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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 11, 2011

Mr. Mike Boudloche
United States Chapter 7 Bankruptcy Trustee
mboudloche@ch13boudloche.com
555 N. Carancahua #600
Corpus Christi, Texas 78478

Re: Asbestos Abatement Project Specifications (workplan)
Former Encycle/ Texas, Inc./ ASARCO Facility (Encycle)
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 above referenced workplan was submitted for review in accordance with the requirements of the U.S. (Southern District) Consent Decree and Stipulation and Order Modifying Consent Decree entered October 7, 1999, and August 13, 2004, respectively. As part of an interagency agreement between the Environmental Protection Agency (EPA) and the Texas Commission on Environmental Quality (TCEQ), EPA staff reviewed the above referenced document at the request of the TCEQ. Based on the technical review conducted by the EPA, the workplan cannot be approved at this time. Please provide a written response to EPA's comments listed in Enclosure 1 of this letter on or before March 11, 2011.

In addition, the Texas Department of State Health Services (DSHS) may become more actively involved in the asbestos abatement work at Encycle. DSHS will provide technical support and may conduct inspections on behalf of the State of Texas. Involvement of DSHS in this project is crucial in to maintain the level of expertise needed to carry out the asbestos abatement work in a safe and protective manner.

Please submit an original and one copy of your response directly to the TCEQ Remediation Division at Mail Code MC-127. An additional copy should be submitted to the TCEQ Region 14 Office in Corpus Christi.

Mr. Boudloche
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TCEQ SWR No. 30003

Please note that the Remediation Division has instituted a procedure of sending letters via Portable Document Format (PDF) and email when appropriate. Therefore, please provide your current email addresses and the site identification information in the reference block in all future submittals.

Please direct questions concerning this letter to me at (512) 239-6651, or Jacquee Rodriguez at (512)239-2252. Thank you for your cooperation in this matter.

Sincerely,



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

WJS/JR/jdm

Enclosure: Enclosure 1 - Summary and Comments by EPA dated January 25, 2011

cc: Mr. Noel Bennett, EPA, Bennett.Noel@epamail.epa.gov
Mr. Brad Genzer, Waste Program Manager, TCEQ Region 14 Office, Corpus Christi

Summary and Comments by EPA
Asbestos Abatement Project Specifications
Former Encycle/Asarco

January 25, 2011

The Asbestos Abatement Project Specification Plan ("the Plan") for the former Encycle/ASARCO Facility located at 5500 Up River Road, Corpus Christi, TX, was reviewed to ensure the work practice included the requirements of the Asbestos NESHAP and Model Accreditation Plan. The Asbestos Abatement Project Specification Plan (Plan) described the work practices for the asbestos removal in buildings and structures to be demolished. The project will be conducted in compliance with the requirements of the EPA's Asbestos NESHAP at 40 C.F.R. Part 61, Subpart M, the Asbestos Model Accreditation Plan at Appendix C to 40 C.F.R. Part 763, Subpart E, the Occupation Safety and Health Administration regulations at 29 C.F.R. 1926.1101, 29 C.F.R. 1910.1001, and the Texas Department of State Health Services, the Texas Asbestos Health Protection Rules (TAHPR).

In November/December 2006, an asbestos survey of 51 buildings at Encycle identified asbestos materials in the interior and exterior parts of the buildings. Asbestos materials identified in the interior of the buildings were linoleum floor coverings, pipe wraps, floor tiles and thermal system insulation. Asbestos materials identified on the exterior parts of the buildings were black asphalt galbestos coating on buildings and concrete pillars, tar and gravel roofs, and red coating on a red and white brick and concrete smoke stack.

The Scope of Work for the Asbestos Abatement of the buildings and structures of Encycle was provided as a component of Exhibit A to the Motion seeking approval for the demolition work at Encycle. It requires the removal of the asbestos materials in the buildings and structure to be performed by asbestos abatement contractors with a minimum of one on-site project manager and the removal to comply with the applicable asbestos laws and regulations. It provides a detail description of the asbestos abatement and demolition of the buildings. The buildings will be demolished to the existing slab. All equipment, piping, and debris above the concrete shall be demolished.

