibility for public health and L&I's responsibility for worker health. Rochlin didn't *have* to tell me about Point Ruston's failure to monitor worker exposure to arsenic and lead while digging the foundations and elevator shafts, but it also seems a bit disingenuous to hand me results from air monitors secretly worn by workers—"my spies," he chuckled as he passed them across the table—without mentioning that they come after the digging by workers who were not being monitored and, worried about their exposure to arsenic and lead, weren't given their urine-test results. It's not hard to understand why some people feel like the EPA, their ostensible watchdog, is a little too defensive of Mike Cohen.

It also doesn't help that Point Ruston pays the EPA \$25,000 a month to cover oversight costs and that Point Ruston employees pull the cassettes from their own air monitors to send to the lab for testing. Those are standard practices in the industry—the Washington State Department of Ecology confirmed this—but they do give one pause. As does the fact that Citizens for a Healthy Bay, a citizen watchdog group that works with the EPA to independently review Point Ruston's air-monitoring results, once took a \$2,500 donation from Point Ruston. The little things add up. People get suspicious.

Yet another tentacle of controversy: There may be a leak in L&I who tips off Point Ruston and/or its contractors when an inspection is about to happen, allowing the business to hustle potentially problematic workers off the site. On the afternoon of July 23, 2008, L&I began its inspection of Point Ruston and its contractor Rain City to determine whether they were employing improperly trained workers. According to internal L&I documents, that morning "a large group of Rain City employees, including those not trained, were told to gather their tools and they were sent to another work site. Shortly after they left the site, another group of Rain City HAZWOPER- trained employees arrived." A few hours later, L&I arrived to begin its investigation. Elaine Fischer, a spokesperson at L&I, suggested the YouTube video (released two days before the inspection) might have spooked Rain City into switching work crews.

A few months later, on December 9, L&I visited the site to investigate whether Point Ruston was withholding arsenic- and lead-test results from its workers, who had requested to see their files. That morning at 6:00 a.m., Jobs with Justice's Carton got a call from a minister who said some workers were told to not come to work that day because U.S. Immigration and Customs Enforcement was planning a raid. Jobs with Justice organized a rally to observe the raid, but no raid materialized. Instead, L&I showed up for an unannounced site inspection.

Cohen calls the possibility of an L&I leak "absolutely beyond absurd." L&I's Elaine Fischer had no explanation.

One recent afternoon, 75-year-old James L. Wingard gives me a driving tour of Ruston. He points out the few bars, the sandwich shop, the knickknack shop, the closed-down casino, and tells me who lives in which house and how much their land is worth. Property values have risen almost 400 percent since Wingard was a kid.

"This is the lot I wish I'd never sold," Wingard mutters, stopping in front of large house on a hill. Who'd he sell it to? "Dan Albertson, Tacoma attorney, the number-one enemy of Ruston." Albertson is on the Ruston Town Council and the leader of a political faction that, in Wingard's words, "wants to kill businesses, wants to kill this town, and is so bloody nasty and mean that somebody needs to fight them."

Eight hundred people live in Ruston, and there are 800 different stories about what's happened here. Sitting over an afternoon beer and a few spent pull tabs in the Ruston Inn, a resident named Dan declines to give his last name. "I'm not supposed to be here," he says. He has lived in the area most of his life, is currently unemployed, and thinks it's simple: The town likes its independence. Ruston was willing to put up with the smelter because it gave the town an allowance to pay for its pride. When the smelter closed, people panicked and wondered how to make municipal ends meet. Albertson and a cadre of antidevelopment newcomers got elected by a fluke, Dan says, riding a wave of community disgust for a condominium called the Commencement—a big, contemporary (some might say tacky) building that overlooks the Point Ruston site. But those newcomers turned out to be "assholes" (Dan's word) more concerned with keeping Ruston quaint than "keeping Ruston Ruston." Meanwhile, the budget crisis got worse. Many old-timers love Ruston and have warmed to the idea of Cohen as a town savior.

An informal survey of residents supports Dan's version. Old-timer Wingard calls Cohen "a hero." Steve Fabre, owner of the casino (who is suing the city for steeply raising his taxes), calls Cohen "the genuine article." Town treasurer Karen Carlisle says she hopes "Point Ruston can generate enough revenue to keep us Ruston."

