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June 2, 2017

**Via: Certified U.S. Mail; Return Receipt Requested No. 7012 0470 0001 8211 0800**

Mr. Richard Hyde, P.E.  
Executive Director  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78753

**RECEIVED**  
  
JUN -5 2017  
  
CITY OF FRISCO  
CITY MANAGER'S OFFICE

Re: Exide Technologies Frisco Recycling Center, Frisco, Texas  
J Parcel VCP Project

Dear Mr. Hyde:

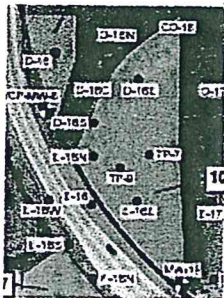
The City of Frisco and Exide Technologies are joint applicants on the above referenced VCP project. As such, both parties should be involved in any discussions with TCEQ staff regarding the project. Recently, Exide representatives entered into separate discussions with TCEQ staff (Mr. Stu Goldsmith in particular) in an attempt to obtain TCEQ authorization to conduct a less than complete remediation of the J Parcel. The City has already expressed its concerns directly with Exide's representatives regarding this contact and the underlying remediation issues. The City also notes that any relaxation of the J Parcel RAP requirements would be a violation of the Master Settlement Agreement (MSA) between Exide and the City. Although TCEQ is not a party to the MSA, the State of Texas, as demonstrated during the Exide bankruptcy proceedings, has a vested interest in assuring Exide abides by the environmental remediation sections of the MSA.

The City has advised Exide that it is not strictly conforming to the TCEQ approved RAP for the J Parcel in regard to sampling methodology and subsequent removal of contamination. The effect, if allowed, will be incomplete removal of Exide contamination from the J Parcel. While Exide may change its current direction and satisfactorily resolve these issues, the City has received no assurance from Exide that such will occur. Therefore, the City is bringing to your attention the following three specific areas of concern. The City believes all three issues can be adequately addressed if TCEQ staff requires Exide to strictly adhere to the J Parcel RAP. If these issues are not adequately addressed, a final completion certificate for the J Parcel VCP project cannot be issued. Such an outcome is in no one's best interest.



## 1. Parkwood Street Contamination

In addition to the air monitoring/stockpile plans previously brought to your attention, two new issues have arisen in the "Triangle Area" (the blue area on northeast side of Parkwood Drive in the figure included below). The Triangle Area is referred to in the J Parcel RAP as "Tract G" and the "Undocumented Fill Area." The underlying issue is the need to excavate in and under the right of way to determine the extent of debris versus the Protective Concentration Level Exceedance (PCLE) Zones. This is critical given Exide's long history of using battery chips for sub-base material under various street and parking lots in Frisco. 1984 aerial photos of the areas show a possible debris field extending all across the current location of the Parkwood ROW. Significant amounts of battery chips have already been observed in this area by City representatives. Complete removal requires complete excavation on both sides of Parkwood. At this point, it may be advisable to excavate Parkwood itself, as well as the ROW, to assure removal of all battery chips and related contamination.





same elevation as the original grade of the excavated area, and then there is a downward slope to a wooded swale that drains into the northern tributary of Stewart Creek. Complete removal of all debris, battery chips, and contaminated soil from this entire area is mandatory and must be accomplished before the J Parcel VCP project can be completed.

## **2. South 5<sup>th</sup> Street Contamination**

The J Parcel APAR identified high Pb concentrations in an area along old South 5<sup>th</sup> street. The suspect cause was an overturned truck loaded with Exide waste (believed to be lead oxide) that was not fully removed. The J Parcel RAP requires complete removal of all contamination in this area. The APAR investigation was limited in this area since the full extent of the contamination was expected to be determined during excavation and removal activities.

There appears to be contaminated road base material under South 5<sup>th</sup> street in this area of the J Parcel. A distinctive gray gravelly material is present in some of the ditch excavations on the west side of South 5<sup>th</sup> street near its southernmost extent on the J Parcel. The material appears to originate from beneath South 5<sup>th</sup> street. When sampled by XRF measurements, this material has consistently shown elevated Pb concentrations. In response Exide has changed the location of its sidewall confirmation samples. Exide is no longer collecting confirmation samples from the base of the excavation close to the roadway, but from 8-10 feet out in the excavated area. Page 3 of the J Parcel RAP Worksheet 2.0 (Confirmation Sampling Procedures) indicates that confirmation samples should be taken from the sidewall not 8-10 feet or further out in the excavated area. It appears Exide has moved its sampling further away from the roadway sidewalls to avoid determining the actual extent of the Pb contamination in the roadbase material.

Obviously, all contamination cannot be removed without adequate confirmation sampling of the entire area during remediation activities. Exide has now requested TCEQ staff authorization to sample the base of the excavations rather than the sidewalls as the trigger to eliminate further excavation. This methodology will likely assure that significant Pb contamination remains in place. Proper methodology requires sidewall testing as the excavation expands, both east and west, until no further contamination is encountered. The City's consultants voiced this concern to Mr. Goldsmith following Exide's request that he authorize the relaxed sampling methodology. City representatives had previously voiced this concern to Exide representatives. Once again, the required J Parcel RAP sampling methodology must be followed, and should be expanded to include the roadway itself.

## **3. Farmhouse Debris**

In addition to the debris along the eastern boundary of the Triangle area, there is also debris that was not excavated near the former farmhouse that was located in the "Southeast Area". The farmhouse was south of Stewart Creek, and east of South 5<sup>th</sup> Street. Debris in that location consists of construction debris (chunks of concrete) mixed with household debris. In addition, there is concrete debris on the westward facing slope (the side facing South 5<sup>th</sup> Street) to the south of that area. According to page 2 of the J Parcel RAP Worksheet 2.0, "In addition to impacted soils, debris and trash accumulations around the old farmhouse area will also be removed." Based on that statement, the debris in those areas should be removed and disposed of in accordance with the RAP. Exide has

Mr. Richard Hyde

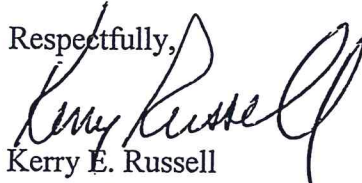
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indicated to the City that it may not need to remove the debris since it "probably" does not contain any Exide related contamination. Such an excursion from the J Parcel RAP requirements should not be authorized by TCEQ staff.

In regard to the larger issue of Exide representatives initiating meetings and discussions with your staff, the City, as co-applicant, requests that you advise your staff not to engage in any meetings or discussions with Exide representatives regarding the J Parcel without a City representative participating. By working together Exide, the City, and TCEQ can make the J Parcel VCP project a success.

Respectfully,



Kerry E. Russell

City of Frisco Special Counsel

Cc: ✓ Mr. George Purefoy, Frisco City Manager  
Mr. Richard Abernathy, Frisco City Attorney  
Mr. Brad Kalter, Exide