

February 18, 2008

Texas Commission on Environmental Quality  
Public Information Officer, MC 197  
P.O. Box 13087  
Austin, Texas 78711-3087

VIA INTERAGENCY MAIL AND FACSIMILE

Re: Texas Public Information Act Request

To Whom It May Concern:

Per this letter, I submit the following Texas Public Information Act request under the legislative purpose special right of access in Section 552.008 of the Texas Government Code. In considering your responses to this request for documents, please use the following definitions:

"ASARCO" means ASARCO L.L.C.; any predecessor, parent, including but not limited to Grupo Mexico, subsidiary, affiliate, or successor-in-interest to ASARCO L.L.C; and all agents of ASARCO L.L.C., including but not limited to Teresa Montoya and Montoya PR.

"Documents" shall be used in the broadest sense and include, but is not limited to, original and non-identical copies, whether by reason of marginal or other notes or alterations, and means, without limitation, the following items, whether printed or recorded or produced by other mechanical or electronic process, or written or produced by hand: agreements, communications, including inter-company and intra-company communications, email, state and federal governmental hearings and reports, correspondence, telegraphs or books, summaries, records of personal conversations or interviews, bulletins, notices, diaries, graphs, charts, maps, blueprints, diagrams, reports, notebooks, note charts, plans, surveys, plats, calculations, drawings, sketches, indices, pictures, audio or visual recordings, tapes, transcripts, printouts of internet sites, accounts, invoices, analytical records, summaries and/or records of meetings, conferences, telephone calls or negotiations, telephone message logs, calendars, day-timers, schedules, opinions or reports of consultants, appraisals, reports or summaries of negotiations, photographs, motion picture film, brochures, pamphlets, advertisements, circulars, advertising literature, press releases, drafts, letters, projections, working papers, check (front and back), check stubs, receipts, and other papers or writings of any character or description, including but

not limited to, any information contained in any computer or information-retrievable devices, including but not limited to electronic mail, any marginal comments appearing on any document, and other writings, including mass-mailings to customers and/or competitors.

"TCEQ" means the Texas Commission on Environmental Quality, including Commissioners Buddy Garcia, Larry R. Soward, and Bryan W. Shaw and their respective staff; TCEQ Executive Director Glenn Shankle and his staff; and all other agency staff.

Please provide me with the following information:

1. All documents related to any version, whether draft or final, of the order that was read by Chairman Buddy Garcia at the end of the February 13, 2008 hearing on ASARCO's application for renewal of Air Quality Permit No. 20345.
2. All versions, whether draft or final, of any document that was read by Chairman Buddy Garcia during the February 13, 2008 hearing on ASARCO's application for renewal of Air Quality Permit No. 20345, and any documents related to those documents.
3. Since February 8, 2006, all internal TCEQ correspondence regarding ASARCO's application for renewal of Air Quality Permit No. 20345.
4. Since February 8, 2006, all correspondence between TCEQ and Governor Rick Perry and/or his staff regarding ASARCO's application for renewal of Air Quality Permit No. 20345.

If both electronic and paper versions of responsive documents are available, we prefer electronic copies. In the event that my request is denied in whole or in part, please justify all deletions by reference to specific exemptions of the Act. Please note that I expect you to release all nonexempt portions of otherwise exempt material. Please contact David Edmonson at (512) 463-0129 if you need any additional information.

Note that under Section 552.351 of the Texas Government Code, it is a criminal offense if a person willfully destroys, mutilates, removes without permission, or alters public information.

Further note that I have included for your review Texas Attorney General Greg Abbott's 2003 Open Record Letter ruling number 1890, which states, *inter alia*, that personal cellular, personal office, and home telephone records, as well as the e-mail correspondence from personal e-mail accounts of public officials that relate to the transaction of official business are subject to disclosure under the Texas Public Information Act.

I look forward to your response within the time constraints prescribed by the Act.

TCEQ Public Information Officer

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Very truly yours,

A handwritten signature in black ink that reads "Eliot Shapleigh". The signature is written in a cursive, slightly slanted style. It is enclosed within a thin black rectangular border.

Eliot Shapleigh

ES/de

Enclosure

SG\Environmental Quality, Texas Commission on\ShankleG TPIA 2-18-08.doc