

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 3, 2017

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

Re: Approval of *Texas Custodial Trust 2016 Annual Report*, dated May 10, 2017
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) have received the above referenced document prepared by the Texas Custodial Trust (TCT). The annual reports are 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. The TCEQ understands the submittal of the May 10, 2017 report was delayed as previously communicated to TCEQ in a January 2017 email. TCEQ previously approved an extension request for submittal of the 2016 Annual Report on January 30, 2017. Based on our review, the *Texas Custodial Trust 2016 Annual Report* is hereby approved.

Section 6.2 of the May 20, 2017 report indicates the Trust is considering changing financial institutions for management of the Trust fund to the Royal Bank of Canada (RBC). Please note the approval and implementation of such changes would require formal amendment of the existing Trust Agreement with financial institutions concerning TCT funds (Article 6.3). It is also unclear at this time if RBC is considered a *domestic bank* as specified in Article 3.4 of the TCT Trust Agreement. The TCEQ remains available in the event more formal discussion of this topic is requested by the TCT in future.

TCEQ letter dated November 15, 2014 previously approved a blanket extension request submitted by the Trustee on November 13, 2013, to provide the Balance Statements, Proposed Budgets, Fee Schedules, Associated scopes of work and Annual Reports by January 31 of each year. Therefore, please ensure future *Texas Custodial Trust Annual Reports* continue to be submitted in accordance with the revised schedule.

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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 Region 6 Office and local TCEQ Region Office in El Paso.

Sincerely,



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

ETW/bk

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