

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



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 19, 2016

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

**Re:** *Comments to 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 document, dated August 16, 2016, submitted by representatives of the Texas Custodial Trust (TCT) in response to issuance of TCEQ letter dated August 5, 2016. TCEQ letter dated August 5, 2016 was issued in response to review of the October 2015 Response Action Plan (RAP). The August 16, 2016 submittal provided a response to comment (RTC) letter with a standalone Revised RAP. The Revised RAP 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 requires the submittal of additional information in order to complete our review of the August 16, 2016 *Revised RAP*. Comments are enclosed for your reference.

*Please submit a response addressing the enclosed comments to the TCEQ Remediation Division at the letterhead address using mail code number MC-127 within sixty (60) days from the date of this letter. An additional copy of your response should be submitted to the USEPA Region 6 Office in Dallas and TCEQ Region 6 Office in El Paso.*

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Please call me at (512) 239-6542 if you need additional information or wish to discuss these comments or the due date.

Sincerely,



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

ETW/mdh

Enclosure: TCEQ Comments to *Revised Response Action Plan*, dated August 16, 2016

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

TCEQ Comments to the *Revised Response Action Plan*, dated September 16, 2016

1. Review of Response to Comment (RTC) 10 and RTC 22 provided with the Revised Response Action Plan (RAP) - The draft IC for the Plant Site Parcel provided in Appendix 4.2 should be amended to note the current IC supersedes prior deed notice filed by representatives of Asarco Incorporated on June 12, 1986. The intent of the original deed was to provide notice of the generation and disposal of industrial and solid waste on the property as documented in the Notice of Registration No. 31235. As the Soil RACR will provide the final report documenting the closure of all waste streams and waste management units associated with NOR No. 31235, the IC for the Plant Site Parcel should be amended to capture the change in the condition of the property as a result of the remediation efforts. *Suggested language and/or approach to address this concern will be conveyed to representatives of the TCT via email shortly.*
2. Review of RTC15.b provided with the Revised RAP - Please ensure monitor well EX-1 and respective Attenuation Action Levels (AALs) are captured in the AAL table associated with RAP Worksheet 2.1, as supporting text and figures in the Revised RAP continue to designate this well is an AMP well.
3. RAP Worksheet 1.0, p. 12 of 44 (last paragraph), RAP worksheets associated with gabion maintenance and monitoring, RTC C-21, etc. - TCEQ does not concur with the proposal to continue to use Cell 4 as a 'long term disposal option' for sediments removed from the gabion structures. *Cell 4 must be effectively closed at the time the Soil RACR is submitted or shortly thereafter as the purpose of creating the WCU as a remedy was to support long term storage/disposal of Category I materials.* As such, if documentation of final cap construction for Cell 4 is not provided at the time the Soil RACR is submitted, all remaining materials management projects associated with Cell 4 must be clearly pre-specified in advance in the supporting worksheets of the Revised RAP and Soil RACR and final cap construction completion for Cell 4 must be completed and documented no later than the end of 2017. TCEQ/USEPA letter dated January 21, 2015 requires the submittal of a final cover construction completion report for Cell 4 within 60 days of final construction. As such, please ensure the final cover construction completion report is either provided in the Soil RACR, or as a standalone certification report submitted on or before December 31, 2017. Sediments removed from gabion structure after Cell 4 is closed must be treated as generated solid waste, managed and properly disposed in an authorized regulated landfill. *Please ensure the Revised RAP is corrected and modified accordingly to address these issues.*
4. RAP Worksheet 1.0, page 33 of 44 (west side slopes RAOs) - Text indicates that response actions for soil along the western plant slope and drainage associated with the Site will be completed and documented as part of the *Groundwater* RACR. However, text in other areas of the Revised RAP (i.e., RAP Worksheet 3.24) indicate the response actions for this area will be provided in the Soil RACR. Please clarify. Based on our review, the initial reporting of the installation of the protection elements for this area will need to be presented in the Soil RACR.

5. Review of RTC C-2b provided with the Revised RAP - Is it correct to assume the proposed cover system for the Boneyard (and IC's, O&M), as currently designed, would also provide adequate final remedy for the Boneyard in the event the materials contained in the unit are never removed?
6. RAP Worksheet 2.0 (page 6 of 38, East Property AA, Category II Storage Area - Please ensure the submittal of the referenced letter report documenting final construction of the referenced remaining '2017 components' associated with the Category II Storage Area is provided to the TCEQ and USEPA for review *within sixty (60) days of construction completion*. The letter report and TCEQ/EPA approval letter should be incorporated in the Groundwater RACR.
7. RAP Worksheet 2.1 (Plume Management Zone, page 26 of 38) - The referenced projected future groundwater flux value for the PBA (i.e., 0.00098 cfs) is noted to differ from the flux value presented in Appendix 3.6 (0.010 cfs). Please clarify.
8. RAP Worksheet 3.1 (Monitoring and Sampling, page 14 of 32) - Text references EP-148 as the upgradient monitoring well for PRB-2. Is this a typo? Attachment 3, Table 3A- and Figure suggest EP-149 as the upgradient well for PRB-2.
9. RAP Worksheet 3.1 (Monitoring and Sampling, Stormwater Monitoring Program, page 16 of 32) - Based on our review of the information presented on page 10 of 32 (Worksheet 3.1), mercury should be captured in the monitoring list for stormwater sampling of the gabions.
10. RAP Worksheet 3.2.1 (Operation and Maintenance, Soil Evapotranspiration Covers, page 18 of 32), and draft IC in Appendix 4.2 (Plant Site Parcel) - The supporting text establishing future development-related requirements for Soil ET Covers (e.g. maintenance of overall infiltration rate of 0.19 cm/yr, construction limitations/alterations, etc.) has been captured in RAP Worksheet 3.2.1; however, these important future development restrictions/requirements appear to be missing in the Exhibit-related text associated with the ET cover draft IC for the Plant Site Parcel [refer to text in Appendix 4.2, Exhibit D, E (or should this be 'D')-2 Soil Cover Operation and Maintenance, ET Cover].
11. RAP Worksheet 3.2.3 (Operation and Maintenance, Low Permeability Covers, page 21 of 32), and draft IC in Appendix 4.2 (Plant Site Parcel) - The supporting text establishing future development-related requirements for low permeability covers referenced maintenance of overall infiltration rate of 0.1 cm/yr. The draft IC [Exhibit D, E (?D)-2 Soil Cover Operation and Maintenance, Low Permeability Cover] references a specific infiltration rate of 0.19 cm/yr. For consistency purposes, please update RAP Worksheet 3.2.3 to reference 0.19 cm/yr.
12. RAP Worksheet 3.2.4 (Operation and Maintenance, Slope Stabilization), and draft IC in Appendix 4.2 (Plant Site Parcel) - Please ensure the Operation, Maintenance

