

Gonyea, Donald

From: Robert Bilek [rwbilek@sbcglobal.net]
Sent: Wednesday, February 20, 2013 4:00 PM
To: Gonyea, Donald
Cc: Thomas Steinke; Sanford Wakeman
Subject: Exide NPDES Permit Application and DEEP Tentative Determination of Approval
Attachments: EXIDE NPDES PERMIT COMMENTS 2-19-13.DOCX

Dear Mr. Gonyea:

I understand that Mr. Steinke has sent you a formal document representing the Fairfield Shellfish Commission's collective position on this NPDES Permit.

Attached is a Word document in "docx" format that reiterates issues I feel should be addressed. Some of these were presented to you at the February 13, 2013 Fairfield Shellfish Commission meeting, and some are new.

Again, I believe all parties involved want Exide to remediate Mill River as expeditiously as possible. However, after 30 years we would like it done correctly, and with minimal damage to our fish and shellfish. We are very disturbed that Superior Plating is not at the table and that we will have to go through this process again sometime in the future.

Thanks you for the courtesy of attending our meeting, and for your consideration of these and other concerns, questions and recommendations that are brought to your attention. We wish DEEP had sent representatives to discuss the SEDRAP as requested by Mr. Steinke.

Respectfully submitted,

Robert W. Bilek

EXIDE NPDES PERMIT FOR WASTEWATER DISCHARGE

DEP Consent Order SRD-193 dated 10/20/08

Sect. B.2.d.(6)

This states in part that the Respondent (Exide and Vale Inco) shall "propose a detailed remedial action plan ... for lead in sediments in the Mill River Study Area ... and schedule to perform the preferred remedial actions. The schedule required by this paragraph shall also include a schedule for applying for and obtaining all permits and approvals required ..."

There is no schedule for applying for and obtaining all permits and approvals, including the NPDES Permit.

Sect. B.2.f.(1)

"On or before 90 days after the Commissioner has approved, as applicable, a remedial action plan, 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."

Any affected town relies on this process.

In the case of Fairfield's Mill River remediation, the Commissioner has not approved the SedRAP dated October 2011, Rev. April 2012. Yet Exide's NPDES Permit Application is dated 6/22/12. And, on 1/7/13, DEEP issued a Notice of Tentative Determination of Intent to Issue a NPDES Permit to Exide Group Inc. identified as Application NO. 201205444 and Permit ID NO. CT0030651.

This notice allowed 30 days to comment. This was extended to 2/20/13 after a request for more time. This forces us to comment on a permit application before we even have questions answered regarding the SedRAP, and there are many. This seems backwards. Is this process being followed in compliance with the Consent Order?

Since DEEP is using a General Permit, Fairfield's various commissions have been excluded from having public hearings on various permits normally associated with this type of SedRAP, and therefore have been denied status to intervene.

EXIDE NPDES Permit Application dated 6/22/12

ATT. A

Executive Summary

"The discharge is the result of dewatering activities involved with the dredging of approx. 27,600 cu. yds. of lead-impacted Mill River sediment."

How can DEEP approve a permit for removing 27,600 cu. yds. of sediment when the SedRAP shows 21,440 cu. yds.? This is like applying to build a 3 lane highway and then submitting a permit application for a 4 lane highway and getting it approved without any explanation at all. Does the permit application not have to factually match the SedRAP? Does DEEP look at the SedRAP when approving the NPDES Permit? How was this new amount calculated? Why is it so different (+28%) from the 21,440 cu. yds. specifically calculated in the SedRAP by Area?

Also, the NPDES permit tentative determination indicates "The discharge ... will have no adverse impact on water quality." Yet, neither the SedRAP nor the permit application address the very real potential for high fecal coliform bacteria counts. With the dredging, resuspended sediment can flow downstream and cause high coliform bacteria counts, especially in the hot summer months. The water piped to the Geotubes and then discharged back into the river may contain ever higher fecal bacteria counts after sitting in the hot sun. The Bureau of Aquaculture can

close our Recreational Shellfish Area and/or the Commercial Shellfish areas outside Southport Harbor if these counts exceed certain limits.

Has anyone contacted the Bureau of Aquaculture regarding this type of impact for their input? If we are closed for extended periods there should be compensatory mitigation agreed to in advance. It is recommended that the upland treatment site be required to check for fecal coliform count, and be required to treat the water before discharge to the river to eliminate this issue.

