

October 3, 2013

Ms. Mary von Conta, Chairman
Harbor Management Commission
John J. Sullivan Independence Hall
725 Old Post Road
Fairfield, CT 06824

RE: Exide/Mill River Remediation Project
Fairfield, Connecticut

Dear Ms. von Conta:

The Bureau of Water Protection and Land Reuse of the Connecticut Department of Energy and Environmental Protection (DEEP) have reviewed the Harbor Management Commission's (HMC) August 22, 2013 letter regarding the proposal by Exide Group, Inc. (Exide) to dredge lead-contaminated sediment from the Mill River and Southport Harbor in Fairfield, Connecticut (August 2013 letter). The DEEP appreciates the Harbor Management Commission's commitment to the success of the Mill River Remediation Project, contributions to the facilitated discussions, and for the August 2013 letter.

The August 2013 letter included a statement that the HMC determined that Exide's proposed remediation presented in the report titled *Remedial Action Plan for Lead Impacted River Sediments, Mill River Study Areas I-V, the Former Exide Battery Facility Project, 2190 Boston Post Road, Fairfield, Connecticut*, dated July 2013 (herein referred to as July 2013 SedRAP) is consistent with *The Management Plan for Southport Harbor* approved by the State of Connecticut and adopted by the Fairfield Representative Town Meeting. The August 2013 letter also included a number of recommendations to DEEP. The DEEP offers the following responses to the HMC's recommendations (which are included below in italics).

1. *Operations and Maintenance Plan: Prior to the start of the project, the DEEP should determine that an appropriate Operations and Maintenance (O&M) Plan has been prepared, to the satisfaction of the DEEP, to guide the contractor's activities during all phases of the project at all times.*

Response: In accordance with the SedRAP and the National Pollutant Discharge Elimination System (NPDES) permit, DEEP will review the Project Operations and Maintenance Plan (O&M Plan). The O&M Plan covers routine equipment operation and maintenance practices and material storage practices. The proposed work must be completed in accordance with the July 2013 SedRAP, the NPDES permit, and the Office

of Long Island Sound Program (OLISP) General Permit, which include controls and monitoring to ensure that the project does not adversely impact the river.

2. *Tide Mill Dam: Prior to start of proposed dredging operations, the DEEP should require Exide to provide: a) current assessment, prepared by a qualified professional engineer, of the structural integrity of the Tide Mill Dam and tidegates; and b) certification by a qualified professional engineer that the dam and tidegate structures are of sufficient soundness to support the proposed project. Any proposed work required to repair or replace existing structures or install new structures should be reviewed in accordance with applicable Town, state, and federal planning and regulatory requirements, and planned and conducted to avoid, reduce, or otherwise mitigate any significant adverse impacts on Southport Harbor and shorefront neighborhoods.*

Response: Exide has reached an agreement with the owner of the tide gates to perform repairs to the tide gates. Exide evaluated the condition of the tide gates and the repairs utilizing a professional engineer. Exide is currently preparing the application for an OLISP Certificate of Permission to implement the repairs.

3. *Communication and Coordination: As necessary, the "Mill River Cleanup Communication Plan" agreed to by the Town and Exide on June 25, 2013 should be reviewed and amended by mutual agreement during the course of the project to ensure that most effective response to changing circumstances and conditions that may affect successful completion of the project, including development of new data and information, and to ensure that the rights and interests of the Town are adequately protected throughout the project.*

Response: The DEEP agrees that communication is an important component of this project to ensure the success of the remediation. The DEEP encourages the Town and Exide to update their mutual Communication Agreement as needed and will support such efforts. It is DEEP's understanding that, per the Communication Agreement between the Town and Exide, all reports submitted to DEEP will also be submitted to the Town. In addition, Exide will hold periodic meetings to discuss any concerns that the Town or public may have.

4. *Benthic Resources: For the purpose of this project, the DEEP should establish an appropriate definition of "anoxic dredge holes", based on recognition of these conditions as excessive, un-natural depressions in the bottom of the Mill River and Southport Harbor that may result from the dredging of lead-contaminated sediment. The presence of any "anoxic dredge holes" that may be created during Exide's dredging operations should be identified through Exide's required post-dredge survey of bottom contours and*

then properly remediated by Exide, at the direction of the DEEP, for the purpose of avoiding any significant adverse impacts on water quality and living marine resources.