The July 9, 2010 Addendum No. 1 to the Scope of Work adds requirements for all active abatement sites. The contractor shall install 10-foot tarps at the southern side of the buildings undergoing asbestos abatement, waste removal, and demolition and the contractor shall stop asbestos abatement, waste removal, and demolition work based on wind direction and wind speed as specified to limit the potential for air emissions to impact the neighborhoods to the south of the facility. Ten-foot tarps will be installed at the southern side of the buildings and smokestack undergoing active asbestos abatement and extend 20 feet beyond the western and eastern ends of the building. Wind direction and wind speed shall be recorded by the demolition contractor prior to the start of each day on intervals not to exceed 4 hours each day during active

asbestos abatement and structure demolition. If the wind direction is from the Encycle facility toward Up Rive Road and if the sustained wind speed exceeds 15 miles per hour, all asbestos abatement, hazardous waste removal and building and structure demolition work shall cease until the sustained wind speed declines to 15 miles per hour.

Work practice requirements for removal of INTERIOR BUILDING MATERIALS:

Thermal System Insulation on boilers - The November/December 2006 Asbestos Survey described this material as friable and damaged. The work practice selected for the removal of friable thermal system insulation is identified in Section 3.8 titled, "Stripping of Pipe, Boiler and Related Insulation." The removal of the thermal system insulation will be conducted in full enclosure and containment or wrapped in candy sheet, glove bagged into sections, and cut at the cleaned sections.

The Asbestos NESHAP classifies thermal system insulation as Category II Non-friable asbestos containing materials (ACM), which when friable (crumbled or pulverized) is Regulated Asbestos Containing Material (RACM) and must be removed before the demolition. The work practice for the removal of the thermal system insulation is acceptable.

Pipe wraps are identified throughout the facility in tunnels and crawl spaces. The November/December 2006 Asbestos Survey described this material as friable and damaged. The work practices selected for the removal of friable pipe insulation is a combination of work practices identified in Section 3.8, titled "Stripping of Pipe, Boiler Insulation"; "Section 3.9, titled, "Abatement of Crawl Spaces"; and Section 3.10, "Abatement of Tunnels." The removal shall be performed in full enclosure, containment, and glove bagged. Additionally, in crawl spaces the removal of the insulation will be performed in full enclosure and containment with pressure differential air units. The crawl space floor will be covered with 6-mil plastic and a hard surface. At the conclusion, the floor will be misted to reduce air borne dust.

The Asbestos NESHAP classifies pipe insulation as Category II non-friable ACM that when the material becomes friable (crumbled or pulverized) it is RACM and must be removed before the demolition of the building. The work practice selected for the removal of the pipe wraps is acceptable.

Floor Tiles - Floor tiles are identified throughout the facility in 9-inch x 9-inch and 12-inch x 12-inch tiles. The November/December 2006 Asbestos Survey describes this material as non-friable and undamaged. The work practice selected for the removal of the non-friable undamaged floor tiles has been identified at Section 3.11, titled, "Floor Tile and Mastic Removal." The tiles will be removed wet in containment with negative pressure. The removal tool selected will not saw, drill, sand or cause dust to be airborne and thus this material is not RACM.

The Asbestos NESHAP classifies floor tiles as Category I Non-friable ACM that when in the material is not damaged, and is not friable may remain in the building during the course of the demolition. The work practice selected for the removal of the floor tiles is acceptable.

Linoleum floor covering - Linoleum floor coverings are identified throughout the facility. The November/December 2006 Asbestos Survey describes this material as non-friable and

undamaged. The Plan does not contain work practice requirements for the removal of the linoleum.

The Asbestos NESHAP classification of linoleum floor coverings is the same as the classification for floor tiles and mastics, Category I Non-friable ACM. When the material is not damaged and not friable, it may remain in the building during the course of the demolition. The Asbestos Survey of November/December 2006 classified this material as non-friable and undamaged. If Encycle elected, they may use the same work practice as selected for the removal of floor tiles or the material may remain in-place during the demolition.

A work practice was not selected for the removal of the linoleum.