On the other side, town councilman Dan Albertson says he finds Point Ruston "out of scale for the community," and, regarding the town budget crisis: "Frankly, annexation to Tacoma looks pretty attractive." (Regarding being "antibusiness" and "an asshole," Albertson merely says: "I'm just trying to represent my larger community.")

Joan Mell, a Tacoma attorney involved in several of the town lawsuits, laughed loud and long when I told her I wanted to write about what's happening in Ruston. "Just don't drink the water when you go down there," she said. "They're all on crazy juice."

All of them—the newcomers, the old guard, the protestors, the developers—are spinning off in radically different directions because there's no easy answer to the problems of this tiny town: its 97-acre Superfund site, its past full of ghosts, its wasting pocketbook, its disproportionate pride.

Last week, I had an evening-time telephone conversation with Cohen. He's confounded by Jobs with Justice. "I've seen Jake [Carton] passing out leaflets, and he seems so *dedicated*," Cohen marveled. "This guy is so dedicated and his cause is so shitty. I wasn't nearly as dedicated as him, but I stood up for causes I believed in." Cohen talked about attending sit-ins at Woolworth's when the five-and-dime still refused to serve African Americans. "People should stand up for what they believe in," Cohen repeated. "They know we're not spreading poison—we're cleaning it up! Every day this site gets a little bit better. What we're trying to do, what Tacoma is trying to do, is gently move a city from the mill era to the 21st century."

Cohen believes he's doing the Lord's work. Carton believes he's doing the Lord's work. But the devil is in the details, and the details are messy. It's hard to know whom to believe.

For a man who is the center of gravity for so much money, power, and controversy, Cohen is surprisingly gentle—almost nerdy—in his affect. The one time we meet in person is at Point Ruston's headquarters, housed in an old brick school building. He looks like a businessman: blue slacks, a button-up shirt, and thinning, salt-and-pepper hair. But Cohen used to be a hippie. Back in the 1970s, he left a college on the East Coast and hitchhiked west to follow a young lady who'd left for a farm in California. The girl had left by the time Cohen showed up, but he befriended one of the farm's leaders, Robert Gilbert, and decided to stay. They grew orchards and gardens on the farm and built a house using Sunset instructional books. "We'd sit around at night figuring out what to build the next morning," Gilbert says. "We were teaching ourselves." The two became lifelong friends. Gilbert is now a conceptual designer for Point Ruston, staying in Ruston one week each month and splitting the rest of his time between California and Mexico.

In a phone interview, Gilbert talked like a benevolently bombastic hippie, holding forth on everything from Mexican history to the ergonomics of benches in Barcelona's Parc Guëll to the beauty of the octopuses in Puget Sound to the heroism of Mike Cohen. "All the remediation that's required?" Gilbert asked. "I wouldn't have taken it on. It broke ASARCO." Gilbert said he was impressed by Cohen's continuing to build this enormous project—by far the biggest gamble of his career—during the worldwide economic crisis. Like Carton, Gilbert builds rhetorical mazes that end with questions that only have one answer: "Even if he has to stop building because of the economic crisis, he has finish the remediation. How about that? Think about it. Isn't that brave?"

Well, when you put it like that, it *does* sound brave.

Whatever people say about Cohen, he's got one hell of a car. It's a red Land Rover with a license plate that reads: "PTRUSTON." In the short drive from the brick schoolhouse to his shelf of slag, Cohen takes a phone call via crystal-clear inner-car loudspeaker. When we finally pull onto the site and drive up into Point Ruston's inaugural parking garage, his rearview mirrors adjust robotically to the tilt.

We stop by the former arsenic kitchen, where fair-skinned men weren't allowed to work and Mike Tallman complained about dust. Cohen gets out of his red Land Rover and asks what they're up to. Something to do with learning about erosion control.

We drive to the slab, through a gate, and bounce up the road. We pass a machine that pulls gravel up a conveyor belt into a funnel that spreads it precisely over a square of packed earth. Cohen waves to the workers. They wave back. I ask again about the accusations from Jobs with Justice. "I don't mind saying that 100 percent of that is bull," Cohen says. "It's so naive to think the EPA isn't exercising proper oversight."