ATT. F

Site Plan

The site plan shows a 40'X5' discharge manifold in the main channel, right in front of the railroad bridge. Then, in the Discharge Manifold Detail section, it shows it to be 60'X20'. That's a big difference, so which is it? This could affect access up the river for 1 ½ - 2 years if positioned there. It will surely affect the ability of river herring to pass for spawning, especially if it's running 15-24 hours per day as proposed. It should be moved to the side, and perhaps onto Exide's portion of the river.

This site plan shows 24 Geotubes in place, yet it indicates 33 will be used. Is this plan to scale, and will they fit?

ATT. G

Coastal Consistency Review Form
Part III

"The dredging technique implemented will utilize the latest technology, including a GPS unit... and a modern hydraulic dredge 'head' which produces minimal suspension of sediments..." Is this really the "latest technology" as stated in this permit application? Exide cited using the "latest technology" as a reason to allow dredging during the spawning seasons for the fish and shellfish populations in Mill River. However, Exide's own charts show the Tornado Motion Technology to be rated much better. And cofferdams in Areas I, II and III, where there is the most lead contamination, are even better and would, in effect, eliminate the issue of resuspended sediments experienced in Exide's 1983 dredging of Mill River.

ATT. H

CT NDDB INFORMATION

5/9/12 letter from Dawn McKay, DEEP

Regarding the Blueback Herring in Mill River, DEEP was to review the state permit application to determine if Exide's project could adversely affect Blueback Herring. Has this been done in light of the current review of this fish's status? Did anyone in Fisheries consider the impact of discharging treated water 15-24 hours per day in the river's main channel versus the recommended maximum 12 hours per day on the ability of the river herring to get upriver to spawn? If so, what was their recommendation?

ATT. I

Part A: General Description

1.3 Sequence of Operations

"The filtrate will then be processed through a bag filter and then a clay filter before being ultimately discharged to the river through a discharge manifold ..."

However, in the NOTICE OF TENTATIVE DETERMINATION TO ISSUE A NPDES PERMIT dated 1/7/13 on page 2, under REGULATORY CONDITIONS, it states "... filtrate will be ... pumped through fractionation tanks. Wastewaters will then be stored in an equalization tank and additional filtration will be conducted if necessary in order to comply with permit limits prior to discharge..."

Is all of the filtrate going through a bag filter and then a clay filter as described in ATT. I, or just some of it? The wording in the 1/7/13 NOTICE implies it is not.

3.3 Wastewater Treatment

"A valve sample tap near the end of the pipe will be utilized to monitor discharge water for those parameters specified in the NPDES permit..."

Will fecal coliform bacteria be added to the parameters to stop elevated counts from entering the river? Is the "tap near the end of the pipe" on the upland treatment site or is it out on the manifold in the river? What happens if any parameters are being exceeded in terms of stopping the discharge? How does that happen, and how long would it take to do it?

ATT. O

DISCHARGE INFORMATION

DEWATERING TRIAL PERFORMANCE AND AQUATIC TOXICITY TESTING REPORT Rev. May 20,2012

3.4 Aquatic Toxicity Testing

Tests were performed on mysid shrimp and inland silverside fish. Why were toxicity tests not performed on blueback herring, hard clams, oysters or blue crabs? These are the fish and shellfish about which we are most concerned. How can Exide and DEEP be so confident these fish and shellfish will not be harmed, especially during spawning season? Has the Department of Agriculture/Bureau of Aquaculture reviewed these findings. Do they agree with the findings as they pertain to the fish and shellfish of concern to us listed above?

NOT COVERED BY THE SEDRAP, NPDES PERMIT APPLICATION OR TENTATIVE DETERMINATION TO ISSUE A PERMIT

The above documents do not cover any significant remediation of the Mill River or of it's banks after this dredging project is completed. I see no mention of filling in holes created by the dredging with clean fill so they do not fill with leaves and decomposing organic matter, or of replacing logs or rocks to provide the habitat a river bottom needs. Nor did I see any mention of remediating the shoreline with trees and shrubs, provision for public access, etc. as compensation for the amount of damage done to our Mill River and the loss of public use of the river for recreational swimming, clamming, and crabbing for 30 years. This should be part of the remediation requirements.

RWB

Rev. 2/20/13