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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 13, 2016

Mr. Roberto Puga, P.G.  
Trustee, Texas Custodial Trust  
Project Navigator, Ltd.  
One Pointe Drive, Suite 320  
Brea, CA 92821

RE: Acknowledgment of Receipt and Notice to Proceed  
*Notification of Slag Material Removal and Cover Activities Planned for Texas Custodial Trust (TCT) Property Between Union Pacific Railroad (UPRR) Tracks, dated April 6, 2016*  
Former ASARCO Smelter site, El Paso, Texas  
TCEQ SWR No. 31235; EPA ID No. TXD990757668; Customer No. CN603597782;  
Regulated Entity No. RN100219021

Dear Mr. Puga:

The Texas Commission on Environmental Quality (TCEQ) and the US Environmental Protection Agency (USEPA) acknowledges receipt of the above referenced notification of plans to removal residual slag materials from the TCT Property located in an area between the UPRR tracks (north of the plant site). According to the submittal the cleanup of this area is being conducted in cooperation with UPRR as slag materials are noted to exist on both TCT and UPRR property in this area. UPRR has submitted a similar notice of the proposed removal activities to the TCEQ in a letter dated April 7, 2016. Documentation relating to UPRR activities for this area are currently being tracked in agency records as TCEQ Facility ID No. T3252. This letter provides Project Navigator, Ltd. with authorization and notice to proceed with the interim response action activities as proposed in the April 6, 2016 submittal intended to comply with the initial notification requirements 30 Texas Administrative Code (TAC) §335.8(b)(1). *Please ensure final proposed response actions, including any proposals for post closure care associated with this area of the TCT property have been captured in the pending site-wide closure/remediation plans and reports submitted in response to the regulatory requirements of 30 TAC §335.8(a), as appropriate.* Any residual slag materials proposed to be left in place must also be deed recorded in accordance with 30 TAC §335.5.

Please be aware that it is the continuing obligation of persons associated with a site to ensure that municipal hazardous waste and industrial solid waste are managed in a manner which does not cause the discharge or imminent threat of discharge of waste into or adjacent to waters in the state, a nuisance, or the endangerment of the public health and welfare as required by 30 Texas Administrative Code (TAC) §335.4. If the activities described in the April 6, 2016 notification fail to comply with these requirements, please take any necessary and authorized action to correct such conditions. A TCEQ field inspector may conduct an inspection of the site to determine compliance with the submittal.

Questions concerning this letter should be directed to me at (512) 239-6542. When responding by mail, please submit an original and one copy of all correspondence and reports to the TCEQ

Mr. Roberto Puga, P.G.  
Page 2  
April 13, 2016  
TCEQ SWR No. 31235

Remediation Division at Mail Code MC-127 with an additional copy submitted to the USEPA and local TCEQ Region 6 Office.

Sincerely,



Eleanor T. Wehner, P.G.  
Project Manager  
VCP-CA Section  
Remediation Division  
Texas Commission on Environmental Quality

ETW/mdh

cc: Mr. W. Lee Hammond, Manager, Site Remediation-Property Management, Union Pacific Railroad Company, 1400 Douglas Street, STOP 1030, Omaha, NE 68179-1030  
Mr. Eric Pastor, Pastor, Behling & Wheeler, LLC, 2201 Double Creek Drive, Suite 4004, Round Rock, TX 78664  
Mr. Scott M. Brown, P.E., Project Manager, Arcadis U.S., Inc., 410 N. 44<sup>th</sup> Street, Suite 1000, Phoenix, AZ 85008  
Mr. Chuck Barnes, Enforcement Division, U.S. EPA Region 6, 1445 Ross Avenue Suite 1200, Mail Code: 6EN, Dallas, TX 75202-2733  
Ms. Lorinda Gardner, Regional Director, TCEQ Region 6 Office, El Paso