Behind us is a hill covered in green grass, yellow wildflowers, and purple lupine ("I planted some flowers," grins Tim Rusher, Point Ruston's safety inspector, on another visit). It's a bucolic hill with a view, a nice place for a picnic, and it's filled with ASARCO's nastiest waste. Before Cohen bought the property, ASARCO and the EPA cut a crater into this hill, lined it with heavy-duty three-ply plastic, poured the worst of the waste in, crushed it down, pulled more heavy-duty three-ply plastic on top, and sealed it—basically, a 25,000-cubic-yard Ziploc bag. The EPA recommended using malleable plastic instead of a rigid container, which might crack in an earthquake. Because every dump leaks—it's inevitable—the EPA buried a system of drainage and cisterns under the hill to collect the hazardous runoff, which can be tested and transported to yet another hazardous-waste site built to accommodate the poisoned water. ASARCO and the EPA then poured fill on top of the plastic bag full of toxins, then laid down a barrier to warn people not to dig any deeper, and then poured two more feet of dirt on top of that. Then came the grass and flowers.

Cohen and I get out near the shore of the construction site and walk to the edge. It's a sunny day. The air smells of salt. Not rotten like a low tide, but clean. We step onto the slag, the ground made out of industrial waste, the smelter's irremovable legacy. It's beautiful, like a lava flow or clinker brick—whorled and ruddy and studded with air bubbles from where it quickly cooled in the bay. I pick up a piece. "It's got a sweet, tangy taste if you want to suck on it," Cohen says. I almost touch the piece to my tongue and catch myself. He smirks impishly.

Of course. This is the slag that's causing all the trouble. ★

1. W. R. Rust had other business interests, a chronic nose drip, and membership in a secret society called the Afifi Temple of the Ancient Arabic Order of the Nobles of the Mystic Shrine—also known as the Shriners—which claimed to have been founded by

the son-in-law of the Prophet Muhammad as "an Inquisition, or vigilance committee, to dispense justice and execute punishment upon criminals who escaped their just deserts through the tardiness or corruption of the courts." Fittingly, Rust liked to dispense punishments to his enemies and was no stranger to courtroom controversy. The Rust family archives—a box of brittle papers tucked away in the special collections of the University of Washington—are an object lesson in the misery of the rich. Rust's letters are tempestuous, paranoid, and terrorizing.

Among other documented legal battles, the archive covers the alleged kidnapping of Rust's son, a bank clerk. The accused kidnapper was found not guilty, and Rust's lawyer gave a shrill and defensive closing statement, declaring that certain persons "stir up class hatred against Mr. Rust on account of his having some money, which he earned honestly by digging it out of the hills in Alaska and spent in Tacoma, to the benefit of everybody." But documents in the archives hint that that money wasn't all "earned honestly"—for example, the suggestion that Rust had a man named John Tuppolo committed to an insane asylum so that Rust could take the man's share of an Alaskan gold mine. Tuppolo, after his season in hell and litigation, won \$1 million from either Rust or the mining company. (The news clippings are unclear.)

When Rust founded the town around the smelter in 1890, he named it, in a fit of banality, Smelter. In 1906, legend has it, his grateful employees voted to change the name to Ruston, in honor of their beloved plutocrat. It's a difficult legend to believe. Rust died in 1928, and the condolence notes—from the mayor of Tacoma, the harbormaster of Tacoma, a clutch of lawyers on both coasts—read like form letters. Not one note of genuine grief in the whole stack.

2. Symptoms that are consistent with arsenic poisoning: convulsions, change in fingernail color, vomiting, hair loss. Scholars think Cézanne's diabetes, Monet's blindness, and van Gogh's neurological problems might have been caused by arsenic poisoning from their emerald green paints. Writer, socialite, and superwoman Clare Booth Luce suffered arsenic poisoning while serving as the ambassador to Italy in 1953. At first, the U.S. government suspected a foreign plot. It was later found that the poisoning came from paint chips falling from her bedroom ceiling.

This story has been updated since its original publication.

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Comments (25)

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That "secret society" -- the "Ancient Arabic Order of the Nobles of the Mystic Shrine" -- are better known as the Shriners: the sinister cabal of midget car-driving, fez-wearing, children's hospital-sponsoring, pancake breakfast-running glorified Rotarians.

1

But when you put it that way, they don't sound nearly as sinister.

Posted by herbert incognito on May 27, 2009 at 3:28 PM · Report

A view to die for.

