

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 15, 2011

Mr. Mike Boudloche
Chapter 7 Bankruptcy Trustee for Encycle Texas
555 Carancahua # 600
Corpus Christi Texas 78478

Re: Comments to Various Demolition Related Workplans for the **Former Encycle/ Texas, Inc./ ASARCO Facility (Encycle)** located at 5500 Up River Road, Corpus Christi, Nueces County, Texas; **TCEQ SWR No. 30003**; TCEQ Hazardous Waste Permit No. HW-50221; EPA ID No. TXD008117186; Civil Action No. H-99-1136; U.S. (Southern District) Consent Decree Entered October 7, 1999; Stipulation and Order Modifying Consent Decree Entered August 13, 2004; CN600753933; RN101448769

Mr. Boudloche:

The Texas Commission of Environmental Quality (TCEQ) in consultation with the Environmental Protection Agency (EPA) has reviewed the following workplans related to the planned demolition activities. In addition, consideration was given to the comments received on April 12, 2011 from the Citizens for Environmental Justice (CFEJ). With this letter, the TCEQ is providing comments and status of review for the major documents that have been submitted thus far. Please review and address the TCEQ comments included in the following paragraphs as well as the EPA comments included in the attached enclosure (Enclosure 1) entitled EPA Region 6 Comments on Workplans, dated April 7, 2011:

The following work plans may be implemented:

- **The Traffic Control Plan** received March 9, 2011
- **The Quality Assurance and Quality Control (QA/QC) Plan** received March 9, 2011

The following document is accepted, without comment:

- **The Structural Integrity Report** received March 16, 2011

The following work plans are accepted, with directive:

- **The Health and Safety Plan (HASP)** received March 9, 2011- There is no objection to proceeding under the plan provided the following directives are incorporated into the plan. Please address and incorporate the comments provided on the plan by the EPA. In addition, please provide an addendum that describes the plans and procedures to be instituted if a hurricane either forms in or comes into the Gulf of Mexico. Please provide the addendum within 30 days of the date of this letter.

Mr. Mike Boudloche
Page 2
April 15, 2011
TCEQ SWR No. 30003

- **Revised Asbestos Abatement Workplan** received March 14, 2011- The TCEQ approved this plan with comments/conditions in a letter dated April 8, 2011. Please ensure that the comments are reviewed and that the conditions of that approval are met. Once the appropriate changes are made, submit the revised plan to the TCEQ, which should be no later than 30 days from the date of this letter. In addition, please see and meet the requirements set forth below in regard to the Air Monitoring Program.
- **Stormwater Pollution Prevention Plan (SWP3)** - The SWP3 has been prepared and Notice of Intent (NOI) was submitted to the TCEQ's Storm Water Processing Team. A Texas Pollution Discharge Elimination System (TPDES) Storm Water Construction General Permit was issued April 6, 2011 and expires March 5, 2013. The requirements of this permit include the implementation of an SWP3 that is tailored to the site, possible monitoring, reporting and periodic inspections. To ensure the requirements of this permit are met, the selected best management practices (BMPs) should be clearly identified and stated in the SWP3 and must be tailored to the specific site conditions. Please review, address, and incorporate the EPA comments provided in the attached enclosure (Enclosure 1) into the SWP3. Submit the revised plan to TCEQ within 30 days of the date of this letter.
- **Demolition Workplan** received March 11, 2011- Except as noted below, there is no objection to demolition proceeding under the current plan for the buildings listed in the proposed schedule as having no asbestos containing material (ACM) or hazardous waste, the buildings where the ACM has been properly abated, or where hazardous wastes have been properly removed and decontaminated.
 - An addendum to this workplan, specifically addressing the demolition of the smokestack, was received April 8, 2011. This addendum is currently under review and will be addressed in a future letter, on or before April 21, 2011.
 - Additional specific plans and information on the buildings that contain waste units to be closed, including Facility 1 and Facility 2, must be submitted. These additional plans and information includes, but are not limited to, how the demolition process will impact the closure of the waste units contained within those buildings. Please also reference the appropriate closure plan for each waste unit to undergo closure. We also need the sequence of demolition activities that account for the specific hazards associated with each structurally unsound building (e.g., the East and West Cell House and Facility 2), in regard to prevention of release of wastes or waste constituents during demolition.

