

APPENDIX 3

Institutional Controls and Landowner Concurrence



Status of Institutional Controls (ICs)

On-site Areas

Final drafts of the ICs for on-site parcels were prepared and provided in the RAP (Appendices 4.1 - 4.6). These were approved with the RAP by TCEQ on December 27, 2016. The following needs to be completed for each IC.

- Check boundary of each restricted area to assure consistency with soil removal data, disposal area limits and other information establishing the property to be deed restricted;
- Prepare legal descriptions of the areas to be deed restricted;
- Prepare final draft of each IC;
- Obtain TCT legal and TCEQ comments on final drafts;
- Finalize, obtain signatures and record in the County of El Paso;
- Recordation of the on-site ICs is scheduled to be complete by May 3, 2017 (120 days after RAP approval). TCEQ will be notified if additional time is needed.

Off-site Areas

Final drafts of the ICs for off-site properties were prepared and provided in the RAP (appendices 4.7-4.11). These were approved with the RAP by TCEQ on December 27, 2016. The following is the status of each off-site IC being negotiated with the owners of the respective properties:

- TxDOT (RAP Appendices 4.7 and 4.10)
 - Draft ICs for the I-10/HY 375 and HY 85 (Paisano Drive) properties were provided to TxDOT on September 13, 2016 (initial draft) and December 1, 2016 (second draft) via email ;
 - TxDOT indicated it was not willing to place restrictive covenants on their property in a letter dated January 12, 2017;
 - The matter was turned over to TCEQ to work directly with TxDOT in February, 2017;
 - TCEQ provided an updated draft of the ICs (TCEQ approved draft) to TCT on February 16, 2017 in efforts to support the initiation of discussion with TxDOT;
 - TCT understands that TCEQ and TxDOT are working towards resolving this matter;
 - TCT will support TCEQ as requested.
- UPRR (RAP Appendix 4.8)
 - Drafts of the IC for the UPRR property to establish a plume management zone were provided to UPRR on September 13, 2016 (initial draft), December 1, 2016 (second draft) and February 22, 2017 (TCEQ approved draft) via email;
 - UPRR has indicated they have reviewed the drafts and are working closely with TCT to establish permanent access to UPRR property and move forward with the next steps in the process.
- BNSF (RAP Appendix 4.9)
 - Drafts of the IC for the BNSF property to establish a plume management zone were provided to BNSF on September 13, 2016 (initial draft), December 9, 2016 (second draft) and February 8, 2017 (TCEQ approved draft) via email;
 - BNSF has indicated they have reviewed the drafts and are determining how to proceed in this matter.
- IBWC (RAP Appendix 4.11)
 - Drafts of the IC for the American Dam property to establish a plume management zone were provided to IBWC on September 13, 2016 (initial draft), December 1, 2016 (second draft) and February 8, 2017 (TCEQ approved draft) via email;
 - IBWC has indicated they have reviewed the drafts and are ready to move forward with the next steps in the process.