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**CITY OF PORT LAVACA**

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**PORT COMMISSION MEETING: SEPTEMBER 19, 2023**

**DATE:** 9.14.2023

**TO:** PORT COMMISSION BOARD MEMBERS CC: JIM RUDELLAT, HARBOR MASTER

**FROM:** JODY WEAVER, INTERIM CITY MANAGER

**SUBJECT: CRG Limited Phase II ESA HOR**

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We received the attached approval letter from TCEQ on August 15. Note in the 4<sup>th</sup> paragraph that TCEQ states that TRRP Standard B Commercial/Industrial has been attained and no post response action care is required.

TCEQ is requiring that we establish “institutional control” of the site, in other words memorialize the “commercial/industrial” designation with a deed restriction. They do not want any residential development on these tracts. Attached is the draft Environmental Deed Notice prepared by CRG, which will cover the 74 acres described in the landfill closure document.

Attached:

TCEQ Approval of the Affested Property Assessment Report (APAR)

Draft copy of the required Environmental Deed Notice

Jon Niermann, *Chairman*  
 Emily Lindley, *Commissioner*  
 Bobby Janecka, *Commissioner*  
 Kelly Keel, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

August 15, 2023

### ***Transmitted via email***

Ms. Jody Weaver  
 City of Port Lavaca  
 202 South Virginia Street  
 Port Lavaca, Texas 77979

Re: Approval  
*Affected Property Assessment Report (APAR)*, January 31, 2023  
 Harbor or Refuge - City of Port Lavaca  
 South Virginia Street, Port Lavaca, Calhoun County  
 Facility ID No. T3678; CN600755052; RN102335361

Dear Ms. Weaver:

The Texas Commission on Environmental Quality (TCEQ) has reviewed the above-referenced document. The APAR includes the investigation results to further evaluate the recognized environmental conditions (RELs) observed during the recent Phase I Environmental Site Assessment (ESA) at the site. Both soil and groundwater were assessed for the selected contaminants of concern (COCs)<sup>1</sup>.

Concentrations of arsenic, barium, and lead slightly exceeded their Tier 1 <sup>GW</sup>Soil<sub>ing</sub> protective concentration level (PCL) in the initial surface soil (0.0 - 1.0 feet) samples. In samples collected from slightly deeper strata (2.5 - 5.0 feet), there were no exceedances of the Tier 1 <sup>GW</sup>Soil<sub>ing</sub> PCL except for lead. Lead was detected at concentrations 18.8 milligrams/kilograms (mg/Kg) at 10.0 - 12.0 feet which is slightly higher than the Tier 1 PCL of 15 mg/Kg. The lead concentration was below the calculated Tier 2 <sup>GW</sup>Soil<sub>ing</sub> PCL. TPH was reported in four (0.0 - 1.0 feet) surface soil samples at concentrations ranging from 23.5 J to 336 mg/Kg. The samples were further analyzed for VOCs and SVOCs. Phenol was reported in samples at an estimated concentration of .106 mg/Kg which is below the RAL of 19 mg/Kg. No other SVOC or VOC were reported.

Groundwater samples were also collected from five permanent groundwater monitoring wells. No COCs exceeded their Tier 1 <sup>GW</sup>GW<sub>ing</sub> PCLs for groundwater.

The TCEQ concurs that, Texas Risk Reduction Program (TRRP) Remedy Standard B - Commercial/Industrial has been attained such that no post-response action care is required. The investigation has been completed in accordance with 30 Texas

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<sup>1</sup> Volatile Organic Compounds (VOCs), Semi-Volatile Organic Compounds (SVOCs), Total Petroleum Hydrocarbons (TPH), and 8 RCRA metals - arsenic (As), barium (Ba), cadmium (Cd), chromium (Cr), lead (Pb), mercury (Hg), selenium (Se), and silver (Ag)



Ms. Jody Weaver  
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Administrative Code (TAC) §350.51. Please note that this approval applies only to the conditions described in the APAR.

*In accordance with the institutional control requirements of 30 Texas Administrative Code (TAC) §350.111, Proof of filing the institutional control must be submitted to the TCEQ within 90 days of the date of this letter.*

Please note that it is the continuing obligation of persons associated with a site or facility to ensure that industrial solid waste and/or municipal hazardous waste are managed in such a way that it does not cause a discharge of waste or an imminent threat of discharge, nor a nuisance or an endangerment to either human health or the environment as required by 30 TAC §335.4. Be advised that the burden remains upon the owner to take necessary and authorized action to correct such conditions whenever they exist.

Questions concerning this letter should be directed to me at (512) 239-1107. When responding by mail, please submit one paper copy and one electronic copy (on USB or disc) of all correspondence and reports to the TCEQ Remediation Division at Mail Code MC-127. An additional copy should be submitted in electronic format to the local TCEQ Region Office. The information in the reference block should be included in all submittals. Note that the electronic and hard copies should be identical, complete copies. A Correspondence ID Form (TCEQ Form 20428) must accompany each document submitted to the Remediation Division and should be affixed to the front of your submittal. The Correspondence ID Form helps ensure that your documents are identified correctly and are routed to the applicable program for a timely response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kirk Coulter", with a stylized flourish at the end.