We also note that the schedule does not appear to prioritize the demolition of the buildings that have been deemed to be structurally unsound, which we believe is a high priority. Please provide additional information addressing these issues or a schedule for providing this information within 15 days of the date of this letter.

There is no objection to the removal of non-hazardous/industrial materials/debris (e.g., desks, motors, brush, etc.) from the site. Please ensure that all wastes and materials removed from the site are properly characterized in accordance with 30 TAC 335 Subchapter R. All hazardous and

Mr. Mike Boudloche
Page 3
April 15, 2011
TCEQ SWR No. 30003

Class 1 Non-hazardous wastes must be manifested, and all wastes must be disposed of at a facility authorized to accept that waste.

The following plans are noted as deficient, and require revision:

- **Hazard Communications (Haz Com) Plan** received March 9, 2011- This plan does not contain emergency procedures to notify residents in the event of a reasonably foreseeable mishap. The TCEQ objects to this plan because it does not have a thorough emergency response strategy that includes emergency contact information and a rapid community notification process. Please address this in an addendum to or a revised Hazard Communications Plan.
- **Wind and Dust Monitoring Plan** received March 14, 2011- The TCEQ cannot approve this plan at this time. Dust control measures should be more detailed, especially in regard to prevention of visible dust. In many instances, the appropriate control measures for carrying out this plan will tie in directly to the Air Monitoring Plan and the concerns of both the TCEQ and EPA (provided in the enclosure) should be addressed in an addendum to this plan which references sections in the Air Monitoring Plan.

For all plans requiring revision, please incorporate those comments into the plans as quickly as possible, but no later than April 29, 2011. TCEQ needs the opportunity to review the revised plan to ensure comments are incorporated. Please provide revised plans in redline/strikeout and we will provide final action on the plan **within 5 business days**.

Detailed comments for the following workplan are not provided in this letter:

- **Air Monitoring Program** dated October 18, 2010, and **Revised Air Monitoring Program** dated April 7, 2011- The TCEQ provided preliminary comments on March 3, 2011 to the Air Monitoring Program dated October 18, 2010, and received the Revised Air Monitoring Program on April 7, 2011. The TCEQ is not prepared to fully comment on the Revised Air Monitoring Program; however, the TCEQ and EPA intend to finalize review of this plan by April 21, 2011 and will follow up with a separate letter to address the plan. Please review the comments from EPA provided in the enclosed attachment, dated April 7, 2011. We have noted some major issues with the plan, as communicated in our e-mail message sent April 11, 2011 (Enclosure 2). These major issues pertain to the use of Effects Screening Levels as monitoring levels at the perimeter, stop work provisions, and the implementation of the Particulate Matter National Ambient Air Quality Standard (NAAQS) at the facility boundary. For the purpose of perimeter air monitoring for asbestos, please use 0.01 fibers/cc as the limit, using the method prescribed in our letter, dated April 8, 2011.

Mr. Mike Boudloche
Page 4
April 15, 2011
TCEQ SWR No. 30003

Although TCEQ and EPA have reviewed the plans the Trustee remains solely responsible for compliance with any and all requirements, including the Resource Conservation and recovery Act (RCRA), and any other applicable federal, state, or local permit, law, rule, or regulation. Compliance with the plans is not a defense to any action commenced pursuant to said laws, regulations, or permits.

If you have any questions, please contact me at (512) 239-6651 or Jacquee Rodriguez of my staff at (512)239-2252.

