

March 3, 2010

Mr. Roberto Puga
Project Navigator, Ltd.
One Pointe Drive, Suite 320
Brea, CA 92821

VIA UNITED STATES MAIL

Re: Best Practice Benchmark Reports on Contamination in ASARCO's Soil and Water

Dear Mr. Puga:

During our recent meeting in El Paso, we discussed the need for an open, transparent remediation process for the former ASARCO site. In the future, please make sure that you e-mail and call our office on all of your townhall meetings relating to ASARCO. That unfortunately did not happen at the library townhall. With the goal of transparency in mind, I write to request a thorough, detailed analysis of the contaminants in the site's water and soil.

As you know, the site has a long and disturbing history of both pollution and attempts by those responsible to hide evidence of the contamination. For over a century, ASARCO's El Paso smelter released thousands of tons of contaminants into the bi-national airshed of El Paso and Ciudad Juarez. Your visits to the site have undoubtedly revealed that 120 years of environmental degradation has left our community with soil full of arsenic, lead, cadmium, mercury, and other heavy metals. Years of ASARCO's arsenic have created a 233 million cubic foot plume of toxic water in aquifers right near the Rio Grande, and the actual smelter site is covered with a shell of slag an astounding 75 feet thick (Exhibit A, B).

This we know. What is most troubling, however, is what we do not know. Specifically, ASARCO left contaminants that the community still cannot identify. A smoking gun memo obtained through an open records request shows that 5,000 tons of hazardous waste, including 300 tons of residues from the Rocky Mountain Arsenal, were illegally burned by the smelter. What exactly was burned—be it nerve gas or other chemical weapons—has never been disclosed to our community. (Exhibit C)

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Thus, in honor of the open, transparent process we discussed, I ask that you make public at an El Paso press conference all written reports by qualified experts detailing test results performed on the site's water and soil. After years of roadblocks presented by administrative agencies, our community deserves nothing short of the full, unvarnished truth. Without an honest examination of the past, it will be that much more difficult to move ahead to a brighter future. In fact, your fiduciary responsibility to clean the site must rely first on an accurate assessment of what is actually at the site—both in terms of contamination and otherwise.

Finally, prior to removal of the ASARCO tower, please evaluate the cost of contaminants in the tower versus any economic value the tower might have for advertising or other purposes. Obviously, this may depend on the end use of the property. Several constituents have expressed strong beliefs that the tower has internal contaminants that should not be left as a future liability for the city of El Paso.

I look forward to continue working with you on the remediation and revitalization of the True Pass of the North.

Very truly yours,

Eliot Shapleigh

ES/de

CC: The Honorable Barbara Boxer
The Honorable Henry Waxman
The Honorable David Dewhurst
The Honorable Kip Averitt
Dr. Al Armendariz, EPA Region 6 Administrator
Mr. Mark Vickery, TCEQ Executive Director

Enclosed: Exhibit A: TCEQ Map of Groundwater Contamination Plume (Figure 3)
Exhibit B: TCEQ Map of Hydrogeologic East-West Cross Section (Figure 1-3)
Exhibit C: "EPA Response to Encycle/Asarco Settlement Agreement," U.S. Department of Justice, Environment and Natural Resources Division, Michael D. Goodstein, July 31, 1998.
Ralph Blumenthal, "Copper Plant Illegally Burned Hazardous Waste, E.P.A. Says," *The New York Times*, October 11, 2006.
"EPA Response to Encycle/Asarco Settlement Agreement," U.S. Department of Justice, Environment and Natural Resources Division, Michael D. Goodstein, July 31, 1998.