Work practice requirements for removal of EXTERIOR BUILDING MATERIALS:

The red coating on the large red and white brick/concrete smokestack – This material is identified on the exterior brick of the smokestack. The November/December 2006 Asbestos Survey describes the red exterior coating as non-friable ACM, and damaged (tears) in certain areas where the damaged areas are friable. The work practice selected for the removal of the coating is identified at Section 3.7, titled “Stripping of Paint/Surfacing on the Stack.” The material will be treated as Category II Non-friable ACM, unless the removal methods used will sand, grind, saw, cut, or abrade the material. The material will be sprayed with amended water, using low pressure equipment capable of providing a “mist” application to reduce the release of fibers. Saturate the material sufficient to wet it to the substrate without causing excess dripping. Spraying the asbestos material prior to stripping and repeatedly during work process to maintain a wet condition and to minimize asbestos fibers. If the Category II non-friable ACM is removed intact, and not lowered to the ground, a wind screen and plastic will be placed under the removal area. Plastic will be attached to withstand winds and there should be no gaps in the flooring to prevent the material from falling. At the conclusion, all areas will be cleaned.

The Asbestos NESHAP classifies the red coating as Category II Non-friable ACM with potential to become RACM depending on the forces expected to act on the material during the course of the removal. If the removal method will pulverize, reduce the material to powder, the material will be classified as RACM and the following work practice applies for RACM that is stripped from a facility component while it remains in place. The material must be adequately wetted during the stripping operation and remain wet until collected and contained or treated in preparation for disposal in accordance with §61.150. The material must be carefully lowered to the ground and floor, not dropping, throwing, sliding, or otherwise damaging or disturbing the material, and the material must be transported to the ground via leak-tight chutes or containers, if it has been removed or stripped more than 50 feet above ground level and was not removed as units or in sections.

The work practice selected for stripping the asbestos paint/coating on the smokestack doesn't address what the procedure is if the coatings are damaged in areas and not intact and possibly friable or possibly could become friable during removal. The work practice selected for the stripping/removal of the asbestos paint/coating needs address this contingency/potential.

A work practice consideration, which is not required by the Asbestos NESHAP, is the installation of platforms surrounding the smokestack with enclosed plastic sheeting and put under HEPA negative air filtration. The workers may use specialized HEPA equipped powered hand tools to remove the asbestos paint. During the abatement, monitor the weather programs to determine if severe weather conditions are approaching the work site. If any signs of approaching unsafe winds or the potential for lightning showed, the job should be stopped until the weather clears.

Tar and gravel roof - These materials are found on the roofs of buildings. The Asbestos NESHAP classifies tar as Category I Non-friable ACM. The November/December 2006 Asbestos Survey describes the materials as undamaged non-friable ACM.

The Plan does not contain a work practice requirement for the removal of this material. According to the Asbestos NESHAP, Category I Non-friable ACM that is not friable and not damaged is Non-RACM and may remain in-place during the demolition of the building. Prior to handling/removing the tar and gravel roofing, it needs to be inspected for "intactness" and certified for "intactness" similar to the requirements of 3.13.1 and 3.15.1. If the roofing materials containing asbestos are damaged in areas and not intact and possibly friable or possibly could become friable during removal, a work practice needs to be specified/utilized that will address this contingency/potential.

Black coating (galvestos or is it galbestos?) - The coating is on the metal walls, roof, pipes, and I-beams. The November/December 2006 Asbestos Survey describes the galvestos coating as non-friable and damaged only in certain areas (having tears and holes).

The Asbestos NESHAP classifies the coating as Category II Non-friable ACM that if the methods used to perform the removal will cause the material to be crumbled, pulverized or abraded will render the material friable, then it is classified as RACM and will be required to be removed prior to the demolition. Category II non-friable ACM with a low probability of becoming friable does not have to be removed before the demolition. The Plan does not contain work practices for the removal of the galvestos coatings. However, the Plan needs to provide work practices for addressing all the black asbestos containing coating on structural and mechanical components whether non-friable or whether it has become damaged or weathered and is now rendered friable. Photos of the black coating on various structural and mechanical components presented with the November/December 2006 Asbestos Survey indicate potential friable conditions in some areas.

Black non-friable (galvestos or is it galbestos?) coating - The coatings are found on concrete pillars. The November/December 2006 Asbestos Survey describes this galvestos coating as non-friable and damaged in certain areas (having tears and holes). The work practice for the removal of the concrete coating is identified in Section 3.14, titled, "Specific Requirements for the Removal of Category II – Concrete Coatings." It requires a trained person to make the determination that the material is intact, and prepare a signed-statement to the effect stating that the materials will not be made "Not" intact during removal or demolition. If the materials were to be removed prior to a demolition, it will be kept wet, handled by asbestos workers, and the material will not be sanded, ground or abraded. If the material remains in-place during the demolition, it must not sanded, ground, or abraded, kept wet and disposed at Class II landfill (a landfill that receives construction waste.)