Sincerely,



William J. Shafford
VCP-CA Section Manager
Remediation Division
Texas Commission on Environmental Quality

WJS/jdm

cc: Ms. Jane Atwood, Texas Attorney General's Office
Mr. Noel Bennett, US EPA Region 6
Ms. Angela Hodges, US EPA Region 6
Ms. Jacquee Rodriguez, Project Manager
Mr. Brad Genzer, Waste Manager, Region 14

**EPA Region 6 Comments on Work Plans
Demolition of Former Encycle/Asarco Plant
Corpus Christi, Texas
April 7, 2011**

In accordance with EPA's consultation role under the Encycle Bankruptcy Settlement Agreement, EPA has reviewed draft site remediation documents related to the demolition activities for the Encycle site. These documents are posted on the TCEQ Encycle Facility Documents webpage (http://www.tceq.texas.gov/remediation/sites/encycle_documents).

The following ten (10) documents were reviewed.

1. DEMOLITION WORK PLAN
2. HAZARD COMMUNICATION PLAN
3. HEALTH AND SAFETY PLAN
4. QUALITY CONTROL/QUALITY ASSURANCE PLAN
5. REVISED ASBESTOS ABATEMENT WORK PLAN
6. STORMWATER POLLUTION PREVENTION PLAN
7. TRAFFIC CONTROL PLAN
8. WIND AND DUST MONITORING PLAN
9. BUILDING STRUCTURAL INTEGRITY ASSESSMENT REPORT
10. AIR MONITORING DURING DEMOLITION PLAN

EPA offers the following comments on the documents.

1. DEMOLITION WORK PLAN (DWP)

As an effort to further screen/characterize the waste at Encycle, EPA understands that the TCEQ will be conducting multimedia sampling of the Encycle waste for the purpose of analyzing a broad suite of organic compounds.

2. HAZARD COMMUNICATION PLAN (HCP)

The HCP addresses protection of the workers in case of an emergency, but corresponding planning to address protection of the community is lacking. The HCP should address notification of the community, particularly, the nearby Dona Park neighborhood, in case of an emergency. Notification procedures should also include instructions for the community on what they need to do to protect themselves after receiving an emergency notification.

3. HEALTH AND SAFETY PLAN (HASP)

The listing of Chemical Hazards on Table 3.2 only list the metals lead and cadmium. However, the concentrations of other metals in shallow soil, including arsenic, exceed the proposed industrial exposure levels established for the site. See Table 4 of the Encycle Corrective Measures Study (CMS) for a listing of the metals in soil exceeding the preliminary remediation goals (PRGs) for industrial exposure. The areas of the site with metals exceeding PRGs are also

shown in the CMS. Table 3.2 Chemical Hazards needs to be updated to reflect the findings of the CMS.

In Section 4.2.3, Personnel Training, on the Training Required Form, the Lead and Cadmium boxes should be checked. Also, a box for arsenic should be added.

In Section 4.3.2, Site Air Monitoring, much of the air monitoring described is based on the draft/preliminary air monitoring planning and does not reflect the final air monitoring planning that will be implemented before starting actual demolition activities.

The type of air monitoring described in Section 4.3.2, subsection, Smoke Stack Asbestos Abatement, should also be provided for all the asbestos abatement activities, particularly those involving removal of asbestos containing materials (ACM) on the exterior of the structures such as the Galbestos panels. For an appropriate asbestos screening level for the perimeter air monitoring, see EPA's comment below on the Air Monitoring During Demolition Plan.

4. QUALITY CONTROL/QUALITY ASSURANCE PLAN (QC/QA)

No deficiencies were noted in the QC/QA Plan.

5. REVISED ASBESTOS ABATEMENT WORK PLAN (RAAWP)

EPA's comments on the original Asbestos Abatement Work Plan for Encycle were adequately addressed in the Revised Asbestos Abatement Work Plan (RAAWP). EPA has no further comments other than to point out that Paragraph 3.17.4 of the RAAWP indicates the use of phase contrast microscopy (PCM) analysis of asbestos air samples; whereas, Exhibit A, Scope of Work, included with the Motion filed with the bankruptcy court, on Page A-19, indicates transmission electron microscopy (TEM) analysis of air samples, at least for the smokestack demolition. TEM is the preferred method.

