

Rep. Michael D. Herley  
Representative Town Meeting (RTM)  
Town of Fairfield  
Chairman, Public Health & Safety Committee  
94 Gray Rock Road  
Southport, CT 06890



February 19, 2013

Commissioner Daniel C. Esty  
CT Department of Energy & Environmental Protection (DEEP)  
79 Elm Street  
Hartford, CT 06106

Dear Commissioner Esty:

As the Chairman of the Fairfield RTM's Public Health & Safety Committee—and an RTM Representative who lives in and represents Southport, CT—I am deeply concerned by certain aspects of the process surrounding the proposed environmental cleanup of the Mill River. As you know, for decades the Mill River was polluted by toxic waste from the industrial business (Exide Group Incorporated) formerly located near the river. The Mill River, the largest river in the Town of Fairfield, flows into Southport Harbor and ultimately into Long Island Sound. It is an important element of our local ecosystem.

Thankfully, the necessary environmental remediation technologies now exist to restore the Mill River nearly to its natural state. To achieve this goal, however, the cleanup process needs to be properly defined and the rules set forth by the CT DEEP and other State/Local Agencies must be followed through to the project's completion. This includes listening to the recommendations of our local commissions and providing our community with ample time and opportunity to provide input. Our community wants to see this project succeed, but the cleanup must not be rushed. It is an essential environmental initiative that must be done right and done once.

The CT DEEP's Consent Order dated Oct. 20, 2008 establishes the sequencing of the permitting process for those responsible for the cleanup of the Mill River:

*"On or before ninety (90) days after the Commission has approved, as applicable, a remedial action plan [("SEDRAP")], pursuant to paragraph B.2.d of this Consent Order, the Respondent shall apply for all permits that are necessary to carry out the remedial action approved by the Commissioner."*

The Consent Order was duly recorded in the Land Records of the Town of Fairfield, and has been relied upon by public and local officials as the foundational document on the proposed cleanup process for the Mill River since 2008.

Regrettably, it now appears that Exide Group Incorporated has filed applications for coastal permitting (“OLISP”) and discharge permitting (“NPDES”) simultaneously with the SEDRAP, which seems to be inconsistent with the process outlined in the aforementioned Consent Order provided by the CT DEEP.

Moreover, by apparently not following the Consent Order and proceeding in what appears to be an expedited fashion, the Exide Group Inc.’s actions could result in the Town of Fairfield, its residents and other local officials/bodies, including the Shellfish Commission, Conservation Commission and Harbor Management Commission, among others, not having sufficient time to give full review to the proposed remediation project for the Mill River.

Accordingly, and on behalf of my constituents as an RTM Representative, I respectfully request that the CT DEEP intervene to ensure that the previously defined permit application process be followed as per the guidelines established by the CT DEEP’s October 2008 Consent Order. By doing so, interested members of the public and local officials will have more time to fully digest the proposal and to provide the necessary public input. Anything less would limit the rights of our Townspeople to express their concerns and to be part of the process.

Thank you in advance for your prompt attention to this important matter. Please do not hesitate to reach out to me directly if I can be of assistance to you or your office in gaining a better understanding of the local perspective.

Very truly yours,

*Michael D. Herley*

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Copy: Carolyn Fusaro  
Environmental Analyst, CT DEEP

Donald Gonyea  
Environmental Analyst, CT DEEP

Honorable Michael Tetreau  
First Selectman, Town of Fairfield

Honorable John McKinney  
CT State Senate Minority Leader, 28<sup>th</sup> District

Honorable Brenda Kupchick  
CT Assembly Representative, 132<sup>nd</sup> District

Honorable Kathryn Braun  
RTM Representative, Town of Fairfield

Thomas Steinke  
Director of Conservation, Town of Fairfield