The Asbestos NESHAP classifies the coating as Category II Non-friable ACM. If the material will not be subjected to sanding, grinding or abrading as stated in the work practice, the material is not RACM. A review of the Demolition/Renovation Notification Form completed for the removal/demolition activities, describes the coatings as Non-RACM. That is an indication that a trained person, in accordance with the work practice requirement, assessed the material and provided a statement that the removal or demolition will not render the material not intact.

The work practice selected for the removal of the coating is acceptable assuming the coating material is intact. However, if the coating material containing asbestos is damaged or weathered and possibly friable or possibly could become friable during removal, a work practice needs to be prescribed that will address this contingency/potential.

Additional Comments on the Plan:

1. The Plan should attach the "Scope of Work" and Addendum No. 1 and 2 to the Scope of Work.
2. The Plan's work practice does not contain detailed, step by step information about the removal process.
3. Section 3.12 - contains the work practice for the removal of transite material and Section 3.13 contains the work practice for the removal of galbestos siding and roofing materials and those materials were not identified in the November/December 2006 Asbestos Survey or included in the Demolition/Renovation Form. A requirement for the removal of galbestos siding is included in Exhibit A of the "Scope of Work" of the Motion. Section 3.13, Requirements for the Removal of Galbestos Siding and Roofing Panels needs to provide a work practice for the contingency that some of the siding and roofing panels are not intact.
4. The Plan did not contain work practice for the removal of linoleum.
5. In Part 1 – General Information

Section 1.2 - Definitions - Include the following definitions to obtain a better understanding of the work practice.

6. Adding the following definitions:

Category I nonfriable asbestos-containing material (ACM) means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy.

Category II nonfriable ACM means any material, excluding Category I nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

Nonfriable asbestos-containing material means any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40

CFR part 763, Section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

Regulated asbestos-containing material (RACM) means (a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart.

Class I Asbestos Work means the activities involving the removal of thermal system insulation, and surfacing ACM and PACM.

Class II Asbestos Work means the activities involving the removal of ACM, which is not thermal system insulation or surfacing material. This includes, but is not limited to, the removal of asbestos-containing wallboard, floor tile and sheeting, roofing and siding shingles, and construction mastics.

Remove means to take out RACM or facility components that contain or are covered with RACM from any facility.

Resilient floor covering means asbestos-containing floor tile, including asphalt and vinyl floor tile, and sheet vinyl floor covering containing more than 1 percent asbestos as determined using polarized light microscopy according to the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy.

Intact – Define the word *intact* as entire, undamaged, and nonfriable as concerning asbestos.

7. In Section 1.3 – Description of work

Section 1.3.2- The Plan states that the work will be in accordance with these specifications. Please describe what the specifications are? Please provide the removal methods for each area that will be abated or removed.

8. Section 1.4 – Applicable Standards and Guidelines

Section 1.4.1.3 - Delete any reference to Section 1.5.2 and replace it with Section 1.4.2 because the Plan does not include Section 1.5.2.

Section 1.4.2 - The Contractor shall comply with, a minimum, the following specific requirements:

Section 1.4.2.2.2 - Change to Appendix C to Subpart E of Part 763 - Asbestos Model Accreditation Plan. That is the regulation applicable to AHERA for public buildings.

9. Section 1.5 – Submittal and Notices

Section 1.5.1.1.3 - Change Section 1.5.2 to 1.4.2.

Consider adding, Section 1.5.1.1.6 – The contractor may determine if the owner or contractor will perform pre-abatement air monitoring sampling of the inside and outside of the work area and buildings to establish existing levels under normal activity conditions. If this will be conducted, document the location where the samples were obtained, the name of the air sampler, equipment and methods used for sampling and analysis.

10. Section 1.6 - Site Specification

Section 1.6.3 - states that a log book shall be maintained immediately outside of the decontamination enclosure system. Consider saying the log book shall be maintained immediately outside of the clean room of the decontamination system.

