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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 5, 2014

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  
*Location and Configuration of Category II/III Stockpile on East Property*, dated  
January 23, 2014  
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) Remediation Division and the US Environmental Protection Agency (USEPA) acknowledges receipt of the above referenced submittal dated January 23, 2014, proposing the location and configuration of a stockpile on the East Property for storage of Category II and III material. According to the January 23 2014 submittal, existing Category II and III materials on the East Property are proposed to be consolidated into the stockpile for the purpose of removing the material from existing drainage pathways and to support the cleanup of the remaining areas of the East Property to residential standards. An interim, 1-foot thick soil cover is proposed to be placed over the entire area of the stockpiled material. Toe ditches will also be constructed to route surface water to the north or south arroyo and Best management Practices (BMPs) will be installed at the toe of slope and other areas to control erosion. This letter provides Project Navigator, Ltd. with authorization and notice to proceed with the activities as presented in the January 23, 2014 submittal. *The TCEQ and EPA require submittal of an interim report documenting the construction activities associated with the East Property stockpile within sixty (60) days of completion of the installation of the interim soil cover, toe ditches and BMPs to control erosion.*

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

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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 January 23, 2014 submittal 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 January 23, 2014 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 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. Scott M. Brown, P.E., Project Manager, Malcolm Pirnie, Inc., 410 N. 44<sup>th</sup>  
Street, Suite 1000, Phoenix, AZ 85008  
Mr. Charles Fisher, Superfund Division, U.S. EPA Region 6 (Mail Code 6SF-RA),  
1445 Ross Ave, Dallas, TX 75202 Dallas  
Ms. Lorinda Gardner, Region Director, TCEQ Region 6 Office, El Paso