Kirk Coulter, P.G., Project Manager  
Team 1, VCP-CA Section  
Remediation Division  
Texas Commission on Environmental Quality

KEC/kec

cc: Mr. Timothy Perdue, TCEQ, Waste Section Manager, Corpus Christi Regional Office, MC R-14 (via email)

Mr. Kevin Casler, CRG Texas Environmental Services, Inc. (via email)

*DRAFT*

STATE OF TEXAS

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This Deed Notice is filed to provide information concerning certain environmental conditions and/or use limitations pursuant to the Texas Commission on Environmental Quality (TCEQ) Texas Risk Reduction Program Rule (TRRP) found at 30 Texas Administrative Code (TAC), Chapter 350, and affects the real property (Property) described as follows:

As of the date of this Deed Notice, the City of Port Lavaca is the record owner of fee title to the real property and premises, and appurtenances thereto, located in Calhoun, County Texas. The Property is part of the 74.08-acre tract of land which was used a Solid Waste Disposal Site from June 7, 1948 to October 10, 1978 and is recorded as Tract A in Volume 313, Page 657 of the Calhoun County Deed Records and more fully described on **Exhibit A**, which is attached hereto and incorporated herein, and identified as the "Property".

This Deed Notice is required for the following reasons:

The site's parent tract is listed as a Closed & Abandoned Landfill Inventory (CALF) site. The landfill was closed in 1977. The identified CALF site listing for the site is considered a recognized environmental condition in connection to the site. According to historical accounts, the landfill accepted household / domestic trash and debris. There are no reports of chemical / petroleum substance disposal, however much of the reported history is anecdotal. There are no records pertaining to the actual waste accepted but field observations would support acceptance of vegetative and other miscellaneous debris. Historical aerial photographs also suggest possible dredge spoil placement / use as a cover media. Landfill operations are believed to pre-date engineered cap and cover requirements.

The property owner engaged a third-party environmental consultant to evaluate recognized environmental conditions (RELs) observed during a Phase I Environmental Site Assessment (ESA) at the site. Both soil and groundwater were assessed for selected contaminants of concern (COCs).

Concentrations of arsenic, barium, and lead slightly exceeded their Tier 1 <sup>GW</sup>Soil<sub>ING</sub> protective concentration level (PCL) in the initial surface soil (0.0 – 1.0 feet) samples. In samples collected from slightly deeper strata (2.5 – 5.0 feet), there were no exceedances of the Tier 1 <sup>GW</sup>Soil<sub>ING</sub> PCL except for lead. Lead was detected at concentrations 18.8 milligrams/kilograms (mg/Kg) at 10.0 – 12.0 feet which is slightly higher than the Tier 1



PCL of 15 mg/Kg. The lead concentration was below the calculated Tier 2 <sup>GW</sup>Soil<sub>ING</sub> PCL. TPH was reported in four (0.0 – 1.0 feet) surface soil samples at concentrations ranging from 23.5 J to 336 mg/Kg. The samples were further analyzed for VOCs and SVOCs. Phenol was reported in samples at an estimated concentration of .106 mg/Kg which is below the RAL of 19 mg/Kg. No other SVOC or VOC were reported.

Groundwater samples were also collected from five permanent groundwater monitoring wells. No COCs exceeded their Tier 1 <sup>GW</sup>GW<sub>ING</sub> PCLs for groundwater.

As soil on the Property is impacted by minor concentrations of the referenced constituents of concern (“COCs”), portions of the Property are be considered to be Affected Property as that term is defined in the Texas Risk Reduction Program (TRRP).

TCEQ has determined that the Affected Property currently meets TRRP Remedy B Standards for Commercial/Industrial use. Based on the reports, the chemicals of concern pose no significant present or future risk to humans or the environment based on commercial/industrial land use. No further remediation of the Affected Property is required by the TCEQ as long as the Affected Property is not to be used for residential purposes as the property may not be protective for residential use. If any person desires in the future to use the Affected Property for residential purposes, the TCEQ must be notified at least 60 days in advance of such use and additional response actions may be necessary before the property may be used for residential purposes. Persons contemplating a change in land use for the Affected Property are encouraged to review the definitions for commercial/industrial and residential land use contained in TRRP as the definition of residential land use is broad. This Deed Notice is being applied to the entire parcel as described in Exhibit A.

For additional information, contact:

TCEQ  
Central Records  
12100 Park 35 Circle,  
Building E  
Austin, Texas 78753

Mail: TCEQ - MC 199  
P O Box 13087  
Austin, Texas 78711-3087

TCEQ Program and Identifier No.: \_\_\_\_\_

This Notice may be rendered of no further force or effect only by a superseding deed notice executed by the TCEQ or its successor agencies and filed in the same Real Property Records as those in which this Deed Notice is filed.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**PROPERTY OWNER AND RESPONDER:**      **City of Port Lavaca**

Signature \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF  
(\_\_\_\_\_) COUNTY

BEFORE ME, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2023 personally appeared \_\_\_\_\_, \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument, and they acknowledged to me that they executed the same for the purposes and in the capacity herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE

Signature \_\_\_\_\_

Notary Public in and for the State of \_\_\_\_\_

County of \_\_\_\_\_

My Commission Expires:

**Exhibit A**

**Metes and Bounds Description**

**Property**

