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## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 8 2011

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

Re: Approval of the Asbestos Abatement Project Specifications (Revised) received March 14, 2011 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

Dear Mr. Boudloche:

The Texas Commission on Environmental Quality (TCEQ) in consultation with the Environmental Protection Agency (EPA), and with the assistance of the Texas Department of State Health Services (TDSHS), has reviewed your Revised Asbestos Abatement Plan submitted on January 10, 2011 and revised March 14, 2011. The TCEQ has no objections to the Revised Asbestos Abatement Plan; however please incorporate the following comments from the EPA into the revised plan:

- Paragraph 3.17.4 of the Revised Asbestos Abatement Work Plan for Encycle 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.
- 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 millimeter by TEM in accordance with 40 CFR 763.90, Response Actions.

In addition, please also incorporate the following comments from the TDSHS into your plan:

- Section 3.12.1 states that the onsite NESHAP trained person will make assurances that material will remain intact during removal or demolition. The specification does not state what will happen if the material is not intact. According to the NESHAP, if any material is not intact, the material should be handled as regulated asbestos-containing material.

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- Section 3.12.2 states that all ACM will be handled by AHERA accredited asbestos abatement personnel. It should be noted that AHERA does not accredit personnel. The consultant may have meant that all asbestos abatement personnel would be accredited in accordance with the Model Accreditation Plan (MAP).
- Section 3.17.2 states that the Air Monitoring Technician will conduct clearance monitoring at the completion of the abatement, but the specifications do not indicate what the clearance level will be.

Please conduct air sampling and monitoring as set forth in the Revised Asbestos Abatement Plan. We note that the Revised Air Monitoring Plan submitted on April 7, 2011 also addresses aspects of the air sampling and monitoring for the Asbestos Abatement Plan. Please perform asbestos abatement sampling and monitoring in a manner consistent with the requirements of the Revised Air Monitoring Plan. This does not constitute approval of the Revised Air Monitoring Plan, and revisions or modifications of that plan shall also be applicable to the air sampling and monitoring performed in conjunction with the Revised Asbestos Abatement Plan.

You have informed the TDSHS and the TCEQ that you intend to begin asbestos abatement as early as April 13, 2011, and that you filed a revised Asbestos/Demolition Notification Form with the TDSHS on April 7, 2011. Although TCEQ, TDSHS, and EPA have reviewed the plan, the Trustee remains solely responsible for compliance with any requirement during this activity, including the Resource Conservation and Recovery Act (RCRA), and any other applicable federal, state, or local permit, law, rule, or regulation. Compliance with the plan is not a defense to any action commenced pursuant to said laws, regulations, or permits.

All waste generated during this activity must be properly characterized pursuant to 30 Texas Administrative Code (TAC) Chapter 335, Subchapter R, Waste Classification. Per the email from Ken Brandner, dated March 31, 2011, several of the wastes discussed appeared to be misclassified. All hazardous wastes and Class I Industrial Wastes must be manifested. 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, P.E., Manager,  
VCP-CA Section  
Remediation Division  
Texas Commission on Environmental Quality

WJS/jdm

cc: Mr. Noel Bennett, EPA, [Bennett.Noel@epamail.epa.gov](mailto:Bennett.Noel@epamail.epa.gov)  
Ms. Roxanna Guerrero, Program Specialist, TDSHS  
Mr. Brad Genzer, Waste Program Manager, Region 14, Corpus Christi