2

Posted by Slate on May 27, 2009 at 3:30 PM · Report

By the way, it's Jacob Carlton, not "Carton"

3

Posted by Robt on May 27, 2009 at 6:34 PM · Report

Address update: Having dealt with the EPA (Rochlin & O'Dell), Ruston council, Tacoma council (Manthou), L&I and yes...the man with two faces, Mr. Mike Cohen we we moved away from Point Ruston's dust plume. To say there is a old boy network / cover up is an understatement. The EPA's ignorance was unreal! It got to be just too unsafe for my small child so we left. I love to hear Cohen sugar coating things now: Pathetic!

4

Karma seem to be a real thing in this case and I'm loving every minute of it from afar.

Ruston has one good thing going for it finally: A smart Mayor that will benefit the town.

This is the piece that I've been waiting for the Trib to run, but they are still in love with his advertising dollars.

MB Tallman

Posted by **MBT** on May 27, 2009 at 9:47 PM · Report



"Matta tried to convince Diamond to hire laborers from the United Brotherhood of Carpenters."

5

There are NO "laborers" in the United Brotherhood of CARPENTERS.

Carpenters are a skilled trade – many of whom are the product of 4 years of vocational

education.

Laborers are unskilled workers who sweep up the jobsite and do other unskilled task.

"Laborer" is not, and never has been, a generic term for "construction worker"!

Laborer is a very specific job title, referring to a very specific group of unskilled workers on a construction site.

Carpenters are NOT "laborers"!

Posted by GREGORYABUTLER on May 27, 2009 at 10:56 PM · Report

The jewel of the Pacific Northwest. Mr. Cohen is so visionary to see the potential in this 6 modern urban village. Incidentally, not a single claim against ASARCO has ever been proven but plenty of retirees lived into their nineties and one still living just turned 100 years young.

I should know born in Ruston virtually under the stack one block away from the main plant and still enjoying life at 75 playing golf three times a week. That was in 1934 the heyday of the smelter and during the War when it operated around the clock seven days a week helping the USA and it's allies to victory.

I was priveleged to be there and feel sorry for those who are falsely the victims of fear and anxiety. Still attend Ruston council meetings posting on:

<http://www.rustoninsider.blogspot.com/>

Jim Wingard

ps. Incredible article with meticulous preparation and accuracy on all sides.

Posted by Jimminnee on May 27, 2009 at 11:06 PM · Report



"Allegedly, Matta tried to convince Diamond to hire laborers from the United 7 Brotherhood of Carpenters."

"Laborers"?

There are NO "laborers" in the United Brotherhood of CARPENTERS.

We are a union of skilled CARPENTERS who went through a 4 year vocational education program.

Laborers are the unskilled workers who, among other tasks, clean up after us.

"Laborer" is NOT a generic term for construction worker.

"Laborer" is a very specific job title for unskilled construction workers.

Skilled apprentice trained craftspeople, like, in this case, carpenters, are not "laborers" – so please call us by our proper craft name, or if you can't do that, use the generic "construction workers".

But do NOT call me and my brother and sister carpenters "laborers"!!!!!!!!!!!!!!

Posted by GREGORYABUTLER on May 27, 2009 at 11:13 PM · Report

Bellingham is about to double the size of their downtown by building onto a Superfund site.

8

Posted by JIMMINY!! on May 28, 2009 at 12:35 AM · Report



sounds like short man complex.

9

Posted by scary tyler moore on May 28, 2009 at 6:34 AM · Report

Kiley's story is an engrossing tale of toxic greed. I live in downtown Omaha, just blocks from the Missouri River shore and the site of a former Asarco lead-spewing refinery. When the plant and its encrusted smokestacks were demolished several years ago, the dust containment plan seemed about as reckless as the plant's 100-year history of dumping sludge in the river. (The EPA filed a \$400 million lawsuit against Asarco for lead clean-up across the eastern side of our city.) Today, the site has been capped and is now a park and marina where trees cannot be planted, as their roots would pierce the protective layer. I was horrified at the idea initially, but the containment did allow a rebirth of some very scenic real estate. Of course, Ruston's arsenic (vs. Omaha's lead) does mean a still higher threat to safety.

10

Posted by Alaimo on May 28, 2009 at 7:09 AM · Report



While laborer is also a highly specific job title, it also means "one who labors". I appreciate your argument, but that doesn't make the word any less correct in this context.

11

Man, so much for "workers unite"...

