

June 24, 2015

Department of Toxic Substances Control
Permitting Division
Hazardous Waste Management Program
8800 Cal Center Drive
Sacramento, CA 95826-3200

Attn: Ms. Suhasini Patel
Senior Environmental Scientist Supervisor

Mr. Wayne Lorentzen, P.E.

Re: Exide Technologies (CAD 097854541) – Response to DTSC re June 17, 2015, Notice of Deficiency and Request for Extension

Dear Ms. Patel and Mr. Lorentzen:

This letter follows up our prior correspondence regarding the DTSC's stated deadline for Exide's submittal of a revised Closure/Post-Closure Plan ("Plan") to address DTSC's Notice of Deficiency (NOD). DTSC sent the NOD after the close of the business day on June 17, 2015, and requested that Exide submit a revised Plan by July 1, 2015. That deadline is not reasonable and would be prejudicial to Exide. Further, the proposed deadline would violate Exide's right under the applicable regulations (22 CCR §§ 66265.112(d)(5) & 66265.118(f)) to thirty days to submit its revised Plan. Because of the enormous task of responding to DTSC's extensive comments, as explained below, Exide needs the full thirty days, and maybe more, to submit its revised Plan.

Responding to DTSC's NOD by July 1 is not possible for numerous reasons, including:

- The NOD is 82-pages long, with 36 comments in the main body of the letter alone. The NOD also includes nine separate, multi-page attachments, each listing technical revisions and comments numbering in the hundreds. It is not possible for Exide to properly consider, assess, and address each comment and submit a revised Plan by July 1. Indeed, it appears this deadline is designed to ensure Exide "fails" to provide a complete and adequate response. Such a result would frustrate Exide's good faith effort to submit a comprehensive Plan. As you know, Exide proactively initiated several meetings with DTSC to discuss the Plan while it was in process, prepared detailed summaries, and invited questions from DTSC, all in an effort to ensure that as many important issues as possible were addressed in advance and with plenty of

time for technical discussion and refinement. DTSC stayed largely silent in those meetings, opting instead to withhold its substantive comments and send an 82-page NOD.

- The July 1 deadline would prevent Exide from responding to comments from the SCAQMD. DTSC states in its letter that "SCAQMD has jurisdiction over air quality issues related to the Plan and they will be submitting a separate letter with their comments." Exide has received no comments from SCAQMD to date and has no control over *when* it will receive such comments. Air quality issues are a significant part of the Plan and, without timely comments from SCAQMD (which DTSC will consider as part of its approval process), it is simply not possible for Exide to prepare and submit a responsive and meaningful revised Plan by July 1. The same concern applies here to the comments by the City of Vernon, which Exide just received on June 22. The DTSC earlier indicated that it expected Exide to address comments from all agencies and the City concurrently. In order to ensure that the comments from the SCAQMD receive the consideration they deserve, Exide believes that its 30 day response period should not begin to run until it receives the District's comments.
- DTSC has already clearly informed the public that the earliest anticipated start date for closure activities is Spring 2016. [See May 6, 2015 Public Workshop Community Update]. Given this schedule—and even accounting for public comments—there is no justifiable reason to impose a false deadline on Exide by forcing it to submit a revised Plan by July 1.
- DTSC requested seven hard copies of the Plan. As DTSC is aware, each hard copy requires at least three 5-inch binders, which take significant time to copy and organize – time that effectively shortens the deadline for making substantive revisions.

In Ms. Patel's email to me dated June 18 at 11:39 a.m., Ms. Patel stated that Ms. Patel "know(s) what [the] regulations provide," but that "this is not the first version" of the Plan. Ms. Patel pointed out that "Exide has had many turns with a number of revisions (over 10)." This comment is really not relevant. Nearly all of the comments that Exide received from the DTSC in its June 17 correspondence have never been made before. In fact, it is safe to say that many of the comments from the DTSC in the June 17 correspondence directly conflict with prior DTSC comments to prior iterations of the Plan. The Plan that Exide submitted to the DTSC on May 15, 2015 was the first Plan submitted since Exide announced its intention to close the facility. We know of no regulation that reduces Exide's time to respond to comments from 30 days to 15 days. As set forth in 22 CCR Sections 66265.112(d)(5) & 66265.118(f), Exide has 30 days after receiving the DTSC's written statement to modify the plan or submit a new plan for approval. If you are aware of any regulation that reduces that 30 day period, please advise us.

In addition to all of the facts and circumstances described above, Exide has initiated meetings with the DTSC, has travelled to Sacramento to meet with the DTSC to discuss the

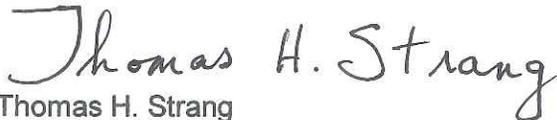
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Plan, and has discussed the deadlines that both parties were operating under during this process, including at the earlier Sacramento meetings with DTSC and Cal-EPA. In each of those meetings, Exide advised the DTSC that it expected to follow the timing requirements set forth in 22 CCR Sections 66265.112(d)(5) & 66265.118(f). The DTSC never objected to that timetable, and the DTSC never advised Exide that a different timetable applied.

Although Exide reserves its legal rights to challenge the NOD and/or seek additional time beyond the regulatory deadline based on a further showing of good cause, Exide currently intends to submit a revised Plan by July 17, 2015. As discussed above, Exide will probably require more time beyond July 17, especially given the fact that no comments from the SCAQMD have yet been received.

If the DTSC believes the applicable regulatory deadline is other than as set forth in 22 CCR Sections 66265.112(d)(5) & 66265.118(f), please advise me immediately. Further, please consider this a request for an initial extension to July 17, 2015 for good cause, for the above-stated reasons.

Sincerely,



Thomas H. Strang
Exide Technologies
Vice President – Environmental Health & Safety, Americas

cc: Richard Sherwood, Esq.
Christine Graessle, Esq.
Mr. Fred Ganster
Mr. John Hogarth
Mr. Paul Stratman