6. STORMWATER POLLUTION PREVENTION PLAN (SPPP)

The concentrations of a number of metals including lead, cadmium, arsenic and zinc in shallow soil are elevated and potentially impact human health and/or the environment. These contaminants are subject to mobilization and transport by surface water. See Table 4 of the Encycle Corrective Measures Study (CMS) for a listing of the metals in soil exceeding the preliminary remediation goals (PRGs) for industrial exposure. The areas of the site with metals exceeding PRGs are also shown in the CMS. Although, these areas were identified based on industrial exposure to workers on site, these same areas are the ones from which contaminants could be mobilized and carried in stormwater runoff into the Ship Channel potentially impacting its water quality.

Overall, the plan lacks detail and does not appear to directly address selection of best management practices (BMPs) related to relative risk of contamination on site affecting storm water discharges. The biggest concerns are the controls to address mobilization of pollutants in contaminated soils, controls around demolition areas where significant materials could be

mobilized by stormwater, controls around material storage areas, and controls around loading areas.

Straw bales are no longer included as a recommended BMP and alternatives should be considered. Fact sheets on better alternative sediment controls, such as compost filter berms or socks, fiber rolls, filter berms, etc., are provided at EPA's National Menu of Stormwater Best Management Practices (<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/>) under the Construction BMPs topic.

Note that Part II.C.3. of the Construction General Permit (CGP) would not allow coverage should discharges be causing or contributing to a violation of state water quality standards. Given the historical contamination at the site and the potential for stormwater to come into contact with contaminated soils and construction debris, what has been done to assess the current quality of stormwater from the site? At a minimum, there should be some sampling of pollutants of concern associated with past industrial activities to allow assessment of potential impacts on water quality of receiving waters and adjustment of BMPs as necessary. Section 5.5 appears to be the only area tied to the Surface Water Risk-Based Exposure Limits (SWRBELs) used in Table 5.0. This table doesn't include all potential pollutants of concern at the site based on historical operations that could impact water quality.

Any stormwater discharging from Outfall #2 at the East Lagoon should meet the discharge limitations of the existing National Pollutant Discharge Elimination System (NPDES) permit. Other stormwater discharges (i.e., stormwater from the demolition area that is not routed through the lagoon system and Outfall #2) should also meet the same water quality discharge limitations and monitoring requirements as set forth in the NPDES permit for the stormwater discharges at Outfall #2.

Knowing where the surface water flows at the plant area during rainstorms is important to proper design of the stormwater pollution prevention plan. In that regard, the following questions need to be addressed:

- a. On Figure 5, at the southeast corner of the plant area, a blue arrow indicates surface water flow toward the property line. Where does this flow go after it leaves the site?
- b. Is there any surface water runoff from the plant area to the ditch along Up River Road?
- c. In the Up River Road ditch south of the plant side, which way does the surface water flow?
- d. Is there any discharge into Ship Channel other than from the east lagoon Outfall #2?
- e. How frequently does the east lagoon discharge at Outfall 2?
- f. Does any surface water enter the Ship Channel from the plant area without going through the lagoon system, i.e., does it flow around the lagoon system? If so indicate where.

g. On Figure 5, the blue arrow north of Product Storage Building 5 (northeast portion of plant area) indicates flow off site, but it's not clear if BMPs are employed there to prevent transport of sediment/silt off site?

h. Where does this flow (north of Product Storage Building 5) go after it leaves the site? Is there a road ditch along the road that goes along the east side of the plant to the Ship Channel? Does runoff from the east side of the plant area flow into this ditch and then to the Ship Channel?

i. Is there a topographic map of the site that better shows ditches and swales and that indicates surface water flow?

Section 5.8 Routine Maintenance: Accumulated sediment that is placed in roll off dumpsters or otherwise collected for removal should be tested to see if it is characteristically hazardous waste prior to disposal offsite. Pending test results, accumulated sediment should be disposed of at an appropriately authorized facility.

7. TRAFFIC CONTROL PLAN (TCP)

EPA's oversight role over the traffic control activities described in the TCP is limited. However, based on our best professional judgment, no deficiencies were identified.