Posted by wench on May 28, 2009 at 7:59 AM · Report

Good story -- here's what I take away from it: The project sounds like a decent idea 12
that my turn out to be a good re-use of some messed up land. The activists and
construction workers sound like they have some good points that seem to stem from a
mix of lax oversight by Cohen, sleazy subcontractors, and lazy/maybe slightly corrupt
government officials. No one sounds villainous though... Ruston should get annexed to
Tacoma -- the little town makes Tacoma sound functional!

Posted by [ochotona](#) on May 28, 2009 at 9:44 AM · Report

Hello? Build on a Superfund site? Love Fucking Canal? 13

Rich stupid people, come here and prepare to die.

Jee-zus Kee-rist.

Posted by [tiktok](#) on May 28, 2009 at 10:29 AM · Report

"Jobs with Justice—a nonprofit that coordinates unions, churches, and student groups to fight 14
for social-justice causes"

Really? That interesting, since Jake Carton refused to be interviewed by sympathetic students
regarding the controversy because he didn't feel they had enough activist cred and he didn't want
to waste things on time that didn't "benefit" his organization...

Posted by [astudentwhocares](#) on May 28, 2009 at 10:57 AM · Report



Excellent article. It feels like it belongs in Newsweek, not in The Stranger. 15

Posted by [wisepunk](#) on May 28, 2009 at 11:02 AM · Report



Excellent article. It feels like it belongs in Newsweek, not in The Stranger. 16

Posted by [wisepunk](#) on May 28, 2009 at 11:02 AM · Report



From the article: "According to King County Public Health, soil around Puget Sound averages 7 parts per million (ppm) of arsenic. The strictest state standard for arsenic says residential areas should not exceed 20 ppm and industrial sites should not exceed 200 ppm." 17

We have now answered the question posed by the MS billboards. It's the soil.

Posted by zephwright on May 28, 2009 at 11:38 AM · Report



Wench, 18

In a construction context, Laborer has a very specific meaning.

And it's not a generic term for "construction worker".

It's a job title.

Carpenter is also a very specific job title.

I wouldn't go to Mr Kiley's office and call him a "secretary" – because he's a reporter, and while those are both white collar jobs, there is a huge difference between a secretary and a reporter (and "secretary" is NOT a generic term for "white collar worker", it's a specific job title).

Posted by GREGORYABUTLER on May 28, 2009 at 8:03 PM · Report

@JIMMINY!!! 19

Yeah----I know! What's with all the building on superfund sites?!?

Well, let's hope the Landfill Luxury Condos don't end up in the bay.

Posted by wild whatcom woman on May 29, 2009 at 5:49 AM · Report

this was just a great piece of writing -- as commented above, too good for the stranger. 20

Posted by pmf on May 29, 2009 at 12:35 PM · Report

Well, I would like to know which unions that the Cohens have busted? I only ask becuase currently every contractor that Im aware of onsite is a Union contractor. I 21

might add that the Cohens are Private developers, so there is NOTHING obligating them to work with Unions. Why are we treating the Cohens like they are the ones who poluted Ruston? They are the ones trying to fix it! Every worker out there is getting a very livable Union wage (I have raised a family of 5 on a single union income). They also have reached out to Veterans and provided direct access to employment for them. I get the feeling people would rather look at the old Asarco stack rather than making an improvement (and containing the soils). Come on people think about it.

Posted by [Eric Coffelt](#) on May 29, 2009 at 12:59 PM · Report

"Baarsma's father was so full of arsenic, he could taste it when he ate."

22

I'm sure Mr. Baarsma indeed suffered greatly from his exposure to arsenic, but I've always read that arsenic is tasteless and odorless, e.g.:
<http://www.epa.gov/safewater/arsenic/ind...>

Posted by fyi on June 1, 2009 at 2:10 PM · Report

Comment Pulled (Spam) [Comment Policy](#)

23

GREGORYABUTLER,

24

If it is so negative to call a carpenter a laborer, why do they keep trying to do their 'unskilled' work? In fact, don't they try to do EVERYONE'S work?

There is a reason why the carpenters union is the only one NOT on the Point Ruston site.

As to the site itself, the Cohen's do not deny the charges brought forth. They have done everything in their power to make it right and safe for their workers. If it was that unsafe, the union would have pulled all of their workers from there.

Posted by [velocitygirl](#) on June 3, 2009 at 9:32 AM · Report

<http://villageofjoy.com/chernobyl-today-...>

25

Posted by [Yoodle](#) on July 10, 2009 at 2:49 PM · Report

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