

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
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Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

December 27, 2016

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

Re: Approval of the following documents:

- *Response to TCEQ comments dated September 19, 2016*, dated November 22, 2016
- *Response to TCEQ e-mail comments dated December 7 and 20, 2016*, dated December 21, 2016
- *Revised Response Action Plan*, dated August 16, 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) have reviewed the above referenced documents submitted by representatives of the Texas Custodial Trust (TCT). The November 22, and December 21, 2016 documents were submitted in response to TCEQ comments issued September 19, 2016 in response to review of the above referenced *Revised Response Action Plan* (RAP), dated August 16, 2016, and additional TCEQ comments conveyed to representatives of the TCT via email on December 7, and 20, 2016. The August 16, 2016 *Revised RAP* was submitted by the TCT as a standalone document in response to TCEQ comment letter dated August 5, 2016 regarding review of an initial October 2015 RAP submittal. The plan proposes a Remedy Standard B closure under the Texas Risk Reduction Program rules [30 Texas Administrative Code (TAC) Chapter 350] for the Former Asarco Smelter Site (Site). *Based on our review, the TCEQ, with concurrence of the USEPA, hereby approves the August 16, 2016 Revised RAP, as amended by the November 22 and December 21, 2016 responses. The plan, as amended, adequately fulfills the requirements of 30 Texas Administrative Code (TAC) §350.94 for the Site.*

RAP Worksheet 6.0, Implementation Schedule (*Report Date: August 2016, November 2016, Rev.1, December 2016, Rev. 2*) of the amended plan provides the proposed monitoring and reporting schedule for implementation of response actions, including response action effectiveness, completion, and post-response action care activities. According to the schedule, the *Soil Response Action Completion Report* (RACR) for the Site is anticipated for submittal to the TCEQ and USEPA on or before January 31, 2017. Response action effectiveness (RAER) monitoring and reporting activities will also be implemented to document the achievement of critical target protective concentration levels (PCLs) to address relevant groundwater-surface water exposure pathways associated with the Site. The *Groundwater RACR* will be submitted at the conclusion of the RAER monitoring activities and post response action care monitoring and reporting activities will be initiated upon agency approval of the *Groundwater RACR*.

Appendix 4, Institutional Controls (*Report Date: August 2016, November 2016, Rev.1, December 2016, Rev. 2*) of the approved, amended plan also provides the proposed institutional control

Mr. Roberto Puga, P.G.  
Page 2  
December 27, 2016  
TCEQ SWR No. 31235

(IC) language sufficient to fulfill the requirements of 30 TAC §350.111. Please ensure documentation supporting proof of filing the ICs for all relevant parcels is submitted to the TCEQ and USEPA in accordance with the time frames referenced in RAP Worksheet 2.4 (*Report Date: August 2016, November 2016, Rev.1*). Please inform the TCEQ and USEPA of any delays if they are anticipated.

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 TAC §335.4. If the actual response action fails 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 approved plan.

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

Sincerely,



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

ETW/etw

cc: 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