11. Part 2 - Materials and Equipment

Section 2.1.1 - General (State that this material is for all abatement projects.)

Section 2.1.3.5 - change 61.152 to 61.150(a)(1)(iv) for the standard of waste disposal.

12. Part 3 – Execution

Section 3 - Preparation (consider stating that this is, preparation for work areas.)

Section 3.1.1.5 - delete section 3.1.1.9 from the paragraph because the Plan does not include a section 3.1.1.9 which is the isolation of work area from occupied areas of the building.

Section 3.1.2.7 - change the reference in the sentence from 3.1.2 to 3.1.1.5.

Section 3.5 Removal Procedures, General (Personal Protection as required by Section 3.3 shall be followed.)

Section 3.5.5 - Identify which buildings have been declared structurally unsound. Include the type of asbestos materials identified in those buildings and the person that declared the buildings to be structurally unsound, and his/her credentials. Add to the paragraph, “If the material contains RACM, it shall be stripped or contained in a leak-tight wrapping.”

Add Section 3.5.5a - Include Materials removed from building structures or component shall not be dropped or thrown to the floor. Material should be removed as intact sections or components whenever possible and carefully lowered to the floor. If this cannot be done for materials greater than 50 feet above the floor, transport the material to the ground via leak-tight chutes or containers at elevated levels (e.g. on scaffolds) and lowered to ground by

mechanical means, if it has been removed or stripped more than 50 feet above ground level and was not removed as units or in sections.

Section 3.5.9 – Clean up shall proceed in accordance with Section 3.1.3. The Clean up procedures in the Plan are referenced in Section 3.17.

Section 3.7 - Include an inspection for “intactness” and certification of “intactness” similar to the requirements of 3.13.1 and 3.15.1.

Section 3.13 - Requirements for the removal of Galbestos Siding and Roofing Panels:

3.13.1 - States the following: Prior to handling of Galbestos, *the onsite NESHAP trained person will determine if the material is intact.* The second paragraph should be reviewed to ensure that is what is meant to say “*A written statement to that effect will be signed, along with an assurance that the material will not be made intact during removal or demolition.* The sentence should read *that the material will not be made **not** intact during the removal or demolition.* Also, the Plan needs to provide a work practice for the contingency that some of the Galbestos siding and roofing panels are not intact .

In Section 3.15 - Specific Requirements for the Removal of Category II – Concrete Coatings:

3:15 - Exactly what are these “concrete coatings?” Is it the black coating called galbestos (called “galvestos” in November/December 2006 Asbestos Survey) or is it something different? Does the coating contain concrete or is it applied to the surface of concrete? If it’s applied to the surface of concrete, how is it different from the black asbestos containing coatings on metal surfaces and steel structural members? Please clarify. Also, the Plan needs to provide a work practice for a contingency that some areas of the coatings are not intact.

3.15.1 - The same comment as in Section 3.13.1.

3.15.10 - Should be placed after 3.15.1.

3.15.10.1- Should be place after 3.15.1 or deleted because it states the same as 3.15.2.

In Section 3.13 - Requirements for the removal of Galbestos Siding and Roofing Panels:

3.13.1 - States the following: Prior to handling of Galbestos, *the onsite NESHAP trained person will determine if the material is intact.* The second paragraph should be reviewed to ensure that is what is meant to say “*A written statement to that effect will be signed, along with an assurance that the material will not be*

made intact during removal or demolition. The sentence should read that the material will not be made **not** intact during the removal or demolition.

Section 3.13.4 – Add to the sentence “And at a distance sufficiently far away from the work area to permit an employee to read the sign.

3.1.1.9 - not found as referenced in Section 3.1.1.5 which is titled, “Isolation of work area from occupied areas of the building.”

13. Section 4.4 – Emergency Precautions

Add- Section 4.4.5 - Telephone numbers of emergency response personnel shall be posted in clean area and equipment room with the location of the nearest phone.

Add - Section 4.4a - Emergency procedures shall be in written form and posted in the clean change area and equipment room of the worker decontamination area. Everyone prior to entering the work area must read and sign this procedure to acknowledge receipt and understanding of work site lay out, location of emergency and emergency procedures.

Section - 4.4b Employees shall be trained in evacuation procedures in the event of work place emergencies.

14. Attach to the Plan the attachment that contains/identifies the buildings that are structurally unsound.