8. WIND AND DUST MONITORING PLAN (WDMP)

In Section 4.0 Fugitive Dust Controls, more active measures to control dust are triggered "in the event visual dust from demolition activities is observed crossing the property boundary." This delayed response is insufficient. More active measures to control dust should be triggered when visible dust is observed at the location of the particular demolition activity that is the source of the dust rather than after the dust reaches the fence line.

Section 5.0 Monitoring and Records, states that "if particulate concentrations downwind of the demolition area are higher than the observed range of upwind concentrations, then additional dust abatement activities or controls will be implemented to reduce the concentrations within the range of upwind readings." How the downwind concentration will be compared to the "upwind range of concentrations" for the purpose of taking more active dust control measures needs to be more clearly specified/explained. It is not clear how downwind reading(s) will be compared to upwind reading(s) in order to trigger additional dust abatement. Will downwind concentration(s) be a discrete value or an average of a range of readings, or what? Also, for the "range of upwind concentrations," will the lower part of the range, the average, or the upper part of the range be used? Will downwind readings be compared to upwind readings to determine if there is a statistically significant increase?

9. BUILDING STRUCTURAL INTEGRITY ASSESSMENT REPORT (BSIAR)

EPA's oversight role over the structural issues described in the BSIAR is limited, but EPA does note the poor structural integrity of many of the structures.

10. AIR MONITORING DURING DEMOLITION PLAN (AMDDP)

This Air Monitoring During Demolition Plan is focused mostly on protection of onsite demolition workers. The air quality standards in Table 1 are Occupational Safety and Health Administration (OSHA) standards for protection of workers on a jobsite and not ambient air standards for protection of the community at large. It is EPA's understanding that the TCEQ is developing an air monitoring plan focused on the Dona Park neighborhood to monitor any potential air emissions during demolition utilizing air quality standards for protection of the general population. It is also EPA's understanding that the trustee will also submit a revised Air Monitoring Plan that includes components designed for monitoring air quality in the community.

For the perimeter air monitoring, an appropriate asbestos screening level that could be utilized is the EPA Asbestos Hazard Emergency Response Act (AHERA) asbestos abatement in schools clearance level of 0.01 fibers per cubic centimeter by phase contrast microscopy (PCM) or 70 structures per square millimeter by transmission electron microscopy (TEM) in accordance with 40CFR 763.90 Response Actions.

Bill Shafford - Encycle

From: Bill Shafford
To: Boudloche, Mike
Date: 4/11/2011 9:19 AM
Subject: Encycle
CC: Bäckens, Chârmaine; Förbes, Ashley; Haney, Joseph; Long, Daniel; Rodriguez, Jacquelyn; Valdez, Omar; Wade, Brent

Mike:

I wanted to get these questions/concerns to you quickly:

- As you stated in the call of April 1, 2011, if hurricane season is the primary driver to start tearing down buildings, why is the deadline to demolish the structurally unsound buildings (the ones that cannot survive a hurricane) set after hurricane season? According to documents submitted, Facility No. 2 still has tanks with waste.
- The deadline to tear down the stack in the schedule exceeds the amount of time authorized in the contract.
- Please state which units you intend to clean up under the 1999 Consent Decree, and which you intend to clean up in accordance with the 1999 closure plan.

In regard to the Revised Air Monitoring Plan:

- 1) Mention/define ESLs as the benchmarks for air sampling (Sections 3.3 and 3.4, and Column 5 on Table 2);
- 2) Explain how lab data can be used to adjust dust suppression/emissions controls and implement stop-work provision when lab data is on a 3-day turn-around time;
- 3) The benchmarks provided are for total ambient air concentrations. Background subtraction is not allowed for because, regardless of the source, if these level are exceeded it would be contrary to the protection of human health and they are created to ensure compliance with the NAAQs.

We expect to have review results on the following plans no later than 4/12/2011:

- Demolition Work Plan;
- Building Structural Integrity Report;
- Wind Monitoring and Dust Suppression Plan;
- SWPPP;
- Traffic Control Plan;
- HASP;
- QA/QC Plan; and
- Hazard Communication Plan

We expect to finalize the review on the Revised Air Monitoring plan and the Stack demolition Engineering analysis no later than 4/21/2011.

Thanks!

Bill Shafford