and Monitoring (OM&M) requirements (including future development requirements) for slope stabilization to support erosion control are captured in the OM&M exhibits supporting the Plant Site.

13. RAP Worksheet 3.2.1 (Operation and Maintenance, Soil Evapotranspiration Covers, page 18 of 32) and draft IC in Appendix 4.3 (Upper PBA/La Calavera AA Parcel):
  - a. Text associated with RAP Worksheet 3.2.1 should specifically indicate that a *soil ET cover* is being used on the Fines Pile associated with the Upper Parker Brothers Arroyo/La Calavera AA parcel (as indicated in the proposed draft IC materials for the parcel).
  - b. The language in the draft IC related to the soil ET cover for the Fines Pile indicates *any future development of the Fines Pile is prohibited*. Please confirm this statement as text in RAP Worksheet 3.2.1 provides specific requirements for future development for soil ET covers.
  - c. The draft IC for the Fines Pile soil ET cover should reference the overall infiltration rate (i.e., 0.19 cm/yr) that must be maintained in response to any necessary future repairs or modifications to the cover.
14. General Comment - The RAP Worksheets and the draft ICs should be modified to consistently reference TCEQ as lead agency for initiating notifications and pre-approval of any modifications to established remedies. TCEQ will seek concurrence of USEPA as necessary. Existing text indicating such changes must be approved by the 'TCEQ and USEPA' should be updated accordingly for clarity.
15. Draft IC in Appendix 4.2 (Plant Site Parcel) - The header associated with page 2 of Exhibit F is noted to reference *Exhibit E -Upper PBA/LC AA Parcel*. Please correct this typographic error. Also, please update Exhibit G-2 to capture the future development restrictions specific to Stormwater Retention/Detention Ponds provided in Worksheet 3.2.6 of the Revised RAP.
16. RAP Worksheet 3.2.7 (Sediment BMPs), page 26 of 32 - Sediment BMPs are indicated in RAP Worksheet 3.2.7 as applicable to the referenced Upper Parker Brothers Arroyo AA. However, there are no OM&M requirements specific to sediment BMPs identified in the supporting draft IC for the Upper Parker Brothers Arroyo/La Calavera AA Parcel (ref as Exhibit F in the IC?). Please clarify.
17. RAP Worksheet 3.2.8 [Stormwater Gabions (SW-1a, SW-1b, SW-1c, and SW-1d in East Mountain AA)], page 27 of 32 - Text in the RAP worksheet indicates sediment removals will be performed on an *annual basis*. Exhibit F-2 (Stormwater Control Operation and Maintenance) of the draft IC for the East Property/East Mountain Parcel; however, indicates sediment removals will be performed on an *as-needed basis*. Although both proposals are acceptable, please ensure the statements presented in the RAP provide a clear and consistent approach to sediment management actions.
18. RAP Worksheet 3.2.9 (PRBs and GHBs), page 31 of 32 - Please ensure RAP Worksheet 3.2.9 and the draft IC for the Plant Site Parcel (Exhibit E-Permeable

Reactive Barriers) capture requirements for limitations on future development activities. In addition, these materials incorporate potential response actions to amend the established physical control with installation of the additional physical controls [i.e., permeable reactive cell(s)] in the future as discussed in RAP Worksheet 3.0 (page 2 and 7 of 32).

19. Attachment 5B (PRAC Costs) - Contingency items provided in the estimated cash flow spreadsheet in Attachment 5B reference a "*Paisano Slope Geosynthetic Cover (TCT property)*". Is this contingency installation cost item applicable to the entire western slope area including the toe of slope?
20. RTC C-22c-General Comment - The draft ICs provided in Appendix 4 must be amended to capture standard TRRP-16 Restrictive Covenant form language for the Trustee-owned parcels provided in Appendix 4.1-4.6. The draft ICs for off-site parcels provided in Appendix 4.7, 4.8, 4.9, 4.10, and 4.11 should be similarly amended for consistency. As a result, the TCEQ conveyed example standard IC format language to representatives of TCT on September 15, 2016 for initial review and discussion. In addition, the current draft IC's for Union Pacific Railroad, Burlington Northern/Santa Fe Railroad and International Boundary Water Commission/ American Canal Parcel are also noted to incorrectly reference TxDOT as the owner of the property. *Please ensure the IC's in Appendix 4 of the Revised RAP are corrected and modified accordingly to address these issues.*