

From: [REDACTED]
To: [REDACTED]
Date: 8/6/2011 7:31 PM
Subject: 2011-024-MIS-NR

08/06/2011 07:37 PM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Katrina
Last Name: Watland
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Frisco
State: TX
Zip Code: 75034
Phone Number:
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

I strongly believe that Exide's toxic lead emissions should be reduced to the maximum level achievable – and nothing less. Please help protect the health of all our residents by ensuring that the toxic lead emissions by Exice are reduced to the maximum level achievable.
Thank you.

From: [REDACTED]
To: [REDACTED]
Date: 8/8/2011 1:28 PM
Subject: 2011-024-MIS-NR

08/08/2011 01:39 PM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Christina
Last Name: Whalen
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: little elm
State: tx
Zip Code: 75068
Phone Number: [REDACTED]
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

To Whom it May Concern,

As a mother of a young child living in Frisco, I was shocked to learn that there were emissions in the air from Exide's plant. Unacceptable. I urge Exide to use the technology available to reduce the toxic lead emissions to the maximum level achievable.

No community should have to carry the burden of a lead smelter's known toxic emissions – especially when proven technology is readily available to minimize lead and other toxic emissions to very low emission and higher protection levels.

The children of Frisco are depending on Exide to do the right thing.

No community should have to carry the burden of a lead smelter's known toxic emissions –especially when proven technology is readily available to minimize lead and other toxic emissions to very low emission levels.

I request that Exide's toxic lead emissions be reduced to the maximum level achievable – and nothing less!

Thank you for your consideration,
Christina Whalen

From: [REDACTED]
To: [REDACTED]
Date: 8/8/2011 10:11 AM
Subject: 2011-024-MIS-NR

08/08/2011 10:17 AM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Niranjan
Last Name: Avula
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Frisco
State: TX
Zip Code: 75034
Phone Number:
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

The Exide Plan will not improve the lead toxicity problem in Frisco. Frisco is a community with a lot of young kids and babies. The lead toxicity is a problem for growing minds. Please shutdown Exide and make them relocate to an unpopulated area.

From: [REDACTED]
To: [REDACTED]
Date: 8/8/2011 10:34 AM
Subject: 2011-024-MIS-NR

08/08/2011 10:39 AM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Jill
Last Name: Balentine
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Frisco
State: TX
Zip Code: 75034
Phone Number: [REDACTED]
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

As a resident of Frisco, Texas, we appreciate the continued efforts of our community leaders and the TCEQ to ensure our safety as it relates to Exide Technologies and recent concerns about lead and other health concerns. This has been an ongoing concern for us as we live close to the plant and have small children. We have invested in this community and continue to fear the "unknowns" related to this plant and its impact on our health & environment. We work in Frisco and attend FISSD schools. This plant places fear for our safety, as well as impacts on our community. Frisco represents the best of what Texas has for families, but with this plant looming in our view, we have concern and lack of confidence in our future here. We are in favor of Exide's relocation.

Thank you for providing this opportunity to express our ongoing concerns.

Doug & Jill Balentine
[REDACTED]
Frisco, Texas 75034

From: [REDACTED]
To: [REDACTED]
Date: 7/28/2011 11:23 AM
Subject: 2011-024-MIS-NR

07/28/2011 11:29 AM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Ed & Carol
Last Name: Soph
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Denton
State: TX
Zip Code: 76209
Phone Number:
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

Given the overwhelming weight of evidence and proof of the dangers of lead to the environment and the public health, I urge the TCEQ to shut down Exide Technologies in Frisco, TX until the company has agreed to install pollution controls comparable to those on their facility in California, where the state environmental commission is more competent in protecting the health of the state's citizens.

To allow the Frisco facility to operate as usual until November 2012 when compliance with the state's deadline is mandated is not acceptable. It is wrong and irresponsibly endangers the public health of Frisco's residents, especially those living within the 1.3 mile non-attainment area around the plant.

Please, protect the right of the people to breathe healthful air, not the polluter's ability to poison it.

Given Exide's horrible compliance record and the economic and environmental damage that its emissions have already done to the community, there is no reason to allow such detrimental activity to continue.

From: [REDACTED]
To: [REDACTED]
Date: 8/7/2011 2:32 PM
Subject: 2011-024-MIS-NR

08/07/2011 02:43 PM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Diane
Last Name: Buchanan
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Frisco
State: TX
Zip Code: 75034
Phone Number:
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

I live in Frisco, not far from the Exside plant. I am not happy that this plant has been allowed to continue doing business in our area while it's emissions are over advised standards. Why has it taken so long for them to become or even try to become compliant? I am aware that there is some concern that these new TCEQ guidelines will not provide the safety our citizens deserve. In other environmental issues facing our state, Texas regulators have chosen to appease business interestes above those of our environment. I am afraid without oversight from citizens and environmental groups that mindset may prevail in this case.

From: [REDACTED]
To: [REDACTED]
Date: 7/29/2011 9:50 AM
Subject: 2011-024-MIS-NR

07/29/2011 10:01 AM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Michael
Last Name: Depot
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Frisco
State: TX
Zip Code: 75034
Phone Number:
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

Since discovering Exide Technologies was operating in Frisco, TX my family has tried to sell our house on two separate occasions. We are not able to send our children to the preschool of our choice due to the close proximity to Exide. We now avoid parks and any other area that would expose us to the plant and the decades of pollution that is now buried in our town's soils. We had a false positive test with my 4 year old son during his SECOND lead test in two years. He had to have blood drawn three times due to a number of mistakes by several labs. Try explaining this to a young child as he is getting "stuck" three times over the course of two weeks. Eventually we did get a non-elevated result; however it took over three weeks for our minds to be put at ease. This is no way to live and I did not bargain for this when buying a house in a highly populated suburban area. While I do blame myself for not doing my due diligence when buying my home, I never imagined I had to check if there was a lead smelter in a town of over 100,000 which specifically caters to young families. Our quality of life has diminished tremendously since Exide Technologies has been in the news. Whether it is a real or perceived health risk, no amount of mediation will lay my concerns to rest except for relocation of the plant and cleanup of the polluted areas. As long as Exide Technologies operates in Frisco, TX, I will be looking for the first available opportunity to leave town.

From: [REDACTED]
To: [REDACTED]
Date: 8/8/2011 6:51 PM
Subject: 2011-024-MIS-NR

08/08/2011 06:57 PM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Jacqueline
Last Name: Grote
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Frisco
State: TX
Zip Code: 75034
Phone Number: [REDACTED]
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

I am a resident of Frisco, Texas, and am distressed that the TCEQ's proposed Agreed Order/SIP will allow the Exide lead smelter to continue to emit high levels of lead and other toxins into the air, soil and water.

Would you please require that Exide's toxic lead emissions be reduced to the lowest level achievable. Anything less will be harmful to our community and will demonstrate extremely poor judgement on the part of those involved.

The Exide battery recycling plant has polluted our air, our soil and our water with some of the highest lead emissions in the country. The residents of Frisco should no longer be exposed to Exide's known toxic emissions, especially considering the fact that technology is readily available to minimize lead and other toxic emissions to very low emission levels.

Let's all do the right thing. Let's require Exide's toxic lead emissions to be reduced to the lowest extent possible, thus creating a healthy environmental and economic future for all.

Thank you so much.

From: [REDACTED]
To: [REDACTED]
Date: 8/6/2011 6:24 PM
Subject: 2011-024-MIS-NR

08/06/2011 06:30 PM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Amy
Last Name: Bryant
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Frisco
State: TX
Zip Code: 75035
Phone Number:
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

Exide's toxic lead emissions should be reduced to the maximum level achievable – and nothing less! The citizens of Frisco will not settle for LESS. No community should have to carry the burden of a lead smelter's known toxic emissions – especially when proven technology is readily available to minimize lead and other toxic emissions to very low emission and higher protection levels. Please do the RIGHT thing now!

Dick and Jacqueline Grote

FAX MEMORANDUM

TO: Texas Commission on Environmental Quality

FAX NUMBER: [REDACTED]

FROM: Jacqueline Center Grote

DATE: August 8, 2011

SUBJECT: Exide Battery Recycling Plant
Frisco, Texas
Project No. 2011-024-MIS-NR.

My husband and I are residents of Frisco, Texas. We are distressed that the TCEQ's proposed Agreed Order/SIP will allow the Exide lead smelter to continue to emit high levels of lead and other toxins into the air, soil and water.

Would you please require that Exide's toxic lead emissions be reduced to the lowest level achievable. Anything less will be harmful to our community and will demonstrate extremely poor judgment on the part of those involved.

The Exide battery recycling plant has polluted our air, our soil and our water with some of the highest lead emissions in the country. The residents of Frisco should no longer be exposed to Exide's known toxic emissions, especially considering the fact that technology is readily available to minimize lead and other toxic emissions to very low emission levels.

Let's all do the right thing. Let's require Exide's toxic lead emissions to be reduced to the lowest extent possible, thus creating a healthy environmental and economic future for all.

Thank you so much.

Jacqueline Center Grote

From: [REDACTED]
To: [REDACTED]
Date: 8/8/2011 4:35 PM
Subject: 2011-024-MIS-NR

08/08/2011 04:41 PM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Shelley
Last Name: Holley
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Frisco
State: TX
Zip Code: 75035
Phone Number:
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

It is my expectation as a citizen that TCEQ enforce a program that requires Exide's lead emissions be reduced to the maximum level achievable.

This is more than just a "not in my backyard" objection to Exide's battery recycling plant in Frisco, Texas. Would I prefer Exide relocate somewhere else, outside of a population center? Of course, but in lieu of that, it is important that TCEQ consider Frisco citizen's areas of concern in the proposed Collin County Lead SIP. The proposal submitted by 'Get Out The Lead,' addresses significant concerns about the proposed SIP, my concerns include:

- The assumption that there is no background lead in calculations for modeling lead concentrations, in spite of clear evidence that historically deposited lead re-enters the ambient air when disturbed; the Frisco Exide plant has been emitting lead for decades and there is no question that the Frisco is covered in historically deposited lead.

-The disregarding of the data from the 2003 stack test on the bases that test results were an anomaly at 10 times the typical rate. Additional review of the data shows that the 2003 numbers are indeed higher at 2.06 rate but his rate does not justify treating the numbers an anomaly and disregarding them, this increased rate should be considered in the calculations.

-The acceptance of Exide's word that the battery breaker operation is Source 999; at the very least additional research and testing should be done to empirically identify Source 999; this source accounts for 42% of the Base Case analysis; this is not insignificant and should be properly identified in order to correctly model predicted lead concentrations; how can the TCEQ accept Exide's claim that they can capture and control with 100% efficiency without solid evidence of this emission's source? It is disconcerting at best that TCEQ is willing to take Exide's word as to the source. From a citizen's point of view it appears TCEQ is letting the fox manage egg production in the hen house.

-100% fugitive emission capture and control is unrealistic under the best of conditions and we are not dealing with anything remotely close to the best of conditions. EPA and TCEQ's contractor ERG site visits witnessed firsthand that 100% fugitive emission capture is not a plant priority. It is realistic to conclude that these visits saw the plant at its best since they were announced and Exide had time to show itself in the best possible light – I can only imagine what goes on when inspectors are not present.

These deviations from TCEQ's standard practice and can be construed by Frisco citizens as a devil's bargain. Government institutions should be above reproach with the highest standards of practice and behavior and eschew even the appearance of impropriety. When TCEQ deviates from its standard and historical practices, it suggests a backroom deal if not something more sinister.

Don't get me wrong I do understand the need to balance the needs of businesses against the health risks those businesses pose the citizens who are neighbors and customers of that business. But my review of the SIP and the response to the SIP clearly show that in this case business is being favored by the government at the cost of the health of Frisco citizens. Please reconsider the proposal submitted by Get Out The Lead and follow your own standard practices and procedures in designing a resolution to this very serious public health problem.

From: [REDACTED]
To: [REDACTED]
Date: 8/7/2011 12:27 PM
Subject: 2011-024-MIS-NR

08/07/2011 12:38 PM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Olivia
Last Name: Hrejsa
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Frisco
State: TX
Zip Code: 75034
Phone Number: [REDACTED]
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

Please, please don't let Exide Technologies walk away being bound to a flawed lead containment plan. I am a mother of a small child and we also grown some of our food here in Frisco. We take our air, water and soil quality very seriously. My husband and I worry about the impact Exide's emissions and lead deposits will have on our young son's health and all of our long-term health.

Tools are available to help the Exide Technologies plant in Frisco run cleaner and safer. We citizens demand to be safe. This prosperous community should be an example of success and what is possible. Not a future EPA statistic.

I request that Exide's toxic lead emissions be reduced to the maximum level achievable – and nothing less!

From: [REDACTED]
To: [REDACTED]
Date: 7/28/2011 9:02 AM
Subject: 2011-016-SIP-NR

07/28/2011 09:08 AM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Victor
Last Name: Insko
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Frisco
State: TX
Zip Code: 75033
Phone Number: [REDACTED]
Fax Number: [REDACTED]

Rule: 2011-016-SIP-NR

Comments:

It concerns me that some play areas east of the battery salvage plant in the central part of our City are high in lead content and I wonder how that happened since the prevailing strong winds seem to come from the south; maybe the key word is "strong" and the fallout is spread over a larger area; but I wonder how the high lead levels could be cleaned up in the high content areas where children play

My experience has been ten years working in the City offices at Main and Forth six days a week and also since July 2006 on a daily basis in the new City Hall. I was tested both by my physician and again during the City wide blood-lead testing conducted earlier this past year; in both cases the lead level was said to be insignificant and below acceptable levels.

From: [REDACTED]
To: [REDACTED]
Date: 8/8/2011 9:44 AM
Subject: 2011-024-MIS-NR

08/08/2011 09:51 AM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Carolyn
Last Name: Kresek Lis
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Frisco
State: TX
Zip Code: 75035
Phone Number: [REDACTED]
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

I support the agreed order with Exide Technologies EXCEPT that I believe a wet electrostatic precipitator needs to be included as part of the reasonably available control technology used to achieve the required lead NAAQS.

I understand the agreed order is in support of the state implementation plan for lead NAAQS -- an air standard. However, I'm also deeply troubled by potential community contamination from lead via groundwater, soil and stormwater run-off. The 2009 EPA inspection of Exide Technologies uncovered what I consider gross negligence with regards to stormwater management, lead soil contamination in excess of federal standards and possible groundwater contamination.

I urge TCEQ to form a multi-discipline team to address ALL lead contamination issues -- air, soil and water - associated with the Exide Technologies facility in Frisco.

I greatly appreciate TCEQ's outreach to the public in this matter, including access to documents online via your webpage and the two TCEQ public meetings held in Frisco this year.

From: [REDACTED]
To: [REDACTED]
Date: 7/28/2011 4:52 PM
Subject: 2011-024-MIS-NR

07/28/2011 05:02 PM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Shiby
Last Name: Mathew
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Frisco
State: TX
Zip Code: 75034
Phone Number: [REDACTED]
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

I strongly disagree with the agreement that the state and TCEQ has made with Exide. In an Example a Child has internal bleeding, do we suggest let's keep testing to find and control the bleeding till Nov 2012. I am for sure no doctor or parent in their right mind would agree to this then WHY are you agreeing to let EXIDE have the opportunity to bring things under control till NOV 2012. Are we waiting for our Children to be tested with Cancer and disabilities before the TCEQ or the State is able to do something about it. I think the Residents in Frisco are pretty clear that they need LEAD out of Frisco.

From: [REDACTED]
To: [REDACTED]
Date: 8/7/2011 9:34 AM
Subject: 2011-024-MIS-NR

08/07/2011 09:45 AM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Riley
Last Name: Wilson
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: Frisco
State: TX
Zip Code: 75035
Phone Number: [REDACTED]
Fax Number: [REDACTED]

Rule: 2011-024-MIS-NR

Comments:

I don't want Exide to continue to have poisons spewing into our air here in Frisco. I don't want the battery plant here and never did. However, since it is here, I demand they clean up their act and lower the emissions as much as possible.

From: [REDACTED]
To: [REDACTED]
Date: 8/8/2011 10:30 AM
Subject: 2011-024-MIS-NR

08/08/2011 10:36 AM

This email is a confirmation of the comment that was submitted for the referenced rulemaking.

First Name: Jay
Last Name: Woody
Company/Organization:
E-mail Address: [REDACTED]
Street Address: [REDACTED]
City: frisco
State: tx
Zip Code: 75034
Phone Number: [REDACTED]
Fax Number:

Rule: 2011-024-MIS-NR

Comments:

To Whom it May Concern,
As a doctor and a father of two young kids living in Frisco, I was shocked to learn that there were emissions in the air from Exide's plant. Unacceptable. I urge Exide to use the technology available to reduce the toxic lead emissions to the maximum level achievable.

No community should have to carry the burden of a lead smelter's known toxic emissions – especially when proven technology is readily available to minimize lead and other toxic emissions to very low emission and higher protection levels.

The children of Frisco are depending on Exide to do the right thing.

No community should have to carry the burden of a lead smelter's known toxic emissions –especially when proven technology is readily available to minimize lead and other toxic emissions to very low emission levels.

I request that Exide's toxic lead emissions be reduced to the maximum level achievable – and nothing less!

Thank you for your consideration,
Jay Woody, MD

Sender's Direct Information:
JAMES R. SCHNURR
(214)431-0201
E-Mail: jschnurr@bhlaw.net

August 7, 2011

Received

AUG 08 2011

Air Quality Division

Ms. Holley Brightwell
MC 206, Air Quality Division, Chief Engineer's Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: Comments Concerning Exide Technologies, Frisco, Collin County, Texas
("Exide"); Agreed Order between the TCEQ and Exide Technologies; Project
No. 2011-024-MIS-NR

Dear Ms. Brightwell:

Our law firm represents Jim Mallett, an individual that resides in Richardson, Texas. Mr. Mallett's son, daughter-in-law and grandson live in Frisco, Texas and Jim visits them in Frisco 3-5 times a week. He is deeply concerned for the health and welfare of his family as well as his own health, given the significant amount of time Jim spends in Frisco. This comment letter is to voice our extreme displeasure with the proposed Agreed Order and SIP Revision plan that is aimed at reducing the lead emissions at the Exide Technologies recycling plant in Frisco.

The proposed SIP revision and Agreed Order are designed, at best, to move Exide JUST BELOW the threshold requirements to reach attainment. While the current EPA lead requirement is 0.15 micrograms per cubic meter (" $\mu\text{g}/\text{m}^3$ "), the future case modeling analysis contained in the proposed SIP plan anticipates that Exide will attain a maximum three-month rolling average of 0.14739 $\mu\text{g}/\text{m}^3$, an amazing 0.00261 JUST BELOW the requirement. However, a closer inspection and analysis of the proposed SIP revision reveals that this is not a realistic number.

The report of Jess A. McAngus, P.E., Q.E.P. and Holly George, with Spirit Environmental, LLC., is attached to this comment letter as **Exhibit A**. Mr. Mallet hired Mr. McAngus to analyze the proposed SIP revision and to comment on the same from a technical standpoint. His credentials and biography are included in his report. Mr. McAngus was able to identify several problems and issues concerning the proposed SIP revision. Errors that Mr. McAngus identified in his report include:

- Background Concentration of Lead not included in modeling;
- Base Case Modeling does not include all sources;
- Mysterious Source 999 was previously not known and now is assumed to be controlled 100%;
- Future Case Modeling does not use the proposed Allowable Emission Rate, (presently, the TCEQ does not know what the proposed Allowable Emissions will be);
- 100% control of fugitive sources is unrealistic, especially when considering the existing “culture” Exide has demonstrated regarding control of fugitive emissions;
- Modeling of Allowable Emissions also demonstrates nonattainment of SO₂ and PM_{2.5} NAAQS;
- RACT/RACM analysis does not include all viable technologies; and
- Wet Electrostatic Precipitator control is RACT.
Our recommendations for improving the Proposed Lead SIP include:
- Use a 90% control efficiency for capture and control of fugitive emissions;
- Prepare proposed Allowable Emission Rates that coincide with the proposed SIP and proposed Agreed Order;
- Re-do Future Case Modeling with corrected Allowable Emissions Rates (90% control of fugitive emissions) and include background lead concentrations of between 0.03 – 0.10 µg/m³;
- Model all site-wide emissions of all pollutants and toxics to demonstrate compliance with all NAAQS and State Health Effects Guidelines; and
- Re-consider WESP Technology as RACT.

Each of the issues above is further detailed in Mr. McAngus’ report. As his report shows, this proposed SIP revision is not only flawed, but it will not result in attainment by Exide. We are requesting that the TCEQ amend the proposed SIP revision to take into consideration the calculations and factors addressed in Mr. McAngus’ report.

Beyond the lead emissions into the air, the findings contained in the EPA Region 6 Multimedia Inspection Report dated September 13, 2010 reveal that in addition to the non-attainment concerning the air emissions on the property, additional contamination problems are prevalent throughout the approximately 275 acres on which the Exide recycling plant exists. The

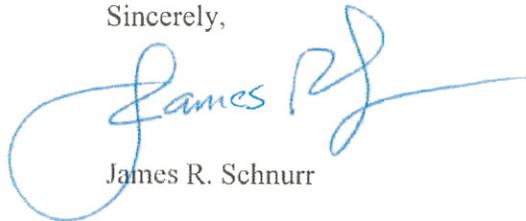
Ms. Holly Brightwell
August 8, 2011
Page 3

EPA conducted site visits on December 14-18, 2009, March 15-16, 2010, and on March 29, 2010 and determined that significant soil contamination and water contamination to Stewart Creek, a tributary to Lake Lewisville, continue on the property. Critical problems were identified in and along Stewart Creek, the bail stabilization area on the property, the area of the plant crystallizer, the South Disposal area on the property, the North Disposal area on the property, the North Landfill, the Boneyard (immediately adjacent to Stewart Creek), the plant's container storage area, and with the floodwall that separates the process area from Stewart Creek. Amazingly, none of these issues are being addressed by this proposed SIP revision – which begs the question – how is it possible that the TCEQ has missed and/or ignored all of the problems identified in the EPA's multimedia inspection report?

