

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Jon Niermann, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 11, 2016

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

Re: TCEQ Comments to *Texas Custodial Trust 2015 Annual Report*, received February 22, 2016  
Former ASARCO Smelter sites (El Paso and Amarillo, 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) has received the above referenced 2015 Annual Report received by the TCEQ on February 22, 2016. The annual report was submitted in response to Article 3.1 of the Trust Agreement (Payments and Expenses of the Trust) requiring the submittal of an annual report documenting *Balance Statements, Proposed Budgets, Fee Schedules, Associated scopes of work and Annual Report* to TCEQ and USEPA. Based on our review, the TCEQ requires additional information to clarify the following issue:

- Appendix 2 (Proposed 2016 Budget)

The budget amount proposed for 2016 is \$11,830,304 as indicated in Appendix 2 of the 2015 Annual Report. The *Statement of Assets and Fund Balances* provided in Appendix 3 (Trust Balance Sheets), however, indicates an asset balance of only \$8,319,783.57 was remaining in the Trust fund as of December 31, 2015. As such, the TCEQ cannot approve the proposed budget for 2016 as currently presented in the report. Please clarify and update the report, as necessary, to address this concern.

*An original and one copy of a response to the above referenced comment should be submitted to the TCEQ Remediation Division for review within thirty (30) days of the date of this letter at the letterhead address using mail code number MC-127. Additional copies should be submitted to the TCEQ Region 6 Office in El Paso and EPA Region VI Office in Dallas, respectively. Questions concerning this letter should be directed to me at (512) 239-6542.*

Sincerely,

A handwritten signature in cursive script that reads "Eleanor T. Wehner".

Eleanor T. Wehner, P.G.  
Project Manager  
VCP-CA Section  
Remediation Division

ETW/mdh

cc: Mr. Chuck Barnes, U.S. EPA Region 6, Suite 1200 (Mail Code 6EN), 1445 Ross Ave, Dallas, TX  
75202-2733  
Ms. Lorinda Gardner, Regional Director, TCEQ Region 6 Office, El Paso