Response: As discussed during the facilitated discussions and included in the July 2013 SedRAP, “All sediment remediation (dredging) will be completed to avoid vertical cuts and to allow shallow and gradual slopes in the dredged bottom profile.” (Appendix VII - Procedural/Structural Performance Standard #8). This performance standard was developed to prevent the creation of “anoxic dredge holes”. In addition, since the majority of the study area will be dredged less than 2 feet, deep depressions in the river bottom are not anticipated. Exide will conduct a post-dredging bathymetric survey as part of the final verification sampling program.

5. *Shellfish Management: Town shellfishing areas in Southport Harbor should be managed by the Shellfish Commission and Bureau of Aquaculture (BA) in accordance with the results of bacterial monitoring by BA and DEEP in the vicinity of the dredged material processing facility and downstream of the southernmost remediation project area.*

Response: DEEP agrees to forward results of the bacteria monitoring program to the Shellfish Commission and Bureau of Aquaculture who have the authority to manage the shellfish beds.

6. *RAP Amendments: The DEEP should ensure that basic engineering methods and quality control requirements specified in the RAP, including use of hydraulic dredging technology, are not substantially modified by Exide following approval of the RAP without review by Town agencies and proper amendment of the RAP in accordance with DEEP requirements.*

Response: Modifications to the SedRAP will require DEEP review and approval prior to implementing any such changes. Given the magnitude of the project, some inconsequential or minor adjustments may be authorized by DEEP to account for site conditions. In the event that major modifications, such as those related to basic engineering methods and quality control requirements, are requested, DEEP will discuss those modification requests with the Town.

7. *Project Data: The DEEP should retain and review relevant data collected in the course of the remediation project, including but not limited to sediment sampling and turbidity monitoring data, for potential use in planning any future remediation of chromium pollution in the Mill River and Southport Harbor.*

Response: All reports, documents, and letters, submitted to the DEEP are public information and will be retained by the DEEP. Data from the Exide project will be reviewed and considered during the review of any future remediation in the Mill River.

8. *Project Oversight: The Town should reserve its right to retain the professional services of a qualified Project Monitor who, during the course of the remediation project, will report directly to the Town with respect to implementation of the RAP and have specific responsibilities for protecting the rights and interests of the Town.*

Response: While we understand the Town's stated position, DEEP is not requiring a third-party project monitor to oversee the remediation project. DEEP will ensure that the Town has access to all project-related DEEP records. The DEEP will conduct periodic inspections of the project, including observations of dredging activities, waste handling areas, control measures, and confirmation sampling.

Thank you again for your and the HMC's commitment to the success of the Mill River Remediation Project and the restoration of the Mill River, which is an important resource for the residents of Fairfield and the State of Connecticut. Please feel free to contact me at (860) 424-3704 if you have any questions. For specific project related questions, please contact Carolyn Fusaro of my staff at (860) 424-4105.

Sincerely,



for Betsey Wingfield
Bureau Chief
Bureau of Water Protection and Land Reuse

c: Michael C. Tetreau, First Selectman, Town of Fairfield, Independence Hall, 725 Old Post Road, Fairfield, CT 06824
Ken Money, President, Exide Group Incorporated, 1213 Culbreth Drive, Wilmington, NC 28405

electronic copy:

Representative Kim Fawcett, 133rd District
Representative Tony Hwang, 134th District
Representative Brenda Kupchick, 132nd District
Senator John McKinney, 28th District
Kevin Gumper; Sanford Wakeman; Robert Bilek, Tom Steinke; Geoff Steadman – Fairfield
Kathryn Braun, FairPLAN
Diane Ray, US Army Corps of Engineers
Dave Carey – Bureau of Aquaculture
John Wertam; Ralph Klass – Exide
Cindy Cook – Adamant Accord
Patrick Bowe, Carolyn Fusaro, Tonia Selmeski; Don Gonyca; Traci Iott; Mark Johnson – DEEP