In addition to amending and revising both the SIP revision and Agreed Order to actually have a chance at compliance, we would strongly urge the TCEQ not to stop there. As a separate issue, we additionally are requesting that the TCEQ move with all due speed to take immediate enforcement action to address the KNOWN soil, surface-water and ground-water contamination on the Exide property. While we recognize that the soil and water contamination issues cannot be addressed in this proposed SIP revision or Agreed Order, we think it would be unconscionable for the TCEQ to only address the air non-compliance and stop there. The proposed SIP revision and Agreed Order are only the first step. The health and welfare of Mr. Mallett and his family as well as the health and welfare of all of the residents of Frisco and Collin County depend not only on getting this proposed SIP revision and Agreed Order right, but, to the extent that the TCEQ has jurisdiction, actually addressing and eliminating ALL of the contamination issues that exist on Exide property.

In conclusion, we are requesting that, at a minimum, the TCEQ revise this proposed SIP revision and Agreed Order to ensure compliance with the 0.15 $\mu\text{g}/\text{m}^3$ EPA requirement. As Mr. McAngus' report shows, the current proposed SIP revision and Agreed Order fail to hold Exide to this minimum standard as the TCEQ's calculations and assumptions utilized in the proposed SIP revision and Agreed Order fall short of actual compliance with the EPA mandate.

Sincerely,



James R. Schnurr

cc: Jim Mallett

EXHIBIT A

Comments
Proposed Collin County Lead SIP (2011-001-SIP-NR)
and
Agreed Order (2011-024-MIS-NR)

Prepared for
JIM MALLET

FOR SPIRIT ENVIRONMENTAL, LLC

Holly George

Holly George

Jess A. McAngus

Jess A. McAngus, P.E., Q.E.P.

11.181.00

August 8, 2011

17350 State Highway 249
Suite 249
Houston, Texas 77064



281-664-2490 (main)
281-664-2491 (fax)
www.SpiritEnv.com

I. Objective

We have been asked by Jim Mallett to review the Proposed 2011 Collin County Attainment Demonstration State Implementation Plan (“SIP”) Revision for the 2008 Lead National Ambient Air Quality Standard (“NAAQS”) (2011-001-SIP-NR), and also the associated Proposed Agreed Order (2011-024-MIS-NR).

II. Summary

On October 15, 2008, the United States Environmental Protection Agency (“EPA”) substantially strengthened the NAAQS for lead. The new standard, set at 0.15 micrograms per cubic meter (“ $\mu\text{g}/\text{m}^3$ ”) measured as a rolling three-month average, is 10 times more stringent than the previous standard established in 1978 of 1.50 $\mu\text{g}/\text{m}^3$, measured as a quarterly average. Effective December 31, 2010, EPA designated an area surrounding Exide Technologies (“Exide”) located in Frisco, Collin County, as nonattainment for the 2008 lead NAAQS¹.

The Proposed 2011 Collin County Attainment Demonstration SIP and associated Proposed Agreed Order were published by the Texas Commission on Environmental Quality (“TCEQ”) on June 21, 2011. The comment period for this Proposed SIP and Agreed Order closes on August 8, 2011.

Even though the TCEQ has expended a tremendous amount of work on this Proposed SIP and Agreed Order unfortunately, the Proposed SIP contains numerous errors and the Proposed SIP will not result in attainment of the new Lead NAAQS. In this report, the errors we have identified are discussed and we provide our recommendations for attainment of the Lead NAAQS.

A summary of the errors identified to-date includes:

- Background Concentration of Lead is not included in modeling analyses;

¹ Federal Register, November 22, 2010, 75 FR 71033, and 71044.

- Base Case Modeling does not include all sources;
- Mysterious “Source 999” was previously unknown and now is assumed to be controlled 100%;
- Future Case Modeling does not use the proposed Allowable Emission Rate, (presently, the TCEQ does not know what the proposed Allowable Emissions will be);
- 100% capture of fugitive sources is unrealistic, especially when considering the existing “culture” Exide has demonstrated regarding capture and control of fugitive emissions;
- Modeling of Exide’s Allowable Emissions also demonstrates nonattainment of SO₂ and PM_{2.5} NAAQS, including portions of Denton County;
- RACT/RACM analysis does not include all viable technologies; and
- Wet Electrostatic Precipitator (“WESP”) control is RACT.

Our recommendations for improving the Proposed Lead SIP include:

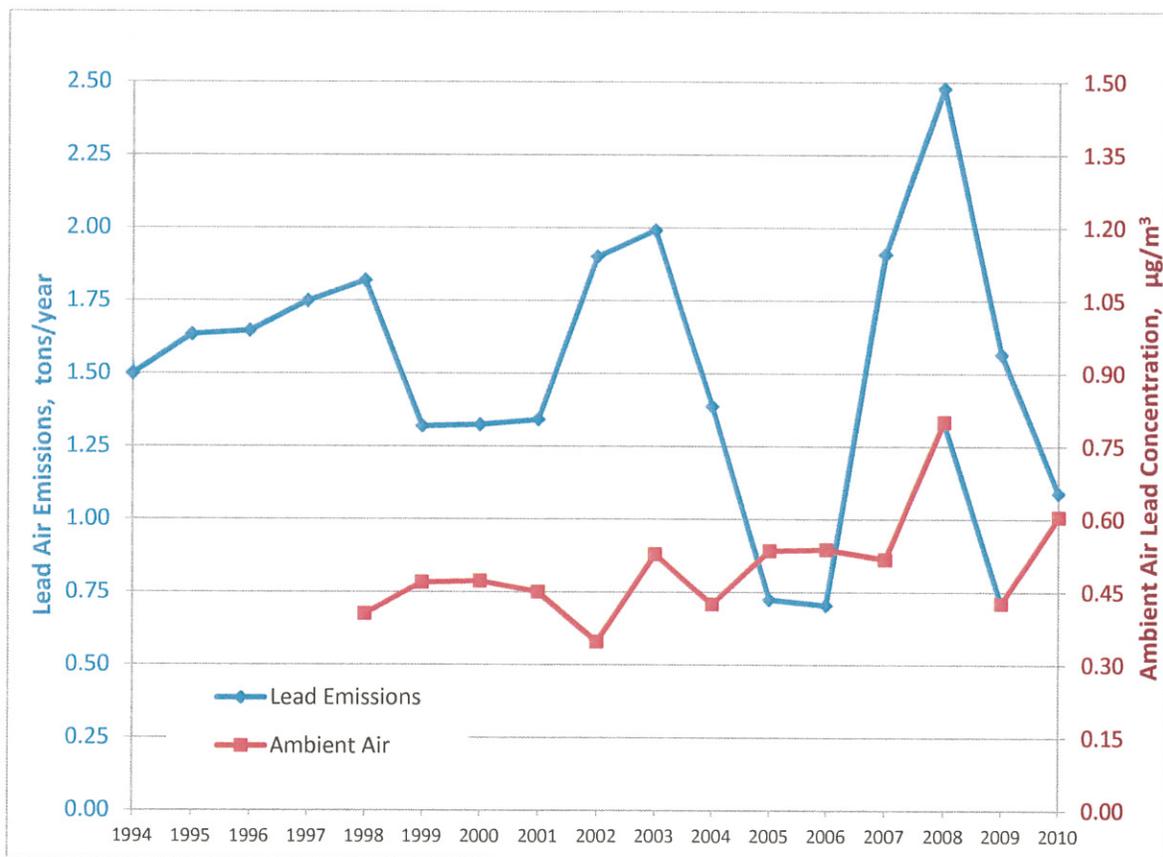
- Use a 90% capture efficiency for fugitive emissions;
- Prepare proposed Allowable Emission Rates that coincide with the Proposed SIP and Proposed Agreed Order;
- Re-do Future Case Modeling with corrected Allowable Emissions Rates (90% capture of fugitive emissions) and include background lead concentrations of between 0.03 – 0.10 µg/m³;
- Model all site-wide emissions of all pollutants and toxics to demonstrate compliance with all NAAQS and State Health Effects Guidelines; and
- Re-consider WESP Technology as RACT.

III. Exide Emission Inventories

We reviewed the historic Exide Frisco Plant emission inventories and observed that the reported data did not appear to be consistent. The lead emission inventory data for 1994 – 2010 is shown on Figure 1. All of the data except for 2010 was taken from the EPA Toxic Release Inventory (“TRI”) data.

This figure also shows the Frisco area ambient air lead concentrations for 1998 – 2010. This data is for the monitor located to the north of the Exide site, (Monitor No 480850009). We took the four quarterly averages for the year and averaged the data for the annual concentration shown.

Figure 1
Exide Technologies - Frisco, Texas
Lead Emissions and Ambient Air Lead Concentrations



Note that the data suggest that the emission inventory data for 2005 and 2006 are grossly underestimated, as the ambient air concentrations do not drop. The ambient air concentrations would have been expected to be much lower. In addition, note that the ambient air concentrations of lead are trending upward.



A comparison of the emission inventory data and the ambient air lead concentrations suggests that there is not a good correlation between the reported emissions of lead reported by Exide and what the ambient air monitor records.

IV. Background Lead

For the Base Case Modeling Analysis and the Future Case Modeling Analysis, the TCEQ assumed that the background concentration of lead was zero ($0.00 \mu\text{g}/\text{m}^3$).² The TCEQ's Future Case Analysis demonstrated that the maximum three-month rolling average of lead would be $0.14739 \mu\text{g}/\text{m}^3$, achieving the Lead NAAQS by just $0.00261 \mu\text{g}/\text{m}^3$, or would be at 98.3% of the NAAQS, ($0.15000 - 0.14739 = 0.00261$; $0.14739/0.15000 = 98.3\%$).³ The TCEQ indicates that there are no lead sources within 50 kilometers (~30 miles) of the Exide site and therefore, the background concentration is zero. However, as is shown in the following sections, there are still thousands of lead sources in the U.S. which contribute to a background lead concentration. In addition, because the modeled concentration is so close to the NAAQS, it is imperative on the TCEQ include the lead background concentration to ensure compliance.

A. State Lead Background Guidance

For regulatory modeling, a baseline concentration is always included. For example, in TCEQ historic modeling guidance for State NAAQS Analysis, the TCEQ required applicants to include a background concentration obtained from the TCEQ.⁴ These background concentrations were to be obtained from the agency or obtained from the agency internet site. We reviewed the TCEQ website and found the most recent "Screening Background Concentrations" memo. For this memo, the minimum lead background concentration to be used was $0.10 \mu\text{g}/\text{m}^3$, 3-month average.⁵

² TCEQ, "2011 Collin county Attainment Demonstration State Implementation Plan Revision for the 2008 Lead NAAQS, June 22, 2011, page 3-6 and page 3-18.

³ *Ibid*, page 3-21.

⁴ TNRCC, "Air Quality Modeling Guidelines," RG-25 (Revised), February 1999, page 17.

⁵ TNRCC, "Screening Background Concentrations," Dom Ruggeri to NSRPD Technical Staff, September 4, 1998.

B. EPA Lead Background Concentration

EPA in several documents lists lead ambient air background concentrations. For example, in the proposed Lead NAAQS regulation, EPA indicates that there are 13,000 industrial, commercial, or institutional point sources of lead in the 2002 National Emission Inventory.⁶ In addition, EPA estimates that there are approximately 3,000 airports at which leaded gasoline is used. This data demonstrates that there are many sources of lead throughout the U.S.

EPA reviewed all of the lead monitoring data in the U.S. for the 2003 – 2005 time frame. For the source-oriented monitors, the average quarterly mean concentration was 0.48 $\mu\text{g}/\text{m}^3$, (this would include the monitors around the Exide, Frisco site). For non-source oriented monitoring sites, the average maximum quarterly mean concentration was 0.03 $\mu\text{g}/\text{m}^3$. This non-source average was based upon 189 monitoring sites.

In a report prepared for the U.S. Department of Health and Human Services, a survey of urban air revealed a maximum quarterly mean concentration of 0.08 $\mu\text{g}/\text{m}^3$ and rural quarterly concentrations were 0.04 $\mu\text{g}/\text{m}^3$.⁷

In EPA's User's Guide for the Integrated Exposure Uptake Biokinetic Model for Lead in Children ("IEUBK"), EPA recommends using a 0.10 $\mu\text{g}/\text{m}^3$ concentration of lead in air. In the same document EPA also documents that the State of California uses a default lead in air concentration of 0.028 $\mu\text{g}/\text{m}^3$ for their LeadSpread 7.0 risk model.⁸

In the final rule for the new Lead NAAQS, EPA indicates that for large sources of lead emissions (>1 ton/year), "*over a period of time, emissions from these sources have been deposited in*

⁶ Federal Register, May 20, 2008, 73 FR 29190.

⁷ Report on Carcinogens, Background Document for Lead and Lead Compounds, U.S. Department of Health and Human Services, May 8, 2003, page 32.

⁸ EPA, "User's Guide for the Integrated Exposure Uptake Biokinetic Model for Lead in Children ("IEUBK"), EPA 9285.7-42, 540-K-01-005, May 2007, page APP-14.



neighboring communities (e.g. on roadways, parking lots, yards, and off-plant property). This historically deposited lead, when disturbed, may be re-entrained into the ambient air and may contribute to violations of the lead NAAQS in the affected areas.” As demonstrated, the Exide facility has a long history of emitting lead emissions that have been deposited in the Frisco area. This lead has and continues to be re-entrained in the air and contributes to the background concentration of lead in the air in and around the Frisco area. The TCEQ cannot claim that there is no background lead in the ambient air in the Frisco area. In fact, because of the historic emissions of lead, the background concentration of lead is most likely higher in the Frisco area than in other non-lead source areas.

C. Recommendation - Background Lead Concentration

Based upon the data presented and to ensure the TCEQ presents an accurate Lead NAAQS attainment demonstration, we recommend that the TCEQ remodel the lead attainment demonstration and use a background lead concentration of between $0.03 \mu\text{g}/\text{m}^3$ and $0.10 \mu\text{g}/\text{m}^3$. When the background lead concentration is added to the TCEQ's demonstrated ambient air lead concentration, the result is $0.177 \mu\text{g}/\text{m}^3 - 0.247 \mu\text{g}/\text{m}^3$. These concentrations are well above the 2008 Lead NAAQS of $0.150 \mu\text{g}/\text{m}^3$. Even taking the lowest recommended background lead concentration of $0.028 \mu\text{g}/\text{m}^3$, and adding this to the TCEQ's maximum modeled concentration, results in a total lead concentration of $0.175 \mu\text{g}/\text{m}^3$, still well above the Lead NAAQS.

The TCEQ should review the Frisco area ambient air lead monitoring data when the wind was blowing upwind of each monitor and determine the background lead concentration for the Frisco area. This concentration should then be added to all future modeling demonstrations.

V. Lead Modeling - Realistic Case

In reviewing the TCEQ Future Case Analysis, we discovered several significant errors in the TCEQ analysis. These errors are discussed initially and then we provide a revised modeling analysis with corrected emission rates and realistic emission control efficiency assumptions.

A. Source 21- Soft Lead Refining and Feed Dryer Baghouse Stack

For the Future Case Analysis, the TCEQ used the wrong lead emission rate for Source 21, Soft Lead Refining and Feed Dryer Baghouse Stack. Even though we do not agree with the methodology used by the TCEQ in the Future Case Analysis, the TCEQ did not follow their own methodology, made a mistake, and modeled a lead emission rate that was too low. (We believe the TCEQ should have used a Future Case – Allowable Emission Rate for their Future Case Analysis. The Future Case – Allowable Emission Rates have never been provided by the TCEQ.)

The methodology used by the TCEQ to determine the Future Case Emission Rate for all baghouse stacks associated with the soft lead and hard lead production (Sources 18, 21, 22, 23, 37, 38, 39, 45, and 48) was to base the emissions on historic stack test data and ratio the stack test data to a maximum lead production rate. For historic stack tests, for which there was no corresponding production rate, a production rate for other historic stack tests was assumed. For many of these sources stack tests were available for the years 2003, 2005, 2007 and 2009.

(Note: We find it is very surprising that the TCEQ did not require an annual stack test of all lead emitting sources. We request that in future permit amendments and/or Agreed Orders that all lead emitting sources be tested at least annually.)

The procedure used by the TCEQ was to average all of the stack tests that were taken during one year and average the lead emission rate. The TCEQ would then correct the emission rate to a maximum production rate of 400 tons per day. For example, if the production rate during a stack

test was 200 tons per day, the average stack test emission rate would then be multiplied by the ratio of 400 tons per day to the stack test production rate (200 tons per day), or by 2.0 (400/200 = 2.0). The individual corrected average stack test emissions would then be averaged for all of the available stack tests.

For Source 21, the TCEQ only used the stack tests from 2005, 2007, and 2009. The TCEQ claimed that *“the data from the 2003 stack test were not considered as the calculated rates were over 10 times higher than any other test. Since the 2003 values are so much higher than other tests, they are judged to be anomalies and not indicative of normal operations.”*⁹ An examination of the stack test data indicates that this is not the case. Shown on Table 1 is a reproduction of the stack test data presented by the TCEQ for Source 21.

Table 1
Source 21 Stack Test Details¹⁰

Source ID	Modeled Rate (lb/hr)	Stack Test Date	Production (ton/day)	Corrected Max. Rate (lb/hr)	Avg. Test Rate (lb/hr)	Stack Test Rate (lb/hr)	
21	0.1743	2003	235	0.7730	0.4542	0.3800	
						0.4875	
						0.4950	
		2005	216	0.0340	0.0184	0.0184	0.0141
							0.0147
							0.0263
		2007	216	0.4074	0.2200	0.2200	0.2100
							0.2300
		2009	235	0.0815	0.0479	0.0479	0.0359
							0.0566
							0.0511

As can be seen from this table, the data from 2003 is not more than 10 times higher than any other test. Looking at the data from 2007, the ratio of the 2003 data to 2007 data is a little over 2 times (0.4542/0.2200 = 2.06). Thus the data for Source 21 needs to be corrected to include the

⁹ TCEQ, “2011 Collin County Attainment Demonstration State Implementation Plan Revision for the 2008 Lead NAAQS, June 22, 2011, page 3-15.

¹⁰ *Ibid*, Table 3-6, page 3-13.



stack test data from 2003. Shown on Table 2 is the corrected data, which includes the stack test data from 2003.

Table 2
Corrected Stack Test Data for Source 21

Source ID	Modeled Rate (lb/hr)	Stack Test Date	Production (ton/day)	Corrected Max. Rate (lb/hr)	Avg. Test Rate (lb/hr)	Stack Test Rate (lb/hr)	
21	0.3240	2003	235	0.7730	0.4542	0.3800	
						0.4875	
						0.4950	
		2005	216	0.0340	0.0184	0.0184	0.0141
							0.0147
							0.0263
		2007	216	0.4074	0.2200	0.2200	0.2100
							0.2300
		2009	235	0.0815	0.0479	0.0479	0.0359
							0.0566
							0.0511

This corrected table shows that the correct lead emission rate for Source 21 is 0.3240 pounds per hour. This corrected emission rate is 85.9% higher than the emission rate the TCEQ used in its Future Case Analysis. The TCEQ provided in Table 3-12 of the Proposed SIP, the individual source contribution at the location of the maximum predicted concentrations. Because these concentrations are directly proportional to the emission rate, we can determine the change in the maximum concentration by ratioing the emission rates. For the TCEQ's Future Case Analysis using the 0.1743 lb/hr emission rate for Source 21, the Source 21 contribution is 0.04009 $\mu\text{g}/\text{m}^3$. The corrected contribution is:

$$0.04009 \mu\text{g}/\text{m}^3 \times \frac{0.3240 \text{ lb/hr}}{0.1743 \text{ lb/hr}} = 0.07452 \mu\text{g}/\text{m}^3$$

This corrected concentration is 0.03443 $\mu\text{g}/\text{m}^3$ higher, (0.07452 – 0.04009 = 0.03443). This value when added to the maximum predicted three-month rolling concentration of 0.14739 $\mu\text{g}/\text{m}^3$ results in a corrected maximum of:

$$0.14739 \mu\text{g}/\text{m}^3 + 0.03443 \mu\text{g}/\text{m}^3 = 0.18182 \mu\text{g}/\text{m}^3$$



This concentration is $0.03182 \mu\text{g}/\text{m}^3$ higher than the Lead NAAQS of $0.150 \mu\text{g}/\text{m}^3$. If you also add the background concentration of $0.030 - 0.100 \mu\text{g}/\text{m}^3$, you result in a corrected concentration of $0.21182 - 0.28182 \mu\text{g}/\text{m}^3$ or a maximum concentration that is 41 - 88% higher than the Lead NAAQS.

B. Source 999 – “Battery Breaker Operation”

For the Base Case Analysis, TCEQ compared preliminary modeling results with monitored off-property concentrations of lead and concluded that one or more emissions sources were not identified in Exide’s current New Source Review (“NSR”) permits. An analysis of the modeling results and discussions with Exide required TCEQ to develop and include parameters for a previously unknown and unreported Source 999, “Battery Breaker Operation.” The TCEQ has agreed with Exide’s conclusion that the only unknown source of lead emissions is the Battery Breaker Operation. The TCEQ does not have definitive proof that the Battery Breaker Operation is the source of missing lead emissions. It is just as likely that there may be other lead sources that were not previously reported and remain unreported to this day. Neither Exide nor the TCEQ have done the necessary sampling of this operation to come to the conclusion that the only source of the missing lead emissions is the Battery Breaking Operations.

A detailed description of TCEQ’s methodology and rationale is included in the SIP in Section 3.3.1.2 Other Sources. What is remarkable is that this previously unidentified Source 999 accounts for nearly 42% of the Base Case Analysis’ maximum predicted lead concentration, as shown in Table 3-5 of the SIP. In light of this, Exide’s assertion that all fugitive areas have been identified and, furthermore, will be captured and controlled with 100% efficiency is at best highly suspect.

What is very concerning is that if Exide’s conclusion and the TCEQ’s agreement that the “missing source” of lead emissions is not the Battery Breaking Operations or is not all of the missing sources, then Exide will continue to emit these sources and the ambient air

concentrations of lead will continue to far exceed the Lead NAAQS. The TCEQ has estimated that the concentration of these “missing sources” is $0.328 \mu\text{g}/\text{m}^3$, or over 218% of the NAAQS.

The TCEQ cannot assume that the Battery Breaker Operation is the only source of the missing lead emissions. The TCEQ must and we request that the TCEQ perform the necessary sampling to accurately identify the “missing sources” of lead emissions. If these are fugitive sources, then sampling immediately upwind and downwind of this source must be performed in order to eliminate other potential upwind and downwind sources of lead.

C. Fugitive Emission Capture and Control Efficiency

The TCEQ Future Case Analysis assumes that all lead emissions associated with fugitive areas that are to be enclosed with permanent total enclosures (“PTE”) (Base Case Model IDs 10, 35, 36, 44, 52, 53, and 999) will be captured with 100% efficiency and therefore have no emissions. We believe this capture and control efficiency is too optimistic. The work practices in place in these fugitive areas (e.g. material not stored in containers) could allow lead dust to be tracked outside the building and therefore not captured or controlled by the permanent total enclosure. The use of 90% capture efficiency is more realistic and consistent with findings of TCEQ’s contractor, the Eastern Research Group, Inc. (“ERG”).¹¹

In addition, the past and current operating practices of the Exide Frisco Plant have demonstrated that the plant has a “culture” of not controlling fugitive emissions properly. The plant has been inspected four times within the last two years by EPA and by the TCEQ’s contractor, ERG. The EPA conducted site visits in December 2009, March 2010, and December 2010.¹² For each of the site visits, EPA took pictures of the operations of the site. These pictures for each site visit demonstrated holes in roofs and walls of fugitive emissions “enclosures,” waste materials lying outside of the “controlled” areas, doors that were either missing or left open, leaks of materials,

¹¹ Comprehensive Evaluation of Air Quality Control Technologies used for Lead-Acid Battery Recycling dated April 11, 2011 and revised May 17, 2011; Section 4.1.

¹² EPA Region 6 Multi-Media Inspection Report, December 14 – 18, 2009, Corrective Action Inspection, March 15th, 16th, and 29th, 2010, EPA Region 6 Enforcement Section, Air Inspection Report, December 9, 2010.

etc. All of these conditions demonstrate that Exide has not and does not take fugitive controls seriously enough to claim 100% capture and control of fugitive emissions.

In March 2011, TCEQ sent its contractor, ERG, to the site to review the emission controls and technologies¹³. Some of the comments included in the ERG report include:

*A general observation of all the structures is that they are in need of a thorough inspection and repair of the roof and siding materials. Many areas along the foundation of the buildings require repairs to minimize dust emissions.*¹⁴

*The battery breaking area is currently partially enclosed in a three sided building...The overall cleanliness in this area is poor and pavement cleanings inside the partial enclosure appear minimal...there appears to be significant room for improvement in control of fugitive emissions from this area.*¹⁵

*“Based upon observation of this building (Materials Storage and Handling) the true effectiveness of the enclosure at controlling fugitive emissions from the storage piles is questionable. There is a large opening between the materials handling area and the battery breaking area that may make it difficult to maintain the raw materials storage area at sufficient negative pressure. Overall, the facility did not provide strong evidence of sufficient ventilation to maintain this area under adequate negative pressure to effectively control fugitive lead emissions.”*¹⁶

*“The area (Smelting Furnace Area) was generally dusty and particulate emissions from the furnace were observed in the air surrounding the furnaces.”*¹⁷

*“There is evidence that the cover plates over the kettles are bent or not fitted tightly and may be resulting in incomplete closure of the ventilation system.”*¹⁸

*“The lead oxide process is contained in a totally enclosed room that is not maintained at negative pressure.”*¹⁹

*“...the pavement appears to be old and is cracked in many areas, making it potentially difficult to properly clean.”*²⁰

¹³ ERG, Inc., “Comprehensive Evaluation of Air Quality Control Technologies Used for Lead-Acid Battery Recycling,” April 21, 2011, page 5.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*, page 6.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Ibid.*

This sampling of quotes from the TCEQ's contractor makes it clear that the Exide Frisco Plant does not take fugitive emission capture and controls seriously. The EPA photos and the TCEQ's contractor observations are, most likely, a "best-case" view of the operations of the plant, as these inspections were announced and Exide, if it wanted to, could have cleaned up the facility prior to the inspections.

ERG, in their report, indicates: "*A control efficiency of 90% was assumed for fugitive emission sources located in PTEs.*"²¹ Because of Exide's performance and the TCEQ's contractor's recommendation, we request that the TCEQ use a 90% capture and control efficiency for fugitive emissions in the TCEQ's corrected Future Case Analyses.

D. Summary of Source Parameters and Emission Rates

Detailed information concerning the models and input parameters are presented in Chapter 3 of the Proposed SIP Revision and is not discussed here. We obtained from the TCEQ the modeling and meteorological files used by the TCEQ for their SIP demonstration modeling.

The modeling analysis presented here utilizes the same files²² and input parameters used by the TCEQ in their Future Case Analysis, but corrects the fugitive area emissions rates (modeled as area sources) to be more reflective of reality. The fugitive area parameters were copied directly from the Base Case Model and the emission rates reduced to 10% of their Base Case rates (assumes 90% capture and control).

The emission rates for Sources 21 and 39 are also updated, as discussed in Sections V.A and V.B.

The point source parameters and emission rates from the Future Case Analysis, except for Sources 21 and 39 are unchanged in this analysis and presented in Table 3 below. Please note

²¹ *Ibid*, page 13.

²² Files obtained from Matthew Kovar, TCEQ, on July 18, 2011 via File Transfer Protocol ("FTP") site.

this table is nearly identical to Table 3-8: Future Case Point Source Parameters presented in the Proposed SIP Revision.

Table 3
Point Source Parameters

Source ID	Easting (X)	Northing (Y)	Elevation	Stack Height	Temp	Exit Velocity	Stack Diameter	Emission Rate
	(m)	(m)	(m)	(m)	(°K)	(m/s)	(m)	(lb/hr)
11	702713	3668797	194.89	16.76	369.26	12.04	0.3048	0.0021
12	702713	3668794	194.87	16.76	369.26	8.50	0.3048	0.0043
13	702713	3668792	194.85	15.85	391.48	13.17	0.3048	0.0012
14	702721	3668793	194.95	16.76	327.59	27.96	0.5334	0.0055
15	702725	3668808	195.17	16.76	349.82	14.17	0.3810	0.0025
16	702718	3668803	195.00	17.37	369.26	13.47	0.2530	0.0014
17	702729	3668780	194.88	16.76	355.37	14.02	0.3810	0.0017
18	702628	3668768	193.70	30.63	312.73	4.98	1.6154	0.0275
21 ^[1]	702627	3668739	193.59	31.24	310.74	18.08	1.5210	0.3240
22	702686	3668804	194.63	22.86	304.17	15.05	0.8108	0.0086
23	702637	3668765	193.77	7.70	351.30	14.19	0.1778	0.0006
24	702722	3668783	194.85	16.46	369.26	11.49	0.3810	0.0017
25	702722	3668778	194.80	16.46	358.15	9.45	0.3810	0.0010
26	702736	3668783	194.97	9.14	355.37	11.58	0.1524	0.0004
37	702683	3668810	194.63	22.86	309.45	19.15	1.6764	0.0450
38	702620	3668772	193.65	50.29	315.25	15.94	1.3716	0.1005
39 ^[1]	702659	3668833	194.34	30.48	0*	21.56	0.9144	0.0513
45	702623	3668714	193.50	32.16	303.10	12.92	1.8044	0.0688
48	702585	3668771	193.38	15.77	0*	12.28	1.0097	0.0037
48A	702567	3668802	193.28	30.48	0*	15.52	1.5240	0.0047
10A	702636	3668805	193.96	30.48	0*	16.82	1.5240	0.0103
35A	702683	3668739	194.00	30.48	0*	19.80	2.1336	0.0238

* Denotes ambient temperature.

[1] Updated as described in Section V.B. and V.C.

The area source parameters and emission rates associated with loading operations (Model IDs 27 and 28) from the Future Case Analysis are unchanged in this revised modeling analysis and presented in Table 4 below. Please note these values are identical to those presented in Table 3-9: Base Case Area Source Parameters in the Proposed SIP Revision.



Table 4
Loading Area Source Parameters

Source ID	Easting (X)	Northing (Y)	Elevation	Height	Easterly Length	Northerly Length	Angle from North	Emission Rate
	(m)	(m)	(m)	(m)	(m)	(m)	(°)	(lb/hr)
27	702734	3668768	194.80	4.57	0.914	0.914	0	0.0006
28	702756	3668782	195.40	4.57	0.914	0.914	0	0.0013

The fugitive area source parameters from the Base Case Analysis are unchanged in this revised modeling analysis and presented in Table 5 below. Table 5 recreates the values presented in Table 3-4 Base Case Area Source Parameters in the Proposed SIP Revision and includes an additional column of for the “Modeled Emission Rate” used in this analysis. Please note that the emissions in the column “Modeled Emission Rate” are exactly 10% of the emissions in the column “Base-Case Emission Rate.” The Model IDs in Table 3-4 associated with road emissions (41, 42, and 43) are not included in this analysis as those emissions are controlled differently and modeled as an AreaPoly source ROAD.

Table 5
Fugitive Area Source Parameters

Source ID	Easting (X)	Northing (Y)	Elevation	Height	Easterly Length	Northerly Length	Angle from North	Base-Case Emission Rate	Modeled Emission Rate
	(m)	(m)	(m)	(m)	(m)	(m)	(°)	(lb/hr)	(lb/hr)
10	702643	3668771	193.87	4.57	28.96	24.38	-2	0.0800	0.0080
35	702654	3668740	193.79	4.57	22.86	30.48	-2	0.0000	0.0000
36	702646	3668755	193.80	4.57	32.00	15.24	-2	0.0100	0.0010
44	702591	3668760	193.42	3.99	24.38	41.15	-2	0.0300	0.0030
52	702632	3668766	193.72	4.57	21.34	16.76	-2	0.0100	0.0010
53	702616	3668762	193.58	1.83	16.76	19.81	-2	0.1300	0.0130
999	702555	3668760	193.21	1.00	40.00	40.00	-2	0.0380	0.0038



The AreaPoly source parameters and emission rate from the future case are unchanged in the analysis and presented in Table 6 and Table 7 below. Please note these values are identical to those presented in Tables 3-10: Future Case AreaPoly Source Parameters and 3-11: Vertices of AreaPoly Source Road in the Proposed SIP Revision.

Table 6
Area Poly Source Parameters

Source ID	Easting (X)	Northing (Y)	Elevation	Height	Vertices	Emission Rate
	(m)	(m)	(m)	(m)	(°)	(lb/hr)
ROAD	702532	3668809	193.02	1.00	9	0.0017

Table 7
Area Poly Source Vertices

Vertex	Easting (X)	Northing (Y)
(m)	(m)	(m)
1	702532	3668809
2	702807	3668880
3	702811	3668755
4	702867	3668755
5	702865	3668778
6	702830	3668776
7	702825	3668904
8	702527	3668833
9	702532	3668812

E. Summary of Realistic Modeling Analysis

Using these more realistic fugitive emissions estimates (assuming 90% capture and control), the corrected emission rate for Source 21, and the corrected emission rate for Source 39, the modeled lead concentration is 0.216 $\mu\text{g}/\text{m}^3$ without a background lead concentration, or 144% of the Lead NAAQS. When the background lead concentration is added to this concentration, the lead concentration becomes 0.246 – 0.316 $\mu\text{g}/\text{m}^3$ or 164 – 210% of the Lead NAAQS. Clearly the Exide Frisco Plant must provide significantly more real lead emission reductions.

VI. PM_{2.5} Modeling

We analyzed the air quality impacts of particulate matter less than 2.5 microns in diameter (“PM_{2.5}”) currently authorized by Exide’s TCEQ NSR Permits 1147A and 3048A. Although the permits do not specifically list PM_{2.5}, the particulate matter (“PM”) emissions exiting the baghouse stacks can be reasonably assumed to be smaller than 2.5 microns in diameter. Therefore, we modeled the PM permitted emission rates as PM_{2.5}.

Emission sources of PM_{2.5} that also emit lead and were included in either the Base Case Analysis or Future Case Analysis were modeled using the source parameters found in those cases. The emission sources of PM_{2.5} that did not also emit lead were modeled using the source parameters found in Exide’s 2010 Emissions Inventory Questionnaire (“EIQ”)²³.

The high 8th high 24-hour concentration of PM_{2.5} for years 2006 through 2010 are summarized in Table 8. The 8th high 24-hour concentration was recommended by the TCEQ as a reasonable approximation of the PM_{2.5} NAAQS.

Table 8
Comparison with PM_{2.5} 24-Hour NAAQS

Year	Concentration	Percent
	(µg/m ³)	(%)
2006	39	111%
2007	53	151%
2008	46	131%
2009	48	137%
2010	62	178%
NAAQS	35	--

This table demonstrates that the area around the Exide Frisco Plant is also nonattainment for PM_{2.5} due to the PM_{2.5} emission sources from Exide. As shown on Figure 2, the nonattainment area extends into Denton County.

²³ Proposed SIP Appendix C.



The point source parameters and emission rates are summarized in Table 9. The area source parameters and emission rates are summarized in Table 10. A plot of the PM_{2.5} nonattainment area for 2010 is included as Figure 2.

Table 9
Point Source Parameters

Source ID	Easting (X) (m)	Northing (Y) (m)	Elevation (m)	Stack Height (m)	Temp (°K)	Exit Velocity (m/s)	Stack Diameter (m)	Emission Rate (lb/hr)
14 ^[1]	702721	3668793	194.95	16.76	327.59	27.96	0.5334	0.3200
18 ^[1]	702628	3668768	193.70	30.63	312.73	4.98	1.6154	0.9800
21 ^[1]	702627	3668739	193.59	31.24	310.74	18.08	1.5210	1.5800
22 ^[1]	702686	3668804	194.63	22.86	304.17	15.05	0.8108	1.2800
23 ^[1]	702637	3668765	193.77	7.70	351.30	14.19	0.1778	0.2100
37 ^[1]	702683	3668810	194.63	22.86	309.45	19.15	1.6764	8.2100
38 ^[1]	702620	3668772	193.65	50.29	315.25	15.94	1.3716	4.6300
39 ^[1]	702659	3668833	194.34	30.48	0.00	21.56	0.9144	1.7100
45 ^[1]	702623	3668714	193.50	32.16	303.10	12.92	1.8044	2.8500
48 ^[1]	702585	3668771	193.38	15.77	0.00	12.28	1.0097	2.4800
54 ^[2]	702641	3668933	193.91	12.19	366.48	0.00	0.9144	0.0700
55 ^[2]	702651	3668995	194.19	12.19	366.48	0.00	0.9144	0.0700
56 ^[2]	702693	3669014	195.19	9.75	338.71	2.44	0.3048	0.0300
57 ^[2]	702688	3669004	194.79	9.75	338.71	2.44	0.3048	0.0300
58 ^[2]	702718	3668994	194.79	9.75	338.71	2.44	0.3048	0.0300
51 ^[2]	702615	3668963	193.73	21.34	308.71	0.00	0.9997	0.1700
49 ^[2]	702575	3668927	193.33	14.33	293.15	0.02	0.9144	0.3600
50 ^[2]	702575	3668923	193.32	14.33	293	0.02	0.9144	0.3600

* Denotes ambient temperature.

[1] Parameters taken from the Future Case Analysis Model

[2] Parameters taken from the 2010 EIQ

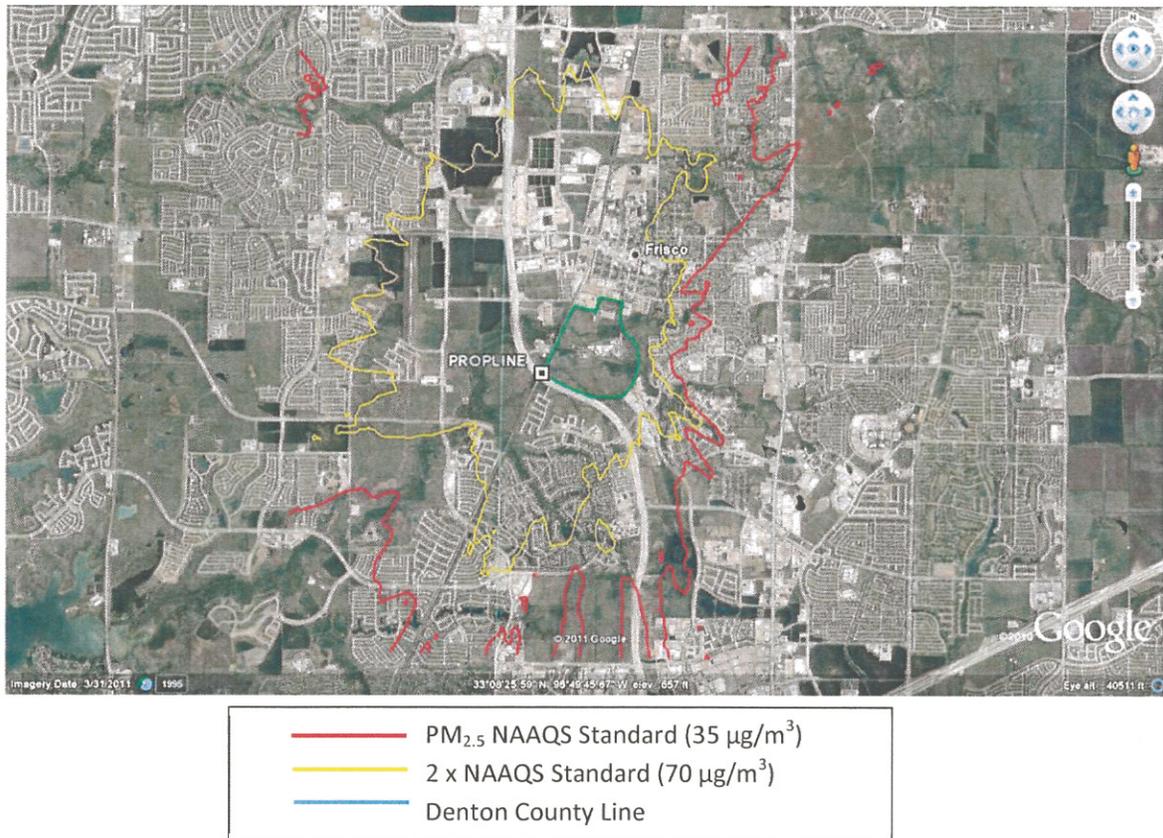


Table 10
Fugitive Area Source Parameters

Source ID	Easting (X)	Northing (Y)	Elevation	Height	Easterly Length	Northerly Length	Angle from North	Modeled Emission Rate
	(m)	(m)	(m)	(m)	(m)	(m)	(°)	(lb/hr)
10 ^[1]	702643	3668771	193.87	4.57	28.96	24.38	-2	1.8300
36 ^[1]	702646	3668755	193.80	4.57	32.00	15.24	-2	0.0300
41 ^[1]	702518	3668769	193.03	1.00	94.49	21.34	40	0.0708
42 ^[1]	702625	3668693	193.42	0.30	80.77	44.20	-2	0.0000
43 ^[1]	702703	3668745	194.26	0.30	62.48	39.62	-2	0.0000
44 ^[1]	702591	3668760	193.42	3.99	24.38	41.15	-2	0.7200
52 ^[1]	702632	3668766	193.72	4.57	21.34	16.76	-2	0.0700
53 ^[1]	702616	3668762	193.58	1.83	16.76	19.81	-2	0.4500
46 ^[1]	702721	3669021	195.74	1.52	42.06	34.14	90	0.0100

[1] Parameters taken from the Future Case Analysis Model

Figure 2
PM_{2.5} High 8th High for 2010



VII. SO₂ Modeling

We analyzed the air quality impacts of sulfur dioxide (“SO₂”) currently authorized by Exide’s TCEQ NSR Permits 1147A and 3048A.

Emission sources of SO₂ that also emit lead and were included in either the Base Case Analysis or Future Case Analysis were modeled using the source parameters found in those cases. The emission sources of SO₂ that did not also emit lead were modeled using the source parameters found in Exide’s 2010 Emissions Inventory Questionnaire (“EIQ”)²⁴.

The high 4th high 1-hour concentration of SO₂ for years 2006 through 2010 are summarized in Table 11. The 4th high 24-hour concentration was recommended by the TCEQ as a reasonable approximation of the SO₂ 1-hour NAAQS.

Table 11
Comparison with SO₂ 1-Hour NAAQS

Year	Concentration	Percent
	(µg/m ³)	(%)
2006	394	201%
2007	384	196%
2008	376	192%
2009	358	182%
2010	407	208%
NAAQS	196	--

This table demonstrates that the area around the Exide Frisco Plant is also nonattainment for SO₂ due to the emission sources from Exide.

The point source parameters and emission rates are summarized in Table 12 below. The area source parameters and emission rates are summarized in Table 13. A plot of the SO₂ nonattainment area for 2010 is included as Figure 3.

²⁴ SIP Appendix C.

Table 12
Point Source Parameters

Source ID	Easting (X)	Northing (Y)	Elevation (m)	Stack Height (m)	Temp (°K)	Exit Velocity (m/s)	Stack Diameter (m)	Emission Rate (lb/hr)
	(m)	(m)						
18 ^[1]	702628	3668768	193.70	30.63	312.73	4.98	1.6154	0.0400
21 ^[1]	702627	3668739	193.59	31.24	310.74	18.08	1.5210	5.3300
22 ^[1]	702686	3668804	194.63	22.86	304.17	15.05	0.8108	0.4200
37 ^[1]	702683	3668810	194.63	22.86	309.45	19.15	1.6764	21.3800
38 ^[1]	702620	3668772	193.65	50.29	315.25	15.94	1.3716	445.5900
54 ^[2]	702641	3668933	193.91	12.19	366.48	0.00	0.9144	0.0100
55 ^[2]	702651	3668995	194.19	12.19	366.48	0.00	0.9144	0.0100
56 ^[2]	702693	3669014	195.19	9.75	338.71	2.44	0.3048	0.0100
57 ^[2]	702688	3669004	194.79	9.75	338.71	2.44	0.3048	0.0100
58 ^[2]	702718	3668994	194.79	9.75	338.71	2.44	0.3048	0.0100

* Denotes ambient temperature.

[1] Parameters taken from the Future Case Analysis Model

[2] Parameters taken from the 2010 EIQ

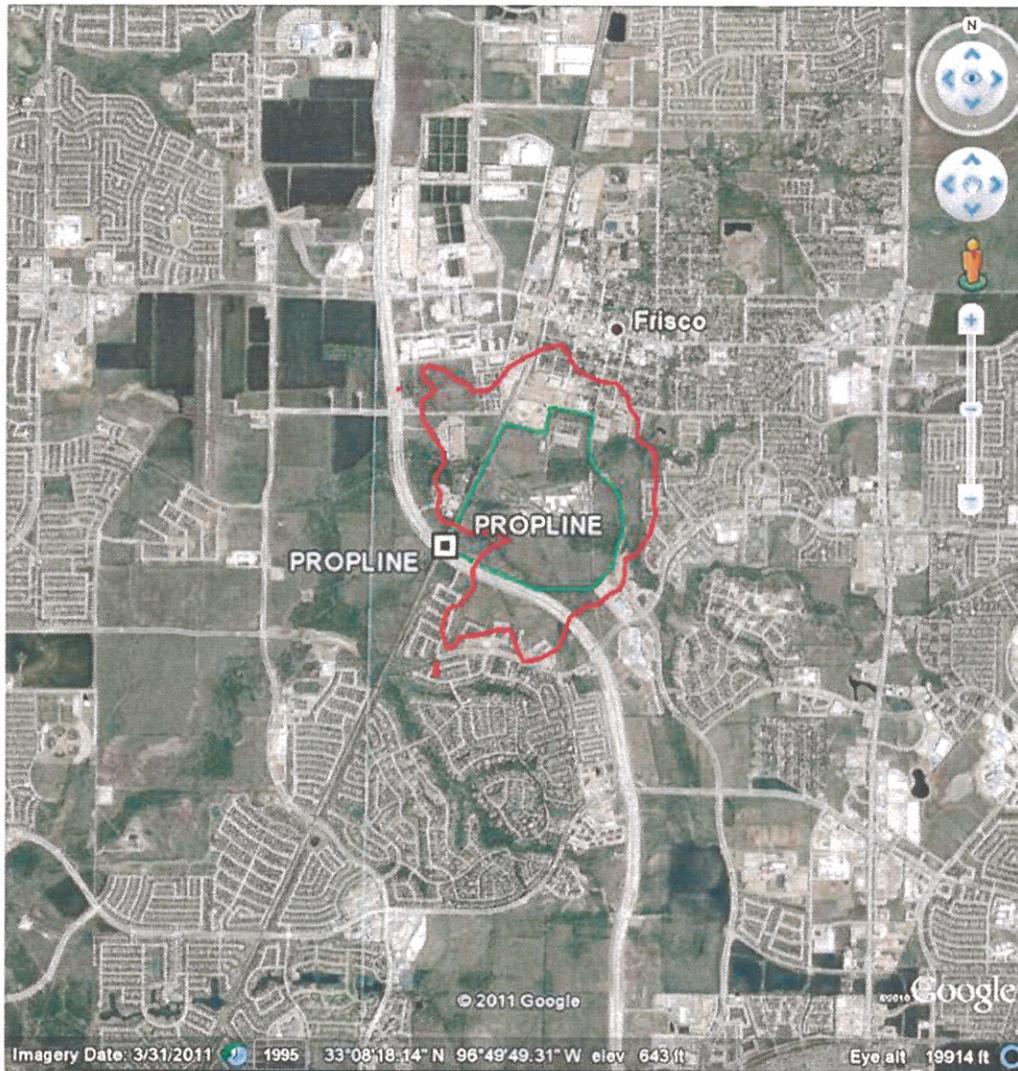
Table 13
Fugitive Area Source Parameters

Source ID	Easting (X)	Northing (Y)	Elevation (m)	Height (m)	Easterly Length (m)	Northerly Length (m)	Angle from North (°)	Modeled Emission Rate (lb/hr)
	(m)	(m)						
46 ^[1]	702721	3669021	195.74	1.52	42.06	34.14	90	0.0100

[1] Parameters taken from the Future Case Analysis Model



Figure 3
SO₂ High 4th High for 2010



SO₂ 1-hour NAAQS Standard (196 µg/m³) ————
Denton County Line ————

VIII. RACT/RACM

As the TCEQ knows, any area that is designated nonattainment with respect to the Lead NAAQS must develop a SIP. One of the requirements for this Lead SIP is that the SIP must include Reasonably Available Control Measures (“RACM”), which includes Reasonably Available Control Technology (“RACT”) for lead emitting sources.²⁵

Specifically the Clean Air Act requires:

(1) IN GENERAL. – Such plan provisions shall provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoptions, at a minimum, of reasonably available control technology) and shall provide for the attainment of the national primary ambient air quality standards.

The TCEQ in the proposed Lead SIP accurately indicates that RACT is defined as “the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonable available considering technological and economic feasibility.”²⁶ The TCEQ goes on to state that “regions [States] are obligated to adopt only those measures that are reasonably available for implementation considering local circumstances.”²⁷ The TCEQ also “cherry picks” a few quotations from the Lead NAAQS final rule²⁸ to help justify the TCEQ position that only a few RACT measures must be considered. These quotes are included below:

“If it can be shown that measures, considered both individually as well as in a group, are unreasonable because emissions from the affected sources are insignificant, (i.e. de minimis), ~~that~~ [then] the measures may be excluded from further consideration...the resulting control measures should then be evaluated for reasonableness, considering their technological feasibility and the cost of control in the area to which the SIP applies...In the case of public sector sources and control measures, this evaluation should consider the impact of the reasonableness of the measures on the municipal, or other governmental entity that must assume the responsibility for their implementation.”

²⁵ Clean Air Act, Section 172(c)(1).

²⁶ Federal Register, September 17, 1979, 44 FR 53762.

²⁷ TCEQ, “2011 Collin County Attainment Demonstration State Implementation Plan Revision for the 2008 Lead NAAQS, June 22, 2011, page 4-3.

²⁸ Federal Register, November 12, 2008, 73 FR 66964.

The TCEQ fails to list all of the pertinent quotes and as such prejudices their “reasoned” opinion to eliminate RACT control measures that have been adopted by other states. Other quotes from the Lead NAAQS final rule that the TCEQ failed to quote are included below²⁹:

“EPA as a general matter expects that it is reasonable for similar sources to bear similar costs of emissions reduction. Economic feasibility for RACT purposes is largely determined by evidence that other sources in a particular source category have in fact applied the control technology or process change in question.”

“The fact that a measure has been adopted or is in the process of being adopted by other states is also an indicator (though not a definitive one) that the measure may be technically and economically feasible for another state.”

“Nevertheless, states should consider and address RACT and RACM measures developed for other areas, as part of a well-reasoned RACT RACM analysis.”

“The EPA’s own evaluation of SIPs for compliance with the RACT and RACM requirements will include comparison of measures considered or adopted by other states.”

The issue of why we believe that the TCEQ did not adopt all RACT/RACM measures is focused upon the application of a Wet Electrostatic Precipitator (“WESP”) as RACT. This issue is addressed in the next section.

IX. Wet Electrostatic Precipitator

Several persons and companies have during the SIP proposal process, recommended to the TCEQ that the application of a Wet Electrostatic Precipitator (“WESP”) is RACT/RACM. The TCEQ, in the Proposed SIP had determined that a WESP “is not RACM or RACT for lead-acid battery recycling operations with secondary lead smelting and lead oxide operations.”³⁰ The TCEQ’s state reason for this decision is that a WESP is considered a “high cost and unproven performance with large particle sizes in the stack emissions of some secondary lead smelting

²⁹ *Ibid*, 73 FR 67036.

³⁰ TCEQ, “2011 Collin County Attainment Demonstration State Implementation Plan Revision for the 2008 Lead NAAQS, June 22, 2011, page 4-5.

operations.” We respectfully disagree with the TCEQ’s decision and request that the TCEQ reconsider the application of WESP as RACT/RACM.

The WESP technology has been installed and has been proven as a demonstrated technology in a secondary lead smelter operation at the Quemetco Smelter, City of Industry, California. The Quemetco Smelter also recovers lead from spent lead acid batteries. The WESP was installed at Quemetco as a secondary control (“polishing control device”) and became operational in October 2008. Tests performed before and after the WESP installation revealed that lead was reduced by over 98%.³¹ As noted by the South Coast Air Quality Management District (“SCAQMD”), the WESP also effectively controls other hazardous metals including arsenic, cadmium, and nickel.³²

The Quemetco smelter did not send all of their emission sources to the WESP, but rather four of their higher lead concentration streams. The streams that were sent to the WESP included the Reverberatory Furnace, Dry Kiln, Electric Arc Furnace, and the Refinery (alloys). The only stream that is not present at the Exide Frisco plant is the Electric Arc Furnace. The Exide Frisco Plant has a Reverberatory Furnace and a Blast Furnace.

The TCEQ claims that one reason a WESP will not work at the Frisco Plant is because of the higher exhaust temperatures of the Electric Arc Furnace. We spoke with Envitech, the manufacturer of the WESP installed at the Quemetco smelter. Envitech indicated that a waste gas stream from Blast Furnace could be controlled effectively with a WESP. Envitech indicated that it could not foresee any problems handling similar gas streams from the Exide Frisco Plant. Envitech stated that any gas stream containing particulates can be controlled if the gas stream is properly conditioned. The key to effective operation of a WESP is to condition the gas stream so that the temperature is less than 200 degrees Fahrenheit (“°F”). Because the WESP is a “wet” system, the gases must be less than the 200°F to prevent water boiling off. The gas conditioning of the Exide plant to accommodate a WESP is estimated to be no more than \$100,000 in additional capital cost.

³¹ Buckantz, Mike “The Tale of the Efficient Emissions Remission,” Pollution Engineering, August 1, 2010.

³² Sycip, Pierre, “Case Study for Risk Regulations and Innovative Solutions,” SCAQMD, Paper 2010-A-714-AWMA, 2010 Air and Waste Management Association Annual Conference.

In conversations with Envitech we also learned that a WESP is currently under construction at another secondary lead smelter plant in Indiana. This WESP is scheduled for startup in the 4th quarter of this year (2011). In addition, a third WESP is planned for installation in a secondary lead smelter in New York in 2012 – 2013.

EPA estimates that there are only 14 secondary lead smelters in the U.S. at the present time.³³ Given that three WESPs will be installed in secondary lead smelters, the TCEQ must re-evaluate its conclusion that a WESP is not RACT. Given also that in the Lead NAAQS final rule EPA stated that *“it is reasonable for similar sources to bear similar costs of emissions reduction. Economic feasibility for RACT purposes is largely determined by evidence that other sources in a particular source category have in fact applied the control technology or process change in question.”*, it is reasonable for the TCEQ to determine that WESP is a RACT control technology for the Exide Frisco Plant. The SCAQMD had recognized that WESP is a viable technology by their statement: *“Quemetco...has successfully demonstrated that installation of a well-designed polishing WESP utilized in conjunction with an RTO (Regenerative Thermal Oxidizer used for organic control) can substantially reduce air contaminant emissions from an already well-controlled secondary lead smelter.”*³⁴

We request that the TCEQ determine that a WESP is a RACT control technology for the Exide Frisco Plant. Even if a WESP cannot be installed and be operational by November 2012, the TCEQ should require the installation of a WESP as soon as possible. As these comments demonstrate, the TCEQ will most likely have to re-work the Proposed SIP and Proposed Agreed Order to be able to accurately demonstrate attainment of the Lead NAAQS. A slight delay to ensure attainment of the Lead NAAQS is better than assuming the current proposed Lead SIP will achieve attainment, only to have to go through this SIP process again in a few years when the Lead NAAQS continues to be violated.

³³ Federal Register, May 19, 2011, 76 FR 29036.

³⁴ Sycip, Pierre, “Case Study for Risk Regulations and Innovative Solutions,” SCAQMD, Paper 2010-A-714-AWMA, 2010 Air and Waste Management Association Annual Conference.

X. Exide's Claim to be a "World-Class Facility"

On April 8, 2011, Exide sent a letter to attorneys for the City of Frisco indicating that Exide was committing to reducing lead emissions by 90% from the 2008 emissions, (Note: that 2008 emissions seem abnormally high, Figure 1).³⁵ The Exide 2008 TRI lead emissions were 2.48 tons per year, meaning Exide intends to reduce lead emissions to 0.248 tons per year or 496 pounds per year.

Later in this same letter, Exide later claims that the Frisco plant "will become a world class facility" and also "we (Exide) expect our lead emissions to be similar to the best controlled secondary lead facilities in the country." While these stated goals are desirable, the facts indicate that this is not the case.

Based upon our limited review of other secondary lead smelter facilities in the U.S., we discovered that the Quemetco Facility (the facility which installed a WESP) in City of Industry, California, in 2010, reported total lead air emissions of 11.21 pounds of lead.³⁶ This is 97.7% lower than what Exide is claiming they will reduce their lead emissions to by November 2012, clearly, not even close to being a "world-class facility." If Exide wants to be a "world-class facility," the TCEQ must require Exide to install a WESP and lower Exide's total allowable air emissions to less than 11.21 pounds of lead per year.

³⁵ Bolch, James R. (Exide Technologies) and Cole, Bruce A. (Exide Americas), Letter to Kerry Russell (Russell & Rodriguez) and Richard M. Abernathy (Abernathy, Roeder, Boyd & Joplin, PC), April 8, 2011.

³⁶ SCAQMD Facility Information Detail, Quemetco, Inc., Facility ID 8547, 2010 Emissions.



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August 8, 2011

Ms. LaDonna Castanuela
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: 2011-001-SIP NR: Collin County Attainment Demonstration for the 2008 LEAD NAAQS SIP Revision

Downwinders at Risk is a 17-year-old citizens group dedicated to protecting North Texas air quality, and the health, property, and rights of citizens being harmed by toxic pollution.

Downwinders requests the Texas Commission on Environmental Quality withdraw this State Implementation Plan because of its fundamental incompatibility with public health in North Texas and particularly its likelihood to continue causing harm and injury to residents of the City of Frisco, Collin County, and Denton County.

I. There is no safe level of lead exposure.

Forty years ago, lead poisoning was thought to be easy to spot. If you weren't vomiting, experiencing muscle weakness or convulsions, you were fine. Now we know better.

Dr. Phillip Landrinn, the father of modern lead-poisoning strategies has noted that, "At lower levels of exposures, lead causes loss of intelligence, disruptive behavior, and a whole spectrum of damage to the brain and nervous system" which are not as obvious.

In 1970, when Exide was still relatively new to Frisco, 40 milligrams of lead per deciliter of blood was the standard for lead poisoning. Now, the Center for Disease Control says 10 milligrams of lead per deciliter constitutes lead poisoning and considers no amount of lead completely safe.

Blood lead levels that are significantly below that federal danger threshold have been shown to cause a wide variety of illnesses and deficiencies. Every year new research finds links between very low levels of lead in the blood and significant health effects over a lifetime.

In 2011 alone, The Children's Environmental Health Initiative at Duke University has published a study of Connecticut students that found that even very low levels of lead exposure can irreversibly adversely affect a child development and result in lower academic achievement. This followed a 2009 study by the Initiative that followed North Carolina children that found a similar association between lead exposure and problems later in academics.

Another recent study (Wells, EM, A Navas-Acien, JB Herbstman, BJ Apelberg, EK Silbergeld, KL Caldwell, RL Jones, RU Halden, FR Witter and LR Goldman. 2011) shows that even low lead levels thought to be below concern are associated with blood pressure increases in pregnant women. It also found that those women who had higher overall blood lead levels at the time of delivery also had higher blood pressure readings during the birth process. High blood pressure while pregnant may lead to pre-eclampsia – a common but dangerous birth complication – and an increased risk of future heart disease.

Because there is no safe level of lead exposure, the amount of lead pollution that this SIP allows Exide to release is capable of doing harm to the residents of Frisco, particularly the children who live in adjacent and downwind neighborhoods. Moreover, this damage is amplified by other additional sources of potential lead exposure that still lurk in everyday commerce, and specifically everyday life in Frisco, where a lead battery plant has been doing business in the middle of town for almost 560 years.

II. The current boundary of the State Implementation Plan has not been proven to be protective of public health in Frisco

The original boundary for the Frisco/Exide State Implementation Plan for Lead incorporated a much larger percentage of Frisco proper, including Frisco High School and several other public schools. After a series of meetings between representative of the City of Frisco and the EPA and TCEQ, the boundary was shrunken, at least on paper, by modeling additional secondary controls into Exide's operations that the company promised it would install.

As far as we know however, there has been no follow-up by the company or TCEQ to demonstrate the efficacy of that modeling prediction in drawing the current SIP boundary lines via new stationary ambient air monitoring or mobile directional monitoring.

EPA and TCEQ don't know if Exide has installed the controls correctly, or if they're working effectively. And most importantly, neither agency has any idea if they've resulted in a drop in lead pollution that corresponds to the current boundary line. There has been no testing of the hypothesis that the controls worked well enough to warrant pulling back the original boundary lines.

Until such testing occurs and the company's and the regulatory agency's hypothesis about the effect of the changes at Exide is confirmed, the original boundary line should be used, or this SIP should be rejected.

III. Background levels of lead in Frisco are underestimated by TCEQ.

According to the TCEQ, this SIP assumes no additional sources of lead in Frisco beside the ongoing operations of the Exide lead battery plant, but this is quite unlikely given that the plant has been operating in the city since 1965.

There are accumulated deposits of lead throughout Frisco from tons of lead air pollution over a 46-year period. They are in the soil, house attics, creek sediments and elsewhere. Disturbance or contact with these deposits is a source of lead exposure unique to Frisco residents.

Apparently, lead slag waste from the plant was used to pave Collin County roads for a number of years. This is also a source of lead exposure in Frisco and the surrounding communities.

In West Dallas, over a decade after the RSR lead battery smelter had closed, it was discovered that the plant had dumped thousands of pounds of battery chips and slag throughout the community in a number of different vacant lots and unofficial landfills within close proximity of the plant.

Since there's been no thorough examination of past Exide/GNB practices, an investigation of records, or no comprehensive testing of on-site soil or water, it's impossible to know for sure if this kind of dumping occurred in Frisco as well, and remains a source of potential exposure.

The presence of an active lead battery plant in the middle of town for almost 50 years can't help but insure higher than normal background levels of lead. Frisco starts from a disadvantage. Added to that higher toxic burden are the routine exposures we all face from commercial activity – made-in-China jewelry and vinyl backpacks for children. Mexican folk medicine remedies, certain food containers, certain older dinnerware with lead-based glazes, and so on.

Given how common lead still is in the economy of everyday American life, it's unrealistic to expect there to be zero background level levels in Frisco's residents, as TCEQ does in this SIP. Given that Frisco has hosted a factory that's been belching tons of lead from its smokestacks since 1965 makes it laughable as well.

Since the Lead SIP TCEQ is proposing for Frisco is estimated to just barely get the City under the new federal ambient lead pollution standard (.147 ug/m³ vs a standard of .15ug/m³), it's very likely these additional sources of lead exposure will combine with the continued releases of lead from Exide to put both the attainment of the ambient air standard, as well as lowering of community blood lead levels in jeopardy.

TCEQ has a history of writing SIPs that meet the modeling requirements but fail to achieve success because they were not aggressive enough to work in the real world. Downwinders believes this is another example of such a TCEQ SIP.

IV. Reasonably Available Control Technology (RACT) is not applied according to the law

Every SIP must provide for the application of Reasonably Available Control Technology ("RACT"). RACT applies to existing sources of pollution in areas, such as Frisco, that are not meeting national ambient air quality standards for certain air pollutants and is required on all pollution sources inside the SIP boundaries that meet these criteria.

RACT is defined by EPA and TCEQ, as *"the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonable available considering technological and economic feasibility."*

RACT requirements set forth in section 172(c)(1) of the Clean Air Act applies to all nonattainment areas that are required to submit an attainment demonstration.

EPA guidance interprets RACT provision to require a demonstration that *the state has adopted all reasonable measures to meet RFP requirements and to demonstrate attainment as expeditiously as practicable and no additional measures that are reasonably available will advance the attainment date or contribute to RFP for the area.*

Section 51.912(d) specifies that as part of the attainment demonstration each state should include a SIP revision demonstrating that it has ***adopted all control measures necessary to demonstrate attainment as expeditiously as practicable and to meet any RFP requirements.***

Incredibly, the TCEQ excludes the single most effective lead pollution control device now being used in the lead smelting industry – Wet Electrostatic Precipitators - from RACT consideration because it supposedly costs too much for Exide to install. But this is not a correct application of RACT under the law.

Wet Electrostatic Precipitators have been proven effective at the Quemetco Smelter, in City of Industry, California since 2008. Testing at that smelter demonstrates a 98% reduction in lead emission because of the use of these controls. The State of California reports that Wet Electrostatic Precipitators also have an added side benefit of controlling other hazardous metals and particulate matter in general.

Beside the Quemetco plant in California, there are also Wet Electrostatic Precipitators being installed in lead smelters in Indiana and New York that will be coming on line in the next two years.

According to EPA, there are 14 secondary lead smelters in the U.S. An entire fifth of that total is now, or will soon be, operating Wet Electrostatic Precipitators as their primary lead air pollution control device. **That is a working definition of a Reasonably Available Control Technology.**

There are no technical feasibility issues about the application of Wet Electrostatic Precipitators to smelters in the U.S. because a sizable number of them are already adopting them. With capitalization of over \$3 billion, Exide's ability to pay for these controls shouldn't be in question either.

In the Lead National Ambient Air Quality Standard final rule establishing the new federal lead level, EPA stated that,

“EPA as a general matter expects that it is reasonable for similar sources to bear similar costs of emissions reduction. Economic feasibility for RACT purposes is largely determined by evidence that other sources in a particular source category have in fact applied the control technology or process change in question.”

Installation of Wet Electrostatic Precipitators in U.S. lead smelters like the one Exide runs in Frisco means there is no technical or economic rationale for TCEQ to exclude them as a primary lead pollution control device in Frisco, and there's a large public health benefit from their application.

To meet the definition of RACT, TCEQ must insist that Exide install Wet Electrostatic Precipitators.

V. Exide is violating the Clean Air Act with two other pollutants

According to comments prepared for Frisco resident Jim Mallet by an engineer and air-modeling expert, Exide's air pollution is currently causing two other violations of the Clean Air Act –

exceeding the PM 2.5 national 24-hour ambient air standard, and the Sulfur Dioxide 1-hour standard. In the case of the PM violation, it's estimated that the non-attainment area is so large as to crossover into Denton County.

Before submitting this Lead SIP for Exide to EPA, TCEQ must thoroughly investigate whether in fact they need to submit three SIPs instead.

Submitted by
Jim Schermbeck
Director,
Downwinders at Risk

August 7, 2011

To: Texas Commission on Environmental Quality

From: Dr. Howard W. Mielke, Ph.D., Tulane University Center for Bioenvironmental Research, New Orleans, Louisiana

Re: Final rule-making Exide smelter

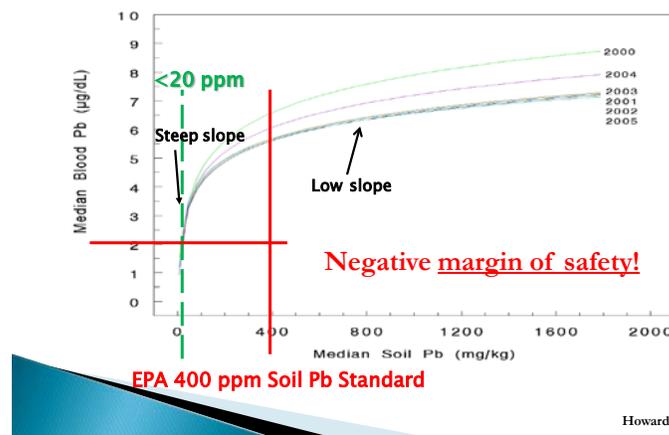
To whom it may concern:

The purpose of this letter is to outline fundamental facts regarding the release of lead emissions from the Exide facility located in the center of Frisco, TX. I have conducted original and primary research on lead in the environment and the response of children to lead. The following are emerging facts that must be carefully deliberated in making decisions about the of lead emission releases into a populated community.

- The emerging science indicates that although the CDC states there is no known safe lead level, they continue to use the 10 $\mu\text{g}/\text{dL}$ guideline which was established 20 years ago. Current research indicates distinctive and replicated learning and IQ deficits at exposures of 2 $\mu\text{g}/\text{dL}$.
- Children are much more vulnerable at far lower quantities of lead in the environment than previously recognized. The vulnerability of children living in various communities is empirically based on studies in New Orleans and Syracuse, NY that evaluated the association between children's blood lead and the amount of lead accumulated in the soil environment of various neighborhoods. The emerging science is demonstrating, as illustrated in Fig. 1, children are generally exposed at or below 2 $\mu\text{g}/\text{dL}$ only in communities where the soil lead is less than 20 ppm.

Figure 1.

Children's blood lead response to lead contaminated soil demonstrates the need for clean soil
(response of 55,551 children to soil lead in 286 communities)



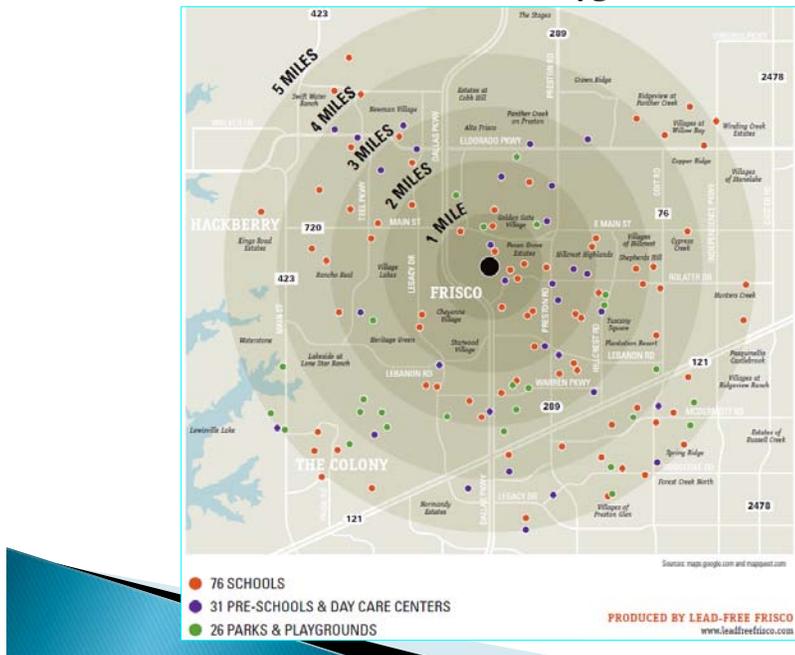
As indicated in Fig. 1 above, the larger the amount of lead in the soil of a community the higher the blood lead exposure of the young children. Particularly relevant to the Frisco, a community where the soil lead is relatively low there is an especially steep rise in blood lead. In the

communities of Frisco located within 1 mile of Exide, just meet soil lead levels of 20-100 ppm. Currently, there is a small or no margin of safety.

- Frisco, TX is a vibrant and rapidly growing town. Families with young children are relying on the city to maintain a safe and sustainable environment for their children. Figure 2 below shows the locations of major assets in Frisco that are places designed for children. Note that there are 12 childcare center, 3 playgrounds, and 7 elementary schools within a 2 mile radius of the Exide facility. These child oriented facilities are valuable community assets that must be protected from Exide’s lead emissions.

Figure 2

2 mi. of Exide 12 Childcare Centers, 3 Playgrounds, 7 Elem. Schools



- Legacy lead is an important issue for Frisco, TX. Soil on Exide property is likely to be particularly lead-contaminated and this soil is a potential source of airborne lead. During drought and late summer and early fall, when soils become dry, re-suspension of lead contaminated soil may set the low limit for controlling children’s exposure. This was an important finding within another smelter community of El Paso, TX.

Conclusion:

Given the emerging science of lead and the current understanding of its impact on young children, the current agreement to limit emissions to over 600 lbs of lead per year does not protect the Frisco community. Concern has been expressed that the allowable emissions are in reality being limited to 2000 lbs. per year. Given the emerging science, the prudent course of action is to regulate using only the best available technology; currently this would cut emissions of the Exide recycling facility to less than 20 lbs of lead per year. Meeting this emission would place the Frisco Exide into the ranks of a world class facility and congruent with the image of Frisco as a world class community.

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August 8, 2011

VIA ELECTRONIC FILING

Ms. C. Holly Brightwell (MC 206)
State Implementation Plan Team
Office of the Chief Engineer
Texas Commission on Environmental Quality
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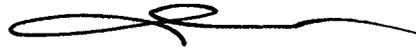
Re: Comments of Exide Technologies on Proposed 2011 Collin County Attainment Demonstration SIP Revision for 2008 Lead NAAQS, Project No. 2001-001-SIP-NR and Agreed Order No. 2011-0521-MIS

Dear Ms. Brightwell:

Enclosed please find comments of Exide Technologies (“Exide”) on the proposed Collin County Attainment Demonstration State Implementation Plan (“SIP”) Revision for the 2008 National Ambient Air Quality Standard (“NAAQS”) for Lead and the accompanying proposed Agreed Order No. 2011-0521-MIS. Exide appreciates the opportunity to submit these comments.

Thank you in advance for your consideration of the enclosed comments.

Sincerely,



Jennifer Keane

Enclosure

**Comments of Exide Technologies on
Proposed 2011 Collin County Attainment Demonstration
SIP Revision for 2008 Lead NAAQS, Project No. 2011-001-SIP-NR
and Agreed Order No. 2011-0521-MIS**

I. Introduction

Exide Technologies (“Exide”) appreciates the opportunity to comment on TCEQ’s proposed Collin County Attainment Demonstration State Implementation Plan (“SIP”) Revision for the 2008 National Ambient Air Quality Standard (“NAAQS”) for lead, as well as the accompanying proposed Agreed Order No. 2011-0521-MIS, which specifies enforceable steps to be taken at Exide’s Frisco Recycling Center for the implementation of the proposed SIP Revision. Exide supports the proposed SIP Revision package and appreciates the hard work of TCEQ staff in developing it. We believe that the Proposal specifies tough but sensible control measures that go beyond what is needed to meet the rigorous 2008 lead NAAQS by its December 31, 2015 attainment deadline.

Exide has operations in more than 80 countries and provides a comprehensive range of stored electrical energy products and services for transportation, industrial, and commercial applications. Exide has 94 facilities and approximately 4,000 employees in North America, with six facilities and approximately 178 employees in Texas. Exide is one of the largest producers, distributors and recyclers of lead acid batteries, and the Frisco Recycling Center is a key part of the Company’s lead acid battery recycling business. Lead acid batteries have an admirable recycling rate of 95 percent, and Exide believes that there is no other power source utilized with such sustainability.

Exide is working diligently to implement the measures specified in the Proposed SIP Revision and the Agreed Order, and the Company is in the process of investing \$20 million toward improvements at the Frisco Recycling Center to ensure that the proposed SIP Revision is a success. TCEQ and Exide have a history of working together to address SIP requirements in a productive manner. As noted in the Proposal, when Collin County was designated nonattainment for lead under the previous NAAQS, the SIP revision developed by TCEQ and approved in 1994 led the area to be designated attainment in 1999.¹

In the interest of seeing that the final SIP Revision and supporting materials are as accurate, complete and technically sound as possible, Exide offers the following comments on the proposed SIP package.

¹ See Proposal at 1-1.

II. Specific Comments

A. Base Case Modeling Should be Revised to Better Reflect Monitored Conditions

TCEQ explains in the Proposal that the base case modeling should reflect a reasonable attempt to replicate actual conditions and to account for and appropriately characterize all sources, so that the effectiveness of potential control strategies can then be estimated through the future case analysis.² Here, the modeled base case ambient lead concentrations reported in the Proposal significantly exceed the actual highest monitored lead concentrations reported in the Proposal. Base case modeling results provided in Table 3-5 of the Proposal list the contributions of each source in the form of a maximum rolling 3-month predicted concentration (expressed as $\mu\text{g}/\text{m}^3$).³ When all modeled sources are added, the contribution of all sources equals $1.44149 \mu\text{g}/\text{m}^3$. In contrast, monitored data listed in Table 1-1 of the Proposal shows that the highest 3-month monitored ambient air concentration during the most recent 36-month period was roughly half the maximum modeled base case value: $0.71 \mu\text{g}/\text{m}^3$ at Eubanks monitor.⁴ This two-fold discrepancy indicates that the base case modeling in the Proposal is over-predictive of current lead concentrations before the implementation of control measures listed in the proposed SIP. Exide recommends correcting the base case modeling by revising battery breaker and material handling fugitive emissions estimates downward.

B. Comments on Future Case Modeling in the Proposal

Exide agrees that the modeling described in the proposed SIP Package demonstrates attainment through the measures specified in the Proposed SIP Revision and the Agreed Order. However, while we recognize that the modeling must include a degree of conservatism to ensure that the SIP Package leads to attainment, we believe that the model as constructed is too conservative and overstates future off-property concentrations. This is true for modeling related to both the modeling of stack emissions and fugitive emissions from the Frisco Recycling Center. Exide believes that refinements to the future case modeling would allow for more accurate, more realistic allocation of emissions among the various emissions sources within the Frisco Recycling Center.

1. Exide Recommends Refinements to the Use of Stack Test Data in Future Case Modeling

(a) *Exide Disagrees with Developing Emission Factors Based on Production Rate in Future Case Modeling of Stack Sources*

Exide understands that the TCEQ estimated future case emissions for existing stack sources (sources 18, 21, 22, 23, 37, 38, 39, 45, and 48) with consideration given to: (a)

² See *id.* at 3-3.

³ See *id.*, Table 3-5 at 3-11.

⁴ See *id.*, Table 1-1 at 1-3.

historical stack test data; (b) the production rate at the time of the stack tests; and (c) the maximum permitted daily production of 400 tons of finished lead product. The average emission rate for each stack test and the associated daily production on the date of the stack test were used to calculate a maximum 24-hour emission rate. The average emission rate from the stack test was then multiplied by the maximum permitted daily production level divided by actual daily production on the date of the stack test. We also understand that emission rates for baghouse stacks associated with the lead oxide reactors (sources 11, 12, 13, 16, 24, and 25) were based upon the stack tests for that source and the maximum permitted hourly production rate of 2,300 lb/hr of lead oxide.

Exide disagrees with TCEQ's method for estimating baghouse emission rates by adjusting the stack test emission rate using production data. EPA considered a production rate-based emission standard in 40 CFR Part 63, Subpart X ("MACT X") governing secondary lead smelters but concluded that a production rate-based emission rate format is not appropriate because production rates are difficult to measure over short periods and the mass emission rate from a baghouse may not correlate well with production rate during an emissions test.⁵ As EPA explained, "[b]aghouses constitute the technological basis for the MACT standards proposed to limit metal HAP emissions from smelting furnaces. Because of the physical mechanism by which baghouses operate, they characteristically achieve a constant outlet concentration independent of the inlet concentration or loading."⁶ Accordingly, EPA based the MACT X lead emission standard on a *concentration* limit for lead reflecting performance of a properly operated baghouse⁷ without regard to the production rate. EPA has proposed to retain this concentration-based format with its proposed revisions to MACT X. Exide agrees with EPA's explanation that emissions from the baghouses on Exide's stacks do not vary in relation to production, so that relying on production rates to estimate stack emissions rates is not valid.

(b) *Exide Recommends Future Case Modeling of Stack Sources Based on Actual Stack Test Results, with a Margin for Testing Variability*

Rather than modeling using production rate emission ratios for stack sources, Exide recommends estimating stack emissions based on a statistical analysis of the stack testing that has been conducted at the Frisco Recycling Center between the years 2000 and 2010 for alloy operations and during 1994 and 1995 for the oxide operations. TCEQ should establish emissions rates using the average results from these tests plus four standard deviations to account for testing variability, rather than by relying on production rates. This would provide for very conservative future case modeling that properly allocates emissions among each of the stacks at the Frisco Recycling Center based on actual historical performance. Exide's modeling, using

⁵ See *id.*

⁶ 59 Fed. Reg. 29,750, 29,766 (June 9, 1994).

⁷ Pursuant to MACT X, a properly operated baghouse is ensured by having the following federally enforceable monitoring requirements:

- A baghouse maintenance program consisting of daily, weekly, monthly and quarterly inspections;
- Baghouse leak detection monitoring; and
- Annual and/or biennial stack testing.

Exide has each of these programs in place at its Frisco Recycling Center.

actual testing data, shows the area to demonstrate attainment by the attainment deadline. Such an approach represents the most realistic and accurate (albeit very conservative) approach available to TCEQ and Exide.

2. Estimates of Fugitive Emissions in Future Case Modeling

(a) *Truck-Loading Fugitive Emission Rates Overstate Emissions*

Fugitive emissions from the oxide loading processes are based on the truck loading rates. Exide understands that, in the future case modeling of these sources, the emission rate used for West Truck Loading Fugitives (EPN 27) was based on a maximum hourly loading rate of 12 tons/hr of lead oxide. The emission rate used for the East Truck Loading Fugitives emissions point (EPN 28) was based on a maximum hourly loading rate of 24 tons/hr of lead oxide. Inherent in these emission rates is an assumption that truck loading occurs continuously. This is incorrect, as loading operations are intermittent.

Thus, the bases for short-term and long-term loading rates from the loading process are not equivalent. The maximum material handling rate for a given hour is not sustained continually for long periods of time. An entire truckload of lead oxide might be loaded in a single hour, with emissions for that hour consistent with the modeled emissions rate. However, the *next* truckload of material may not be processed until several hours or days later, with the loading operation sitting idle with no emissions during that time.

The lead NAAQS itself is a relatively long-term metric; the standard is based on a 3-month rolling average. The modeled emission rates should correspond to the maximum expected material processing rate across the *most relevant* time period (*i.e.*, hourly, 3-month, or annual emissions). Since the lead standard is a 3-month rolling average, the emission rates used in the modeling also should be based on a 3-month emission rate. More specifically, the modeled emission rates for EPN 27 and 28 should be based on a 3-month truck loading rate of 4,372.5 tons/3-month period and 10,202.5 tons/3-month period, respectively. These loading rates represent the maximum expected loading rates over a 3-month period.

TCEQ's methodology assumes that a total of 78,840 tons of lead oxide, based on 12 tons/hr from EPN 27 and 24 tons/hr from EPN 28, will be loaded at the two lead oxide loading stations during a 3-month period. This amount exceeds the *annual* permit lead oxide permit production limit of 58,300 tons. However, it is more realistic to estimate that the maximum that could be loaded is 14,575 tons, which is one fourth of the annual permitted limit. Exide believes that TCEQ is over-estimating emissions from the lead oxide loading operations in its model by a factor of 5.4 during the relevant time period. TCEQ should correct the emissions rates used in this portion of the future case modeling accordingly.

(b) *Modeled Treatment of Newly-Enclosed Fugitive Sources is Appropriate*

As noted in Section II.A above, the base-case modeling over-predicts ambient lead concentrations when compared to actual monitored ambient lead concentrations. Despite

this apparent discrepancy, Exide believes that TCEQ properly recognized the important impacts of fugitive emissions across the site when it developed the base-case modeling. When developing its latest proposed revisions to MACT X, EPA emphasized the importance of fugitive emissions to its risk assessment, stating that “[t]he impacts of fugitive emissions were generally considerably greater than the impacts due to stack emissions.”⁸ TCEQ, too, has recognized the importance of properly accounting for fugitive emissions from the facility’s battery breaker operations when developing base-case modeling.⁹ Fugitive emissions from battery breaker operations are estimated in the base-case modeling for the Frisco Recycling Center using monitored data from the Company’s Vernon, California operations.¹⁰ Given their impacts, the control of fugitive emissions is a major point of emphasis in the control strategy specified in the proposed SIP Revision and Agreed Order, and Exide is taking steps to enclose all fugitive sources within the production areas of the facility except for the lead oxide operational area.¹¹ Newly-enclosed areas will be equipped with controlled negative pressure ventilation and vented to a baghouse.

TCEQ has appropriately modeled the effect of total enclosure with controlled negative pressure ventilation on the major sources of fugitive emissions at the facility. Exide’s enclosures will be built in a manner consistent with the performance specifications for total enclosures in the MACT X with inward airflow at all openings to the enclosure. With such in-draft, there is no potential or pathway for fugitive emissions to leave the enclosure and the former fugitive source is eliminated. Instead, the emissions are drawn to the filtration device (baghouse) fitted to the ventilation system generating the inflow of air, where they are filtered. TCEQ has appropriately included the emissions from these new baghouses as point sources in the model and eliminated fugitive emissions.

C. RACT and RACM Analysis: Exide Agrees that WESP is not RACT or RACM

Section 4.3.1 of the Proposal includes a listing of the control technologies and measures that TCEQ had determined to be Reasonably Available Control Technology (“RACT”) or Reasonably Available Control Measures (“RACM”), as well as a listing of various technologies and measures that TCEQ determined not to be RACT or RACM. Exide agrees with and supports TCEQ’s conclusions in this area.

In particular, Exide supports TCEQ’s conclusion that wet electrostatic precipitator (“WESP”) control technology is not RACM or RACT for lead-acid battery operations with secondary lead smelting and lead oxide operations. In reaching this conclusion, the Commission cited the high cost of WESP and its unproven performance with large particle sizes in the stack emissions of some secondary lead smelting operations.¹² The Commission drew a distinction between the secondary lead smelting process employed at the Frisco Recycling Center and

⁸ 76 Fed. Reg. 29,032, 29,058 (May 19, 2011).

⁹ See Proposal at 3-6.

¹⁰ *Id.*

¹¹ TCEQ determined that the fugitive lead-dust emissions associated with the lead oxide operational area are insignificant and do not justify partial enclosure of this area. Proposal at 4-6. Exide agrees with this determination.

¹² See Proposal at 4-5.

facilities that operate electric arc furnaces (“EAFs”) as part of the secondary lead smelting process.¹³ TCEQ noted that EAFs operate at much higher temperatures than the blast furnaces employed at the Frisco Recycling Center, and these higher temperatures volatilize metals that are not volatilized in secondary lead smelting processes that use blast and reverberatory furnaces.¹⁴ Finally, TCEQ concluded that the time required to design and install a WESP system would not allow for the associated lead emission reductions to be implemented before the applicable attainment date, which disqualifies WESP from consideration as RACT or RACM.¹⁵

Exide supports TCEQ’s finding that WESP control technology is not RACM or RACT. As TCEQ recognized in the SIP Proposal, RACT is defined as “the lowest emissions limitation that is reasonably available considering the technological and economic feasibility.”¹⁶ EPA recently considered the feasibility and effectiveness of WESP technology at secondary lead smelters when proposing amendments to MACT X. In that rulemaking, EPA declined to propose requirements for WESP technology as part of the “ample margin of safety” analysis under federal Clean Air Act § 112(f)(2), which calls for consideration of “costs, energy, safety, and other relevant factors.”¹⁷

Exide joined a group of commenters representing a major contingent of the lead acid battery recycling industry in supporting EPA’s decision to exclude WESP control requirements from the MACT X proposal.¹⁸ In those comments, which are included here as Attachment A¹⁹ and incorporated herein by reference, Exide and the other joint commenters offered technical support for EPA’s decision not to include WESP requirements in MACT X. Exide and the other commenters explained the following:

- WESP does not provide any control of fugitive emissions, which are a highly significant component of a secondary lead smelter’s overall emission profile;
- WESP has not been technically demonstrated to achieve a specific emission reduction for all types of secondary lead smelting operations; and
- There are significant differences between the one EAF-based facility to employ a WESP system and other secondary lead smelters, such as the Frisco Recycling Center, that have blast and reverberatory furnaces.
- WESP is cost-prohibitive for non-EAF secondary lead smelters, requiring approximately \$4.0 million per ton of metal HAP emissions reduction.

¹³ *See id.*

¹⁴ *See id.*

¹⁵ *Id.* at 4-5 – 4-6.

¹⁶ Proposal at 4-3 (citing 44 Fed. Reg. 53,762).

¹⁷ 42 U.S.C. § 7412(f)(2)(A). *See also*, 76 Fed. Reg. at 29,058.

¹⁸ Signatories to the WESP comment letter included Johnson Controls Battery Group, Inc., Gopher Resource LLC, East Penn Manufacturing Co., Inc., Sanders Lead Company, Inc., and Exide.

¹⁹ The letter includes several supporting attachments, which are not included here due to their size. Those attachments are available from Exide upon request, or can be accessed in the EPA MACT X rulemaking docket, No. EPA-HQ-OAR-2011-0344.

Exide believes that these considerations are just as relevant to, and supportive of, TCEQ's conclusion that WESP technology does not represent RACT or RACM as they were to EPA's decision to exclude WESP requirements from MACT X.

The suite of controls at the Frisco Recycling Center, after installation of the new control measures specified in the proposed SIP Revision and the accompanying Agreed Order, will represent state-of-the-art, highly protective control technology that is not dependent on the unproven, cost-prohibitive use of WESP technology in non-EAF smelting operations. Exide's Vernon, California operations demonstrate this fact. In an earlier public hearing, some commenters noted that emissions from the Vernon facility are significantly lower than those currently authorized for the Frisco Recycling Center. After the ongoing upgrades to the Frisco Recycling Center are complete, Vernon and Frisco will employ similar controls, and the Company is continually working to optimize the emissions controls employed at each of its locations leveraging its corporate-wide experience. Vernon achieves its highly-protective level of control *without* employing WESP, and TCEQ's conclusion that WESP does not represent RACT or RACM control is also the correct one here.

D. Exide Supports the New Control Measures Identified in Section 4.4 of the Proposal

Exide believes that TCEQ has identified the right array of control measures to ensure that the Frisco area attains the 2008 NAAQS by the deadline. Because the new standard is measured using a 3-month rolling average, TCEQ is taking the position that the proposed control measures must be in place and fully effective by November 2012. Exide is diligently working to implement the all of the measures proposed by TCEQ in the SIP Package and the Agreed Order to meet this deadline.

Exide has already completed several important control measures that are specified in the proposed SIP Revision and the Agreed Order. Among the measures already completed, Exide has:

- Completed the retrofitting of baghouses at the Frisco Recycling Center (sources 18, 21, 22, 27, and 28) to replace the bags with high efficiency PTFE membrane bags and replace the baghouse tubes sheets with an improved seating design;
- Replaced the existing seals on the blast furnace "doghouse" emissions capture and hooding system;
- Replaced the reverberatory furnace hydraulic ram feeder with a rotary screw; and
- Installed a non-fouling area misting system in the blast and reverberatory furnace area.

Additional projects to be completed are set forth in the SIP Package and Agreed Order with corresponding deadlines.

Exide supports the adoption of the control measures that are proposed in the SIP Package and Agreed Order, and Exide believes that the proposed measures collectively represent the most efficient, most effective approach to controlling lead emissions from across the Frisco Recycling Center. While attainment of the 2008 NAAQS represents the primary objective of the proposed control measures, the proposed control measures go beyond what TCEQ's conservative modeling shows to be required by the NAAQS, as requested by the City of Frisco.

E. Monitoring Sites

Exide generally agrees with Section 4.5.1's description of past and current monitoring sites near the Frisco Recycling Center, although Exide suggests that, for purposes of clarity, discussion of current technical monitoring requirements and current monitoring sites be more clearly separated in Section 4.5.1 from discussion of the past history of monitoring sites in the area. Exide offers one correction to the description of the area's current monitoring sites. The Proposal states that "[i]n August 2010, site 48085003 moved to the east side of 5th Street in Frisco, and is now located on City of Frisco property."²⁰ Site 48085003, which is on the east side of 5th Street, is located on land owned by Exide but subject to an easement to the City of Frisco. This monitoring site is outside the Frisco Recycling Center's fenceline and is accessible to the public, making it "ambient air" as defined in 40 C.F.R. § 50.1.

F. Exide Supports the Contingency Measures in the Proposal, Which Were Properly Excluded From the List of Primary Control Measures

Exide fully expects that the primary control measures identified in Section 4.4 of the Proposal will bring the area to attainment by the attainment deadline. Because the Frisco Recycling Center is the sole source of lead emissions in the nonattainment area, all of the emissions reductions necessary for attaining the 2008 lead NAAQS must come from the Frisco Recycling Center. The primary control measures are those measures that represent the best, most efficient means for the Frisco Recycling Center to achieve the necessary emissions reductions. However, Exide recognizes that the proposed SIP must include contingency measures in addition to the primary control measures, and Exide supports the inclusion of the contingency measures identified in Section 4.6 to satisfy this requirement. These contingency measures were properly excluded from the list of primary control measures because the primary controls constitute the most effective means to reduce emissions sufficiently to achieve attainment.

G. Agreed Order and Attachments

The proposed Agreed Order, No. 2011-0521-MIS, will require Exide to implement the control measures defined in the SIP and ensure that Exide's commitment to doing so is enforceable. Exide is fully committed to implementing the control measures in the proposed SIP and the accompanying Agreed Order in timely fashion. Exide therefore supports the Agreed Order as it appears in the Proposal and intends to ratify it following the public comment period.

²⁰ Proposal at 4-9.

Additionally, Exide notes that it has developed improvements to the traffic plan for truck traffic within the facility, which will be required by Ordering Provision 18 of the proposed Agreed Order. With Attachment B to these comments, Exide is providing a new traffic flow diagram to reflect these improvements, and Exide recommends that the new diagram replace the existing traffic flow diagram in Attachment C to the proposed Agreed Order.

III. Conclusion

Exide appreciates the opportunity to comment on the Proposed SIP Package and Agreed Order. Exide wishes to recognize the efforts of TCEQ staff in developing the proposed SIP Revision package. Developing a plan for timely attainment of the rigorous 2008 lead NAAQS—which represented a ten-fold reduction from the previous standard—required a thorough and comprehensive effort by TCEQ staff as well as the staff at the Frisco Recycling Center in a very expedited timeframe. Exide is already working diligently to implement the control measures specified in the Proposal, and Exide is confident that the proposed SIP will lead to attainment by the December 31, 2015 deadline.

Exide recommends that TCEQ adopt the proposed SIP Package and Agreed Order, with modifications to the supporting materials as described in these comments.

ATTACHMENT A

July 26, 2011

**Submitted Electronically to
<http://www.regulations.gov>
and by Hand Delivery to**

U.S. Environmental Protection Agency
EPA West (Air Docket)
Room 3334
1301 Constitution Ave., N.W.
Washington, DC 20004
Attention Docket ID Number US EPA–HQ–OAR–2011–0344

Subject: Joint Comment on the Wet Electrostatic Precipitator (WESP) System As Addressed in the Proposed Rule for National Emission Standards for Hazardous Air Pollutants: Secondary Lead Smelting, May 19, 2011 (76 Fed. Reg. 29,032); Docket ID Number US EPA–HQ–OAR–2011–0344

Dear EPA Administrator Jackson:

The undersigned companies each own an existing secondary lead smelter that will be impacted by the proposed amendments to 40 CFR Part 63, Subpart X (Proposed Rule). We appreciate the opportunity to provide input on the Proposed Rule and submit the following collective comments on the issues addressed below.

EPA Was Correct in Its Conclusions Regarding the Cost-Benefit Analysis of the WESP System.

We collectively support EPA's conclusion at 76 Fed. Reg. 29,058 of the preamble of the Proposed Rule that a WESP system would result in excessive costs for any incremental additional collection and control of emissions that might occur from its application. Each company concurs with and supports the cost assessment provided by EPA in the preamble that estimates that the cost of a WESP system would be in the range of a \$30 million capital investment on an average per-facility basis, that average annualized operating costs would range in the order of \$4.2 million per year and that this would translate to a cost of about \$4.0 million per ton of reductions in metal HAP emissions (mainly lead compounds).

We further support EPA's finding that the use of the WESP system is simply not cost effective for lead emissions and that other controls addressed in the Proposed Rule, without the WESP system, will provide an ample margin of safety with regard to lead emissions from secondary lead smelters. *Id.* With respect to other pollutants potentially relevant for control by the WESP system, EPA concluded that, “[s]tack emissions of arsenic and cadmium do not appreciably contribute to the 10-in-1 million cancer risks remaining after implementation of the proposed revisions. Moreover, we conclude that the likelihood of significant noncancer effects due to arsenic emissions (after the proposed controls described above are in place) is very low....” *Id.* The “proposed controls” EPA described and referenced do not include a WESP system. There is no indication that the proposed controls will not provide control of HAP emissions to

acceptable risk levels. In addition, CAA §112 does not force the selection or use of any particular technology.

In addition, the WESP system controls emissions from stacks, not fugitive emissions. In the Proposed Rule at page 29,038, EPA states that fugitive emissions dominate the risk analysis and predicted concentrations of the lead that exceed the NAAQS are primarily due to fugitive dust emissions. EPA further states that, "...fugitive dust emissions were the largest contributor to the risks due to lead emissions. The impacts of fugitive emissions were generally considerably greater than the impacts due to stack emissions." Assuming EPA's statement is correct, EPA's analysis does not support the need for a WESP system to further reduce stack emissions beyond the levels already achieved by existing filtration technologies already successfully utilized by secondary lead smelters.

The WESP System Has Not Been Technically Demonstrated To Achieve a Specific Emission Reduction For All Types of Secondary Lead Smelting Operations.

The undersigned companies also note that the WESP system has not been technically demonstrated for all source subcategories or units in the secondary lead smelting industry. The effectiveness of the WESP system at the one secondary lead smelter facility where it has been installed is unclear. The operating conditions, removal efficiencies, and other uncertainties in the data make evaluation of the WESP system's effectiveness impossible to verify. For these reasons, any proposed emission standard based on consideration of the WESP system as a control option would also be unsupported.

We understand that Envitech, Inc. (Envitech) has installed a WESP system at a facility operated by Quemetco Inc. (Quemetco) in City of Industry, California to control emissions from many, but not all, of the facility's emissions sources. We understand that the Envitech system consists of a series of condenser/absorber (CA) towers with integrated WESPs, and that the system is intended as an exhaust polishing filter and installed downstream of the native control equipment on Quemetco's furnace feed dryer, reverberatory furnace, electric arc furnace, and refinery. The native control equipment on those processes appears to include high efficiency baghouses, SO₂ scrubbers, NO_x scrubbers, and a regenerative thermal oxidizer on the feed dryer. *See California's South Coast Air Quality Management District (SCAQMD), Facility Permit to Operate, Section H, page 9 (January 15, 2010) (Attachment A); SCAQMD Engineering and Compliance Application Processing and Calculations, page 1 (November 30, 2006) (Attachment B).*

We understand that the purpose of the WESP system at Quemetco is to address risks primarily attributed to emissions of lead as well as other metallic HAPs, identified in a risk assessment required under SCAQMD Regulations. We understand that the WESP system was designed as a polishing step to capture and remove condensed metals^[1] including metal HAPs present in the following process exhaust streams at the Quemetco facility:

^[1] Condensable metals result from sufficient heating of metals to cause them to vaporize. We understand that the WESP system is aimed at cooling the gas stream and collecting the condensed metals, allowing them to agglomerate, collect a sufficient charge and then be removed from the exhaust stream. Metals

- Furnace feed dryer
- Reverberatory furnace
- Electric arc furnace
- Refinery

See SCAQMD, Facility Permit to Operate, Section H, page 58 (January 15, 2010) (**Attachment A**); SCAQMD Engineering and Compliance Application Processing and Calculations, page 1 (November 30, 2006). (**Attachment B**).

We understand that prior to the introduction of emissions to the WESP system, the exhausts are cooled to facilitate condensation of metals in vapor form present in the exhaust gas stream, and that the WESP system includes a conditioning section that sub-cools exhaust gas. See SCAQMD, Facility Permit to Operate, Section H, page 9 (January 15, 2010) (**Attachment A**). From there, the exhaust gas stream appears to pass into the collection section where the opposing charges of the ESP are applied to facilitate removal of metals that have been condensed into very fine particulate form. Condensed materials resulting from this process would have a diameter of 1 micron or less. See EPA Air Pollution Training Institute Virtual Classroom – SI 412B Electrostatic Precipitator Plan Review (February 1998). The WESP system began operating on June 6, 2008 and on July 3, 2008, shortly after startup, the system reportedly experienced a catastrophic fire that "substantially destroyed the WESP and stack." See SCAQMD Hearing Board, In the Matter of Quemetco Inc., Order Granting Short Variance, page 3 (December 3, 2008). (**Attachment C**). The system has been rebuilt and apparently is operating.

A white paper from Envitech reports the following performance guarantees for the WESP system:

- Compound A – 92% removal efficiency
- Compound B – 92% removal efficiency
- Compound C – 50% removal efficiency

Upon information and belief, we understand these compounds to be lead, arsenic and nickel respectively. See Andrew C. Bartocci, Integrated Scrubber & Wet Electrostatic Precipitator Reduces HAPs Emissions at Secondary Lead Smelter Facility, Paper # 17, at Table 1 (date unknown). (**Attachment D**). The results of this white paper appear similar to those of a separate white paper provided by EPA in the Docket at EPA-HQ-OAR-2011-0344-0032[1](although the paper provided in the EPA Docket does not address Ni emissions). The Envitech Paper #17 addresses inlet estimates to the WESP system at Quemetco in orders-of-

vaporize at different temperatures and at different rates. This is why it is important to understand at what temperature a furnace is operating when attempting to evaluate the utility of a WESP system.

magnitude. However, specific data such as actual inlet test results for the compounds addressed and the production rate during testing were not provided. Only redacted versions of stack test reports have been identified for testing of the WESP system. The redacted stack test reports did not identify information on production rate and inlet loading. *See SCAQMD Memo, Reference No. PR09052 (STE Source Test File) (July 21, 2009) (Attachment E); SCAQMD Memo, Reference PR08413 (STE Source Test File)(May 11, 2009) (Attachment F)*. Without the necessary information to fully review performance of the WESP system, a quantitative evaluation of this technology is not possible.

To evaluate the effective performance of the WESP system based upon stack tests, it is important to understand the operating conditions that occurred during the tests. The level of production and the type of material being fed to the furnace units during the stack test could have an important impact on consideration of the inlet concentration being controlled by a WESP system. EPA generally requires testing be conducted under conditions that are most challenging to the control device. This would mean operations generally around 90 percent of the operating capacity of all equipment being addressed by the control device. We have seen nothing to verify that these type of conditions existed during the stack tests for the WESP system.

There Are Significant Operating Differences Between the One Facility with a WESP System and Other Secondary Lead Smelters

There are also important differences between operations at Quemetco's facility in City of Industry compared to other secondary lead smelting operations. For example, Quemetco utilizes an electric arc furnace (EAF) at this location. An EAF operates at higher temperatures (approximately 3000 °F) than other types of smelting furnaces, such as rotary or reverberatory furnaces (approximately 2,300 °F) or blast furnaces (approximately 1,200 to 2,200 °F). As a result of higher temperatures, an EAF furnace can be expected to produce more metals in the vapor phase relative to lower temperature operations. Quemetco may need a WESP system to address this higher portion of metals in the vapor phase -- given the individual circumstances of this facility. There is no indication that a WESP system (intended to remove metals vaporized in an EAF) would be appropriate for, and no demonstration that it would be any more effective for, particulate generated by other furnace types when compared to dry filtration methods alone, which are already employed at many existing operations.

In fact, the California SCAQMD recognizes that a WESP system may not be technically feasible for all secondary lead smelters. In its response to comments on the Final Environmental Assessment for Proposed Rule 1420.1 – Emissions Standards for Lead from Large Lead-Acid Battery Recycling Facilities (October 2010) (**Attachment G**), SCAQMD provides:

Staff understands that Wet Electrostatic Precipitator (WESP) control technology installed at the commenter's facility may result in different emission rates than those achieved at another facility subject to PR 1420.1 utilizing the WESP technology. AQMD staff agrees that additional time is needed to further evaluate

the technical feasibility, potential environmental impacts and economic impacts of such a proposal.

Id. Response to Comment 2-1, at page C-19 (emphasis added).

Conclusion

In sum, given that the performance of the WESP system is not demonstrated in practice for the various furnace types in the secondary lead industry, the unclear effect on emissions on the facility where it is installed, the high capital and operating costs, and the independent evaluation of this technology by SCAQMD, a WESP system is not economically or technically justified to provide the basis for any emission limit considerations. This comment is jointly submitted by the undersigned companies in support of the positions expressed in this letter. Each undersigned company is also submitting individual company comments and/or may be further adopting other comments being submitted on the Proposed Rule, including but not limited to those submitted by the Association of Battery Recyclers. Please feel free to contact any of the undersigned if you have questions concerning the above comments.

Attachments A-G

(Space Left Intentionally Blank With Signature Pages Immediately Following)

Docket ID Number US EPA-HQ-OAR-2011-0344
Joint Comment on the Wet Electrostatic Precipitator (WESP) System
July 26, 2011
Page 6

JOHNSON CONTROLS BATTERY GROUP, INC.

By:  _____

Its: VP + GM, Recycling Americas

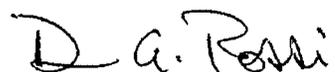
Docket ID Number US EPA-HQ-OAR-2011-0344
Joint Comment on the Wet Electrostatic Precipitator (WESP) System
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GOPHER RESOURCE, LLC
ENVIROFOCUS TECHNOLOGIES, LLC

By: 
Its: CHIEF OPERATING OFFICER

Docket ID Number US EPA-HQ-OAR-2011-0344
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EXIDE TECHNOLOGIES

A handwritten signature in black ink that reads "D. A. Rossi". The signature is written in a cursive style with a large, stylized "D" and "R".

By: Dean Rossi

Its: Vice President – Global EHS

Docket ID Number US EPA-HQ-OAR-2011-0344
Joint Comment on the Wet Electrostatic Precipitator (WESP) System
July 26, 2011
Page 9

EAST PENN MANUFACTURING CO., INC.

By:  J.

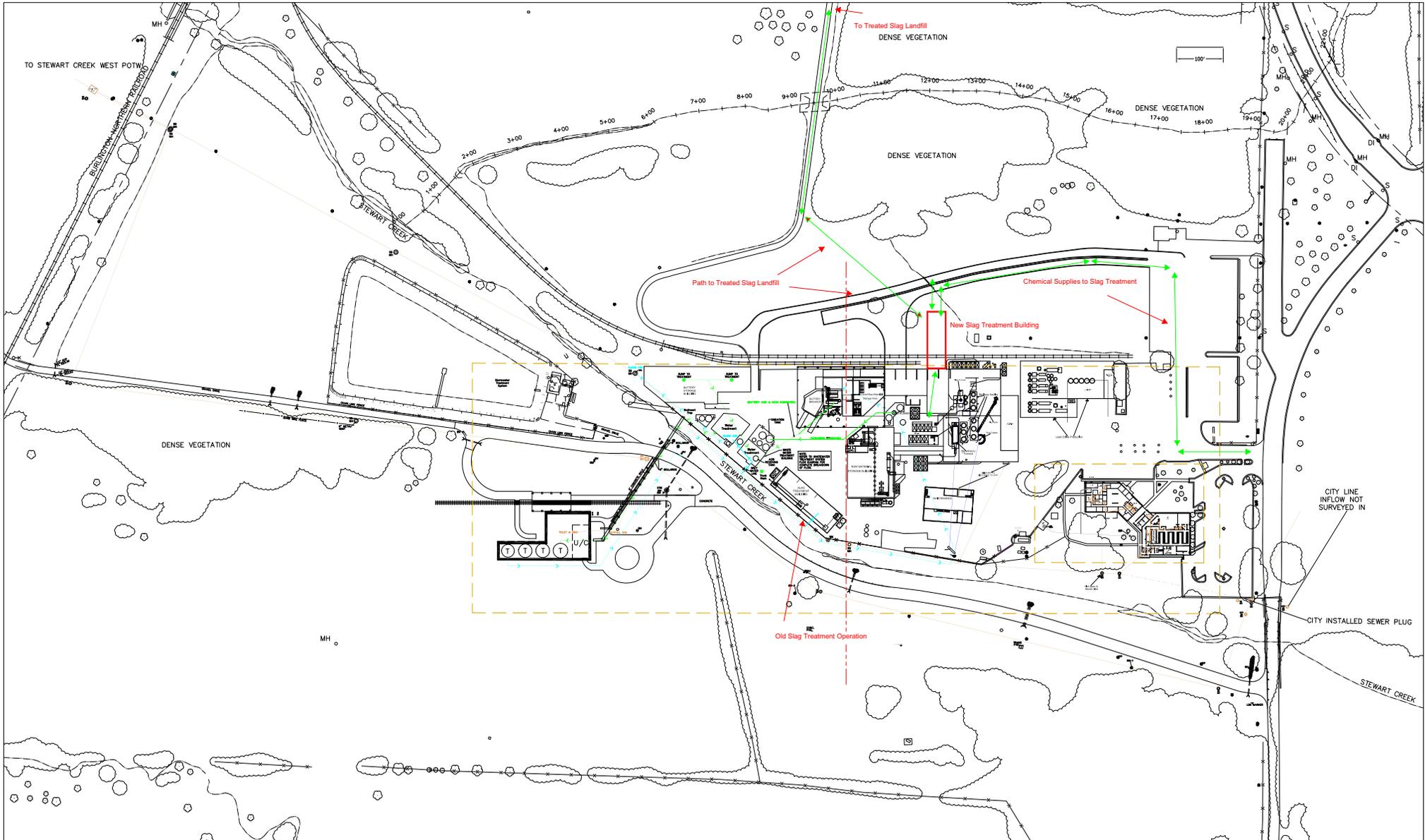
Its: Vice President, METALS OPERATIONS

SANDERS LEAD COMPANY, INC.

By: N. Kenneth Campbell / *rc*
Its: Executive Vice President

ATTACHMENT B

Proposed Path of Treated Slag as a Result of Relocation of Slag Treat Operation



EXIDE TECHNOLOGIES
 7437 Shaw-Forte Street
 P.O. Box 250
 Pflugerville, Texas 78660

Legend
 Proposed Approximate Traffic Pattern

NOTES:
 THE LOCATION OF LATERAL LINES
 ARE APPROXIMATE BASED ON
 SURFACE OBSERVATIONS AND
 INTERVIEWS WITH EXIDE EMPLOYEES.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

August 8, 2011

Holly Brightwell (MC 206)
Air Quality Division
Chief Engineer's Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Dear Ms. Brightwell:

RE: Collin County Attainment Demonstration for the 2008 Lead NAAQS (Project No. 2011-001-SIP-NR) and Agreed Order with Exide Technologies (Project No. 2011-024-MIS-NR)

The purpose of this letter is to comment on the State Implementation Plan (SIP) revision proposed by the Texas Commission on Environmental Quality for the Collin County Attainment Demonstration for the 2008 Lead NAAQS nonattainment area and the proposed Agreed Order with Exide Technologies. The Clean Air Act and subsequent federal regulations require Texas to submit a State plan to the Environmental Protection Agency that demonstrates achievement of the 2008 lead National Ambient Air Quality Standards (NAAQS) as expeditiously as practicable, but no later than December 31, 2015. We appreciate the efforts of the State in developing a plan for this area.

To meet the 2008 lead NAAQS, the State has proposed an agreed order to implement emission reductions at the Exide facility. This agreed order would become part of the SIP and thus federally enforceable. The proposed revision to the SIP includes a technical demonstration based on AERMOD modeling and other evidence, to attempt to demonstrate that the Collin County area will attain the air quality standard on time.

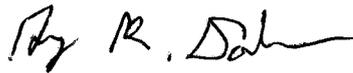
The measures in the proposed agreed order will result in a significant amount of reductions from the installation of controls, construction of building enclosures, and the implementation of other fugitive emission mitigation techniques.

Unfortunately, the SIP as currently constructed is not approvable. The SIP must include enforceable limitations to achieve the emission projections in the model. For the point source emissions, the State has projected emission rates based on stack tests. These emission rates are not backed up with enforceable limits. For lead, hourly emission limits should be established because the only practical way to enforce the limits is through stack testing. The proposal indicates that limits will be included in a permit, but the permit has not been included as part of the SIP revision. The State should include the hourly emission limits in the agreed order that implement the hourly rates included in the model.

Enclosed are detailed comments on the proposed SIP revision. I would note that EPA rules for implementation of modeling indicate that a modeling protocol should be established in situations such as this. I believe if a modeling protocol had been established, these issues may have surfaced and been addressed prior to proposal.

We look forward to working with TCEQ to fully address and resolve our concerns and agree to a protocol for finalizing the SIP attainment demonstration modeling. Please contact Carl Young of at 214-665-6645 or Erik Snyder at 214-665-7305 if you have any questions.

Sincerely yours,



Guy R. Donaldson
Chief, Air Planning Section (6PD-L)

Enclosure

cc: Mr. David Brymer
Texas Commission on Environmental Quality

Enclosure – Detailed Comments

The modeling analyses (Base Case and Future Case), in many cases, do not follow EPA regulations and guidelines for attainment demonstration SIP modeling. TCEQ did not follow the provisions of 40 CFR 51.112 and 40 CFR Part 51 Appendix W, Guideline on Air Quality Models (GAQM). In particular, TCEQ did not conduct modeling in accordance with a modeling protocol agreed to between EPA and TCEQ. Despite EPA's requests for a protocol prior to TCEQ conducting the modeling for the attainment demonstration SIP, no protocol was shared with EPA prior to TCEQ finalizing the modeling included in the proposal. EPA did have a number of conference calls with TCEQ and provided guidance on modeling for this proposal, but TCEQ did not follow many of EPA's recommendations to meet the requirements of 40 CFR 51.112 and 40 CFR Part 51 Appendix W, GAQM .

40 CFR Part 51 Appendix W, GAQM, Section 5.2.5 states¹:

5.2.5 Models for Lead

a. For major lead point sources, such as smelters, which contribute fugitive emissions and for which deposition is important, professional judgement should be used, and there should be coordination with the appropriate reviewing authority (paragraph 3.0(b))...

GAQM Section 3.0(b) states:

b. In this guidance, when approval is required for a particular modeling technique or analytical procedure, we often refer to the “appropriate reviewing authority”. In some EPA regions, authority for NSR and PSD permitting and related activities has been delegated to State and even local agencies. In these cases, such agencies are “representatives” of the respective regions. Even in these circumstances, the Regional Office retains the ultimate authority in decisions and approvals.

GAQM Section 10.2.1 states:

10.2.1 Analysis Requirements

a. Every effort should be made by the Regional Office to meet with all parties involved in either a SIP revision or a PSD permit application prior to the start of any work on such a project. During this meeting, a protocol should be established between the preparing and reviewing parties to define the procedures to be followed, the data to be collected, the model to be used, and the analysis of the source and concentration data. ... The protocol should be written and agreed upon by the parties concerned, although a formal legal document is not intended. Changes in such a protocol are often required as the data collection and analysis progresses. However, the protocol establishes a common understanding of the requirements.

¹ In the following citations, underlining has been added for emphasis.

It is clear that in the case of a SIP revision that a protocol should be established, especially when Exide and TCEQ wish to deviate from the GAQM procedures as TCEQ has done in several cases in their modeling for this proposal. A protocol is considered to be a living document, but decisions to change the document should be approved by the preparing and reviewing authorities. EPA has noted a number of issues that raise significant concerns about the approvability of TCEQ's proposal and proposed Agreed Order.

The largest concern is TCEQ's deviation from the appropriate characterization of emission rates from sources. TCEQ did not follow the procedures in Section 8 of GAQM, including 8.1.2.i., which states:

... When using a refined model, sources should be modeled sequentially with these loads for every hour of the year. To evaluate SIPs for compliance with quarterly and annual standards, emission input data shown in Table 8-1 should again be used. Emissions from area sources should generally be based on annual average conditions. ...

Below is the excerpt from the cited Table 8-1:

TABLE 8-1.—MODEL EMISSION INPUT DATA FOR POINT SOURCES¹

Averaging time	Emission limit (#MMBtu) ²	×	Operating level (MMBtu/hr) ²	×	Operating factor (e.g., hr/yr, hr/day)
Stationary Point Source(s) Subject to SIP Emission Limit(s) Evaluation for Compliance with Ambient Standards (Including Area-wide Demonstrations)					
Annual & quarterly	Maximum allowable emission limit or federally enforceable permit limit.		Actual or design capacity (whichever is greater), or federally enforceable permit condition.		Actual operating factor averaged over most recent 2 years. ³

¹The model input data requirements shown on this table apply to stationary source control strategies for STATE IMPLEMENTATION PLANS. For purposes of emissions trading, new source review, or prevention of significant deterioration, other model input criteria may apply. Refer to the policy and guidance for these programs to establish the input data.

²Terminology applicable to fuel burning sources; analogous terminology (e.g., #/throughput) may be used for other types of sources.

TCEQ did not model future emission rates based on Table 8-1. There are three elements listed that are used to yield a model emission rate value, the emission limit and operating level are both a maximum short term limit on the rate of maximum lb/throughput and maximum throughput/hour on a maximum hourly basis and not an annualized average value. EPA addressed questions on how to model point and area sources during conference calls with TCEQ and most recently in the 2008 Lead (Pb) NAAQS Implementation Questions and Answers memorandum, which reiterated the procedures in GAQM Section 8. In the proposed plan, TCEQ did not follow EPA's recommendations or provide adequate documentation of how the modeled emission rates relate to emission rates that would be developed using GAQM Section 8. The emission rates modeled must be included in the SIP as enforceable limits to be protective of the demonstration of attainment. For point sources, stack testing (average of three 1-hour tests) must demonstrate compliance with the modeled emission rates. Therefore, hourly emission limits should be established. For fugitive/area source emissions practically enforceable limits are also required to demonstrate compliance with the modeled values.

Detailed Comments Related to Modeling Approach

1. TCEQ did not use the AERSURFACE program to calculate the Bowen ratio, surface roughness length, and noontime albedo so that more recent USGS NLCD data (2001 vs.

1992) could be used. Instead, to determine the Bowen ratio and surface roughness length for generating meteorological data for use with AERMOD, TCEQ used methodology proposed by the Alaska Department of Environmental Conservation (ADEC) described in *ADEC Guidance re AERMET Geometric Means, How to Calculate the Geometric Mean Bowen Ratio and the Inverse-Distance Weighted Geometric Mean Surface Roughness Length in Alaska*. TCEQ calculated the noontime albedo value using methodology specified by the AERSURFACE User's Guide and 2001 NLCD data. The use of more recent land coverage data for determining these parameters was preferred by TCEQ because of the large amount of growth in the area surrounding Exide's Frisco facility since 1992. While we agree that use of more recent NLCD is appropriate due to the growth in the area, further information is needed to allow a review of TCEQ's approach and to confirm that the incorporation of more recent NLCD was completed in an acceptable manner. Please provide additional detailed documentation supporting the determination of the Bowen ratio, surface roughness length, and albedo values used to generate the AERMOD meteorological input files.

2. As part of the proposed Agreed Order, Exide would be required to install full enclosures under negative pressure for several fugitive emission sources (EPNs 10, 35, 36, 44, 52, 53, and 999). The emissions captured via the enclosure system would be routed to proposed baghouses. As part of the Future Case modeling analysis, TCEQ assumed that the installation of the full enclosure with negative pressure will result in 100% capture of the fugitive emissions that will be routed to a baghouse. Therefore, the Future Case modeling analysis does not include any modeled fugitive emissions from these sources. While EPA has accepted in principle a 100% capture of fugitive emissions, we have stipulated stringent requirements in order to utilize 100% capture. In our VOC rules, we have allowed 100% capture, but with requirements on maximum size of leaks of less than 15 cm², limits on minimum velocities on entrance/exits, limits on the size of egress points, etc. If the areas where 100% capture was assumed is not designed appropriately, a very small amount of fugitives could result in the area not reaching attainment based on TCEQ's modeling analyses. The final SIP should include the detailed plan for how the source would be able to achieve 100% capture efficiency.
3. The modeling assumed a background concentration of zero (0) for lead. Based on EPA's documentation for the 2008 lead NAAQS, we expect the background level to be very low, but not non-existent. Therefore TCEQ should work with EPA to determine the representative background data to be added to the modeled impacts.
4. The modeled source elevations included in both the Base Year and Future Case modeling analyses differ from the modeled source elevations included in the modeling conducted by TCEQ to inform the Collin County lead nonattainment boundary. Please document what

caused the changes in elevations for the modeled sources and revise the attainment modeling as necessary.

5. It is not clear from the proposed SIP documentation why stack/release heights and diameters for some sources included in Base Year and Future Case modeling analyses (EPNs 23, 38, 39, 41, and 48) differ from the stack heights and diameters included in the modeling analysis conducted by TCEQ to inform the Collin County lead nonattainment boundary. Please provide the basis of the changes made to stack/release heights and diameters. Modeling should be done in accordance with GAQM 8.1.2.a, b, and c.
6. TCEQ indicated that model stack parameters (stack temperature and stack exit velocity) for the Base Year and Future Case modeling analyses were based on stack test data for Exide's Frisco facility. It is not clear from the proposed SIP documentation if these stack test based stack parameters represent the worst case or average stack temperatures and exit velocities. Please provide the basis of the modeled stack temperatures and exit velocities. Modeling should be done in accordance with GAQM 8.1.2.a, b, and c.
7. TCEQ's modeling did not have an adequate grid resolution. Receptors should be placed with 25-meter spacing on the fenceline, and 50-meter spacing for receptors in the nonattainment area and 100-meter spacing beyond the nonattainment boundary. Previous modeling conducted by TCEQ used 50-meter spacing for receptors in helping to set the nonattainment boundary. TCEQ's own modeling guidance states: "It is appropriate to use a smaller receptor spacing located close to the property line to identify concentrations caused by short stacks or fugitive sources."
8. Please provide the raw meteorological input data that was processed with AERMET to generate the AERMOD meteorological input files.

Detailed Comments Related to Emission Rates and Other Issues

9. The proposed Agreed Order requires that Exide apply for and obtain the necessary authorizations to implement the control strategies listed in paragraphs 15 to 27 of the Order. Since TCEQ is relying on these emission rates to demonstrate future compliance with the lead NAAQS, the modeled emission rates as listed below should be included in the SIP revision and Agreed Order as enforceable emission limits.

Source ID	Emission Rate (lb/hr)
11	0.0021
12	0.0043
13	0.0012
14	0.0055
15	0.0025
16	0.0014
17	0.0017
18	0.0275
21	0.1743
22	0.0086
23	0.0006
24	0.0017
25	0.0010
26	0.0004
37	0.0450
38	0.1005
39	0.0513
45	0.0688
48	0.0037
10A	0.0103
35A	0.0238
48A	0.0047
27	0.0006
28	0.0013
ROAD	0.0017

In addition, it is not clear if the changes to stack parameters (stack temperature, exit velocity, height, and diameter) used in the Future Case modeling analysis will be included as updated permit representations.

10. TCEQ indicated that in the Base Case modeling analysis, model ID 10 represented the worst case stack and combined emissions from EPNs 10 and 35. However, the modeled emission rate for model ID 10 in the Base Case modeling was the same as the modeled emission rate for this source included in the modeling analysis conducted by TCEQ to inform the lead nonattainment boundary, which included both 10 and 35 as separate modeled sources.
11. TCEQ indicated that in the Base Case modeling analysis, model ID 41 represented the worst case stack and combined emissions from EPNs 41, 42, and 43. However, the modeled emission rate for model ID 41 in the Base Case modeling was the same as the

modeled emission rate for this source included in the modeling analysis conducted by TCEQ to inform the lead nonattainment boundary, which included 41, 42, and 43 as separate modeled sources.

12. TCEQ used the SCREEN3 model to estimate the amount of emissions from sources previously not accounted for based on initial Base Case modeling. SCREEN3 is no longer the EPA's preferred screening modeling. Furthermore, use of a screening model to back estimate the amount of emissions that are due to unknown sources should be discussed in a modeling protocol as there are potentially other reasons the model is not matching up with the monitored data. EPA would like to know what other potential sources of model discrepancies were considered.
13. TCEQ modeled all of Exide's property as not being ambient air and defined ambient air as property the general public does not have access. We note that not all of Exide's property is properly fenced and patrolled to limit access in such a manner as to prohibit public exposure. Specifically we noted on July 28, 2011 the property on the southern side is not fenced and monitored for trespassing. The land modeled as not being ambient extends to the edge of the access road for the north bound Dallas Tollway. No fencing is present for the part that is adjacent to the access road and the only fence that seems to exist is located further back on the property and appears to be a damaged barbed wire fence that may not be posted or limit access. TCEQ should investigate and discuss with Exide on how they will appropriately fence and monitor all property boundaries such that it can be treated as non-ambient air or include receptors for this area in the attainment modeling. Exide should provide a plan on how this will be achieved that could be added to the SIP.
14. In past communications between EPA and TCEQ, EPA has indicated that we need a full description of each fugitive emissions source including process location(s) on a facility plot plan, and complete analysis of how the amount of capture/fugitive emissions is calculated. This full level of detail such that each part of the estimate is documented and available for review was not included in the proposed plan. This is a critical piece of information for the plan, since fugitive emissions are a significant contributor to the off-property values.

8/8/2011

**Comments regarding Proposed Collin County Attainment Demonstration SIP Revision
(Project No. 2011-001-SIP-NR)**

Submitted by Henry Bradbury, REM [REDACTED]

I am environmental professional who lives within Senate District 8, a resident of the North Texas area for over thirty years, a contributor and member of the local lead stakeholder group Get the Lead Out of Frisco, and have extensive professional experience in matters dealing with air quality.

As both the SIP proposal and Agreed Order are interconnected, please consider the following comments for both Project No. 2011-024-MIS-NR and Project No. 2011-001-SIP-NR.

Comments

1. I fully endorse and submit by reference the comments filed by Jim Mallet and prepared by Jess McAngus, PE of Spirit Environmental regarding the Proposed Collin County Lead SIP. Mr. McAngus's technical review of the SIP Revision document highlights extensive technical issues with what has been proposed. I request that the SIP proposal be withdrawn, corrected and re-proposed.

2. Throughout the SIP proposal and for that matter the process, the data provided by TCEQ frequently does not add up. The absence of integrity of the data greatly compromises the overall SIP process, and neuters the public's ability to accurately understand the issues, their impact and ability to assess the degree of protection associated with the SIP proposal.

Mr. McAngus's comments have showcased extensive issues with the data provided by TCEQ not being accurate. There are also several issues with the ERG report which will be addressed later in these comments.

An example is Chapter 2.2 of the SIP narrative references 2010 emission inventory of 1.09 tons/year. Using data found in section 3.3.1.2 of the SIP narrative, the emission inventory value as stated is suspect, as it does not include contributions from sources that Exide previously acknowledged even existed.

3.3.1.2 Other Sources

In comparing monitoring data to modeling results considering only the sources authorized by Exide Permits 1147A and 3048A, there was a disparity between some actual and predicted concentrations. The actual concentrations were significantly higher than those predicted given certain meteorological conditions. The commission concluded that a source or sources were not accounted for in the modeling. Based on the review and analysis of actual and predicted 24-hour concentrations, there appeared to be an unaccounted source to the south-southeast (SSE) of the Frisco Eubanks monitor (Air Quality System Identification [AQS ID] 480850009).

The SIP proposal should be withdrawn, data integrity issues addressed, and formally re-proposed including a TCEQ sponsored public stakeholders meeting to provide clarification of what was inaccurate in the existing proposal, and clarity regarding what is proposed in the revised document.

3. Both the Agreed Order and the proposed SIP note highlight the existing impact of fugitive emissions from the existing facility. The documentation also further supports that the qualification and understanding of the origin of neither the facility's fugitive emissions nor their amount is not well understood (as documented in 3.3.1.2 Other Sources).

Further, as both the ERG report and EPA's recent multimedia inspections of the Exide facility in Frisco have well documented, the facility's operational ability to date to control fugitive emissions has been severely lacking. Given this history, the stated absence of understanding the origin of the fugitives from the site and their actual amounts, a more effective approach toward fugitives is required to assure NAAQS compliance and meet RACT/RACM requirements.

It is recommended that TCEQ adopt RACT/RACM the full requirements of California's November, 2010 – Final rule: Emission Standards for Large Lead Acid Battery Recycling Facilities: These rules can be found at: <http://www.aqmd.gov/rules/reg/reg14/r1420-1.pdf>. These standards were implemented to bring CA's two secondary smelters into compliance with the NAAQS standard, and to assure protection of public health of the citizens of California. Frisco and North Texas citizens deserve no less, and in fact given the City of Frisco's stated position regarding the Exide to be the most environmentally advanced plant in the country, demand much more stringent standards.

4. Chapter 4.1 of the SIP Narrative document notes that in putting forth their proposal for control strategies and the RACT/RACM process, they relied significantly on the Eastern Research Group, Inc. (ERG) report titled *Comprehensive Evaluation of Air Quality Control Technologies used for Lead-Acid Battery Recycling*.

"The TCEQ has analyzed the recommended control technologies and measures in the report and is proposing as part of Agreed Order 2011-0521-MIS those measures that were found to advance attainment as soon as practicable and meet the criteria of reasonably available control technology (RACT) and reasonably available control measures (RACM)."

The ERG report is incomplete against the TCEQ publically stated scope of work (Source: Document Titled, "A summary of TCEQ activities concerning the lead non-attainment area located in the City of Frisco", sent to City of Frisco via email dated March 2, 2011):

"TCEQ is contracting with Eastern Research Group Inc. (ERG) to conduct a comprehensive evaluation of air quality control technologies used for lead-acid battery recycling. Will include, at a minimum, the following:

- *An evaluation of potential lead emission reduction strategies;*

- *Development of a menu of industry best management practices and an evaluation of whether each practice would be compatible with emission control practices and technologies at the Exide facility...;*
- *Development of a menu of control technologies and an evaluation of whether each technology would be compatible with emission control practices and technologies at the Exide facility...;*
- *A calculation of the potential for emission reductions for each practice or control technology, including beneficial combinations..., along with an estimated cost...; and*
- *An estimation of the time to acquire and install each potential practice or control strategy.”*

Key Shortcomings of ERG report:

Scope:

- a) Evaluation did not include consideration of Doe Run’s new process for minimizing emissions. Process was announced publicly in early March. (1st bullet)
- b) Evaluation of Industry Best Management Practices- fails to identify the associated potential emission reductions of those activities listed as “Fugitive Control Work Practices” (Section 4.2) (2nd and 4th bullets)
- c) Evaluation did not address compatibility of WESP technology “with emission control practices and technologies at the Exide facility” (3rd bullet). A key omission, as TCEQ later in the SIP report, states that the WESP will not work on the Exide process, which is factually incorrect as documented by Mr. McAngus’s review and statements by manufacturer of the WESP equipment.
- d) Failure to include “estimation of time to acquire and install” WESP technology (5th bullet)
- e) Did not include reference or consideration of the two additional WESPs permitted and being installed at other US secondary smelters. Considering the purpose of the review, the limited number of secondary smelters in US, this is yet another major omission of critical information.
- f) Report as scoped, does not appear to align RACT/RACM process, and though appears to have been used as basis for Agreed Order and proposed SIP Amendment. RACT/RACM or not.

Technical:

- g) Table 1 states baseline emissions as maximum permitted or allowable emissions, which as shown total 3.39 t/y – this is significantly less than maximum allowable rates as shown in TCEQ permits for Exide facility (1147A and 3048A) which total 5.87 t/y
 - Difference dramatically impacts emission controls cost per ton analysis.
- h) Basis for fugitive estimates both baseline and post controls are significantly understated, a key shortcoming. An evaluation of other data on this facility, like background documents in proposed MACT standards, should have alerted ERG that the fugitive

estimates they were using significantly understated fugitive contribution. The combination of understating the fugitive emissions and overstating the ability to control these fugitives, provides an inaccurate base for TCEQ to reach an accurate control technology or control measures strategy, which is evidenced in the SIP proposal.

- Per ERG, Exide's fugitive emissions of 1.48 tons/year can be reduced by 96% per Table 1, net 114 lbs/yr. Given past operational practices, TCEQ modeling data, the level of proposed reductions is overstated.
- i) Opportunity for stack emission reductions is grossly understated.
- Exide has a secondary lead smelter facility in CA, which is regulated under SCAQMD rule 1420.1. These rules set a facility wide limit (0.045 lbs/hr) on Exide's California facility.
 - The emission reductions recommended by ERG for Exide Frisco stacks (0.135 lbs/h), would net a total stack emission rate (after proposed reductions) of 0.300 lbs/hr, at least 6.66 times higher than Exide's own CA facility.

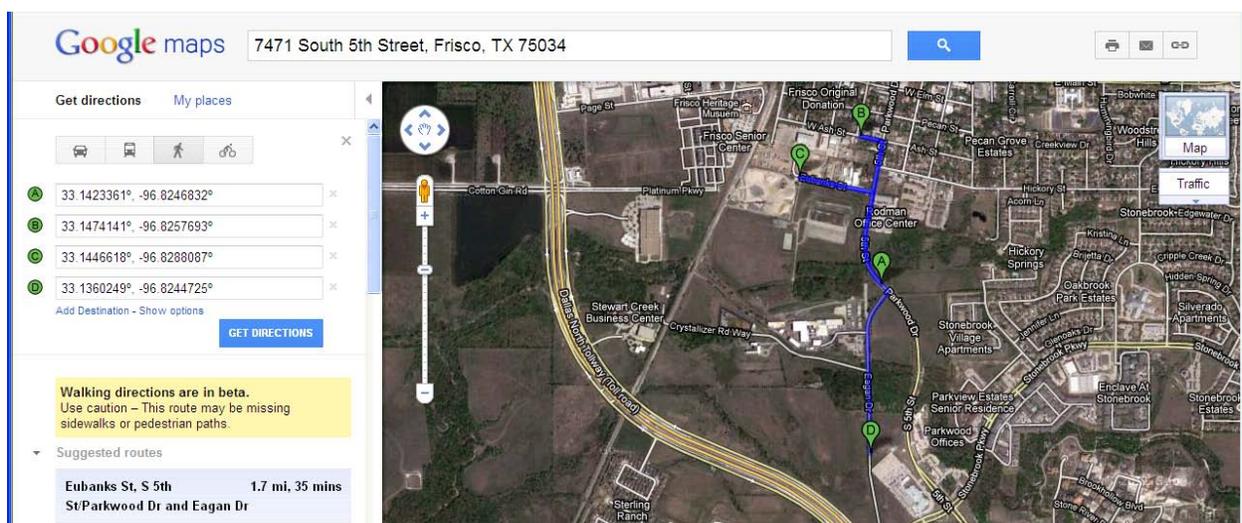
Comments to 2011-001-SIP-NR:

Summary:

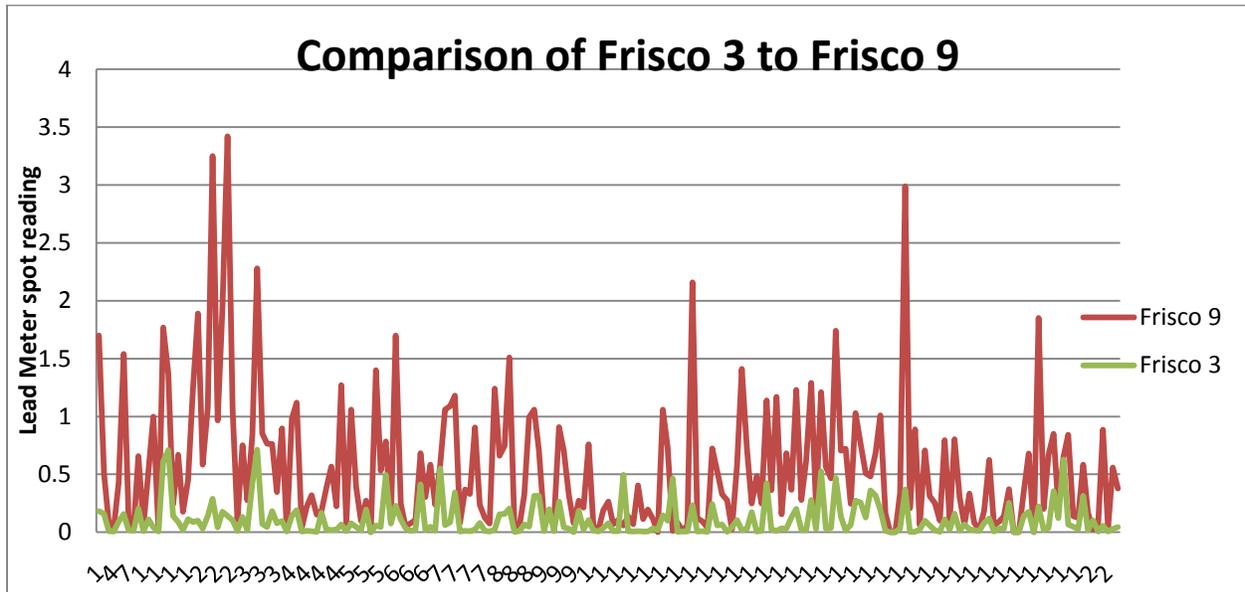
1. Some Frisco Exide plant monitors should be relocated and set to an off day cycle to better capture the true picture of lead exposure to the area and prevent gaming the testing system
2. There is ambient lead in the area that is not being accounted for within the SIP
3. There is no part of the new standard that factors in the general population impact surrounding the plant. The Frisco Exide plant is located in the heart of a booming residential community with no less than three schools located within 1 mile of the plant. The community health impact is greater therefore the monitoring and enforcement needs to be elevated.
4. Rejection of this SIP plan. WESP/RTO technology must be a part of the RACT solution for Frisco's Exide plant solution to reduce the plant's lead emission to a safer level given the population of the surrounding area and the density of children.

My name is John Parchman, I live at [REDACTED] Allen, Texas. In 2008, I moved away from Frisco because my oldest daughter was going to be attending Frisco High School a quarter of a mile away from the Frisco Exide secondary lead smelter. At that time, there was no lead monitoring to the South of the plant and the 2008 standards were not going to be enforced until my Daughter graduated from Frisco High School. I still own property in Frisco and I am continuing to speak out in favor of tighter monitoring and stricter controls of the Exide Frisco plant.

Monitor locations



I would like to discuss the monitoring locations. Specifically 480850009 (Monitor C – Frisco 9) and 480850003 (Monitor B – Frisco 3). All 4 of the Frisco lead monitor work in the same way and on the same day. Each monitor's sampler opens for 24 hours every 6 days. Due to the close proximity of the two monitors the data from them is highly correlated. A high reading on Frisco 3 will most likely indicate a high reading on Frisco 9. Below is a graph of the readings over the past few years.



The correlation of the two data sets is 0.50838719

A few things to note from the graph:

1. Frisco 9 is almost significantly higher than Frisco 3
2. Peaks in Frisco 3 usually have a corresponding peak in Frisco 9's readings.
3. Frisco 9 is seldom within the new 2008 .15 standard.

Essentially the Frisco 3 monitor is redundant to the Frisco 9 meter.

Recommendation: The Frisco 3 monitor should be relocated to Eubanks Street (same street as Frisco 9)

Testing/ Monitoring method

So now let's discuss the sampling method which I like to term - horny teenagers.

We know certain things:

1. There are certain plant operations that produce lead emissions - slag transfer, firing the ovens, battery breaking.
2. The monitors are only on 1 day every 6 days.
3. The exact time and date of monitors being turned on and off is a known entity
4. All 4 of our monitors turn on and off at the exact same time and date
5. We even know the wind direction and speed

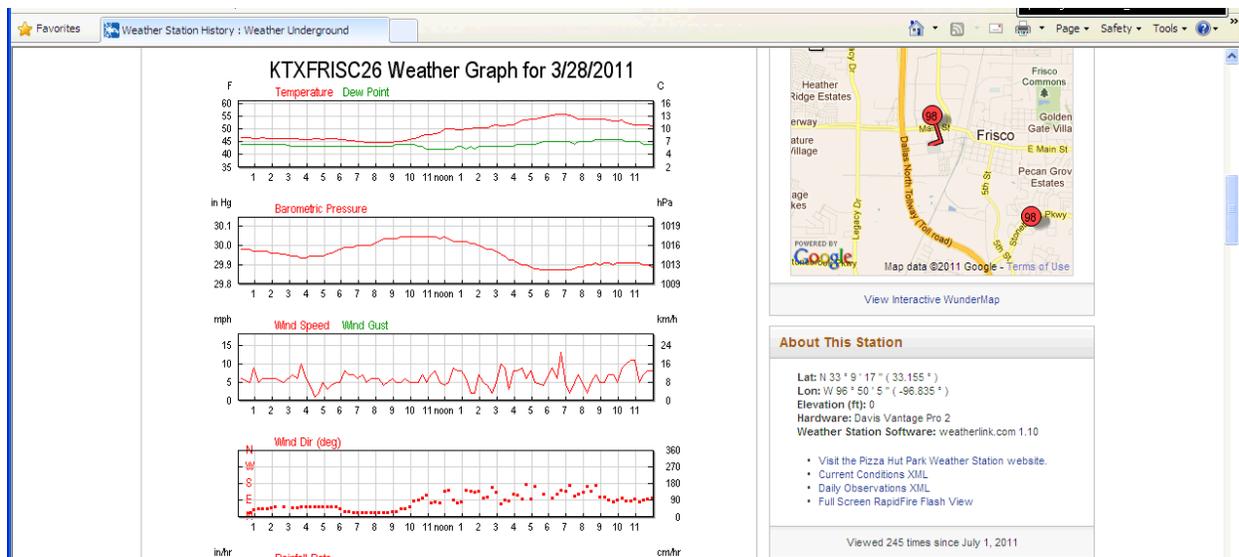
This methodology enables gaming the monitoring system, the plant can game the monitors by restricting high lead risk activities to the 5 out of 6 days when the monitors are not sampling.

It is similar to this - you have two horny teenagers in a room by themselves. You are a very good parent so every hour you are going to stop in and check on them for 10 minutes. Outside of that ten minute, you cannot see or hear anything. The teenagers know exactly when you will be checking in and for exactly how long. Funny how every time you check in there does not seem to be any bad activity going on. I think it would be very interesting and in line with being a good parent if somebody was checking in during a different time or on a more random schedule.

Recommendation: Either randomize the testing days/times or at least alternate the days of the 480850003 and the 480850009 monitors.

Ambient lead in the area

The Frisco Exide plant has been termed the sole source of lead in the area. This allows the plant the full .15 lead emissions. When in fact the predictive model is not accounting for the ambient lead in area due to the plant's years of operation and other lead sources. Let me give you an example. Our wins are predominately from the South/Southwest. Therefore there was little motivation until recently to add a Southern monitor (480850029), but an interesting thing happened when we did add a monitor. Let's look at one day and then examine the monitor's data since it became operational in January. March 28th, 2011. Below is a weatherbug data collection point for Pizza Hut Park, Immediately to the North of the Exide facility.



Notice the winds were moderate from 5-10 MPH and the wind direction was from E/NE. The Southern monitor should have been pretty clean. But the Southern monitor in fact read 1.09 – 7 times the new standard.

Ash Street Monitor Monitor B where there should have been practically no lead read .112 (nearly the new standard)

Eubanks Street Monitor Monitor C where again there should have been no lead read .209 (33% above the new standard)

South 5th Street Monitor A read .0813

There is a LOT of lead in the area. The ambient lead did not matter much when the 1979 standard was in place. It was like the noise of a transistor radio as a jet plane was going overhead. But under the new .15 standard the ambient lead must be taken into account.

How much ambient lead is there?

Let's look at the Stonebrook monitor data significantly to the South of the Plant. I sorted it from Lowest to Highest. Keep in mind the wind in our area is predominately from the South/Southwest so this monitor should be the cleanest and on most days will NOT have ANY lead from the plant's current operations.

Date Time Value
 20110421 0:00 0.0059
 20110509 0:00 0.006
 20110527 0:00 0.0205
 20110214 0:00 0.027
 20110115 0:00 0.031
 20110316 0:00 0.0317
 20110419 0:00 0.0357

20110127 0:00 0.0363
20110220 0:00 0.0438
20110121 0:00 0.0579
20110208 0:00 0.0625
20110409 0:00 0.0669
20110412 0:00 0.0783
20110322 0:00 0.0816
20110515 0:00 0.0821
20110226 0:00 0.0847
20110503 0:00 0.0885
20110403 0:00 0.144
20110310 0:00 0.158
20110202 0:00 0.167
20110427 0:00 0.203
20110415 0:00 0.37
20110328 0:00 1.07

Now, let's take the LOWEST 50% of the monitoring days and average it.

20110421 0:00 0.0059
20110509 0:00 0.006
20110527 0:00 0.0205
20110214 0:00 0.027
20110115 0:00 0.031
20110316 0:00 0.0317
20110419 0:00 0.0357
20110127 0:00 0.0363
20110220 0:00 0.0438
20110121 0:00 0.0579
20110208 0:00 0.0625
20110409 0:00 0.0669

The average is 0.03543

I think I am being generous and there are more scientific methods to determine the ambient lead, but I crudely and VERY conservatively estimate the lead at .03 to .04 micrograms per cubic meter. This lead is not being accounted for in the predictive models and I believe it should be.

According to the TCEQ's predictive model the plant's output should be no higher than .147, just .003 below the new standard. Unfortunately, there is no confidence interval given, no level of probability of achieving that just under the new standard mark. Again, this model does not account for ambient lead. The model is not taking into account the lead contamination of 50 years of lead smelting operations. Additionally the model includes the new plan of include bag house changes, 100% enclosure of the battery breaking facility (dubious) and new operational procedures. 100% containment is just not possible. The model's inputs are just not reasonable and not consistent with the real world operations of a secondary lead smelter.

Conclusion: The TCEQ predictive model is not accurate and overstates the effectiveness of the proposed changes. Ambient lead must be accounted for in the predictive model

Inclusion of WESP/RTO technology

I listened intently to the presentation of the updated SIP to address the new EPA .15 lead standard. The more I listened, the more I was convinced that the application of the RACT standard must include the inclusion of WESP (Wet electrostatic precipitator) and RTO (Regenerative Thermal Oxidizer) technology within the Frisco plant.

Frisco is much different city today and into the future than it was when the plant first came to the area. Frisco is consistently listed as one of the top 3 fastest growing residential areas in not only the State, but the Nation. The population around the plant has ballooned over 100 fold since 1970. With that growth, came a flood of children. Today over 50% of Frisco's population is school age. Additionally, over 50% of that population is under 5 years old. As you are aware, children are most susceptible to lead contamination. Frisco is literally teeming with children.

The current 1.3 square mile non-attainment zone not only encompasses several residential and business areas, but also Frisco High School and several other elementary schools, parks, the city library and Pizza Hut Park a large 20,000 seat stadium and youth soccer complex. The human risk is extremely high surrounding the smelting plant.

In 2008, RSR technologies implemented WESP/RTO pollution control technologies at its Quemetco Secondary Lead Smelting plant in City of Industry, California. Before the plant implemented the WESP/RTO system, the plant was already utilizing similar technology to Frisco's Exide Plant. The results were more than dramatic for not only lead (99.8% reduction in emissions) but also for a host of other VOx carcinogenic substances produced as a part of secondary lead smelting.

1. Arsenic reduced – 98.3%
2. 1,3 butadiene reduced – 99.2%
3. Cadmium reduced – 91.9%
4. Chromium reduced – 81.8%
5. Dioxins reduced - 99.9%
6. Benzene reduced – 58.8%
7. Lead reduced - 99.8%
8. Formaldehyde reduced – 96.9%
9. Acetaldehyde reduced – 91.7%
10. Nickel reduced – 97.5%

These numbers are even more impressive when you consider the Quemetco plant was already using rigorous particulate and Sulfur dioxide controls.

The post-project estimated cancer risk dropped by approximately 87 percent to 2.88 cancer cases in one million exposed individuals over a 70-year evaluation period.

The utilization of WESP/RTO technology does NOT represent an undue financial burden on Exide. WESP/RTO technology should be considered part and parcel of the RACT standard for secondary lead smelters especially those within large population centers such as Frisco. RSR invested approximately \$20 Million to implementation of the WESP/RTO technology. The investment in WESP/RTO technology is minimal compared not only to the healthcare costs borne by the State associated with the reduction of Lead and VOx gases from the plant, but also the lost property tax revenues from diminished property values in the immediate area surrounding the plant and reputational value risk to the entire city of Frisco.

In summary, I urge the TCEQ to look beyond the simplistic bag adjustments and additional HEPA filter solutions as being compliant with RACT. WESP/RTO's 20+ year old technology applied to secondary

lead smelters has in fact become a new standard of Reasonable Accepted Containment Technology and should be mandated as part of the Exide SIP especially given the population risk in the immediate area.

BEFORE THE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Proposed Revisions to the State)
Implementation Plan and)
Agreed Order Between the TCEQ)
and)
Exide Technologies)

George A. Purefoy Municipal Center
City Council Chambers
6101 Frisco Square Blvd.
Frisco, Texas
Thursday
July 28, 2011

The above-entitled matter came on for
hearing, pursuant to notice, at 6:00 p.m.

BEFORE:
BRAD PATTERSON
Office of Public Assistance, TCEQ

DAVID BRYMER
Air Quality Division, TCEQ

HOLLY BRIGHTWELL
Air Quality Division, TCEQ

GULAN SUN
Toxicology Division, TCEQ

MICHAEL HONEYCUTT
Toxicology Division, TCEQ

AMY BROWNING
Office of Legal Services, TCEQ

ROBERT PIELLA

LISA WHEELER
Communications Division, TCEQ

JENNIFER HERNANDEZ
Office of Public Assistance, TCEQ

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SPEAKERS:

- Jeff Jacoby - Page 5
- James Schnurr - Page 6
- Jess McAngus - Page 9
- Howard Mielke - Page 14
- Joseph Dowd - Page 18
- Kim Young - Page 20
- Ranji Koka - Page 25
- Jim Schermbeck - Page 27
- John Parchman - Page 35
- Greg Williams - Page 37
- Terri Adkisson - Page 40
- Henry Bradbury - Page 41

1 PROCEEDINGS

2 MR. PATTERSON: Good evening. I would like
3 to welcome everyone to this public hearing being conducted
4 by the Texas Commission on Environmental Quality or TCEQ.
5 My name is Brad Patterson with the Office of Public
6 Assistance. I would also like to introduce David Brymer,
7 Air Quality Division director, Holly Brightwell with the
8 Air Quality Division, Gulan Sun with the Toxicology
9 Division, Michael Honeycutt with the Toxicology Division,
10 Amy Browning with the Office of Legal Services, Robert
11 Piella with the division, Lisa Wheeler with the
12 Communications Division, and Jennifer Hernandez with the
13 Office of Public Assistance.

14 We're here this evening to receive oral and
15 written comments to the proposed Collin County lead
16 attainment demonstration provision for the 2008 lead
17 attainment agreed order between the TCEQ and Exide
18 Technologies. Copies of the proposed SIP and agreed order
19 are available on the registration table for you to refer
20 to while you are here.

21 If you have not already signed in at the
22 registration table, please sign in now. If you intend to
23 present oral comments, please make sure to indicate that
24 on the sign-up sheet. On the registration table, we also
25 have copies of the public hearing notice that you may take

1 with you so you can quickly find information on how to
2 submit written comments on proposals. We will continue to
3 accept written comments on proposals until August 8, 2011.

4 This hearing is structured strictly for the
5 receipt of oral or written comments on these proposals.
6 Due to the large number of people who have signed up to
7 speak this evening, we'd like to ask favors of you.

8 First, please try to keep your comments as brief
9 as you can, no longer than five minutes. We would like to
10 be sure that everyone is given an opportunity to speak.

11 Second, if someone before you has already
12 addressed your concerns, it's not necessary to repeat
13 those comments word for word. You can simply endorse
14 those comments, and we will acknowledge that those were
15 your concerns as well.

16 Third, if you intend to submit written comments,
17 it is not necessary to read those comments verbatim into
18 the record. If you would like to give both oral and
19 written comments, please consider making your oral
20 comments a summary of your written comments. Thank you
21 for your courtesy in recognizing the time limit.

22 TCEQ is not allowed to answer questions or
23 respond in any way during the hearing. However, if anyone
24 has additional questions regarding the proposal, there
25 will be another opportunity after the hearing to talk to

1 staff. We will begin receiving comments in the order in
2 which you registered. We have a court reporter present
3 that will be transcribing your comments. