

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 20, 2016

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

Re: Acceptance of Deed Certification - Risk Reduction Standard No. 3  
TCEQ Receipt of *Proof of Filing Materials for Parcel 13*, dated May 13, 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) received your email dated May 13, 2016 conveying materials documenting proof of deed recordation for Parcel 13. Representatives of the Texas Custodial Trust filed the deed recordation materials associated with Parcel 13 in the land records maintained by the El Paso County Clerk's Office on April 5, 2016. The certification states that soil contaminants remaining at Parcel 13 have been remediated to meet non-residential criteria under Risk Reduction Standard (RRS) No. 3 pursuant to Title 30 Texas Administrative Code (TAC), Chapter 335, Subchapters A and S. The *Closure Report for Parcel 13*, dated March 22, 2016, was previously accepted by the TCEQ with concurrence of the USEPA in a letter dated March 28, 2016.

*After reviewing the proof of deed recordation materials, it appears that the requirements of 30 TAC §335.566 have been completed and no post-closure care is required for Parcel 13. No further action is required by the Texas Custodial Trust in response to 30 TAC Chapter 335, Subchapters A and S for Parcel 13.*

In order to attain RRS No. 3, all industrial solid waste and municipal hazardous waste and waste residues must be removed or decontaminated to levels that will not pose a substantial present or future threat to human health and the environment, and must further demonstrate that any residue remaining in place will not pose a threat of any future release that would increase the concentrations of contaminants in the environmental media above the cleanup levels determined for that particular risk reduction standard as specified in 30 TAC §35.553(c).

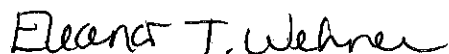
Be advised that it is the continuing obligation of persons associated with the site to ensure that any municipal hazardous waste and industrial solid waste are managed in a manner which does not cause the discharge or imminent threat of discharge of waste into or adjacent to waters in the state, a nuisance, or the endangerment of the public health and welfare as required by 30 TAC §335.4. If the response actions as described in the *Closure Report for Parcel 13*, dated

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March 22, 2016 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 area to determine compliance with the report.

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. Additional copies should be provided to the TCEQ Region 6 Office in El Paso and EPA Region VI Office in Dallas.

Sincerely,



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

cc: Mr. Scott M. Brown, P.E., Vice President, Principal-in-Charge, Malcolm Pirnie, Inc., 410 N. 44<sup>th</sup> Street, Suite 1000, Phoenix, AZ 85008

Mr. David Puente, Sr. Vice President, Sierra Title, 4849 North Mesa, Suite 100, El Paso, TX 79912

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, Region Director, TCEQ Region 6 Office, El Paso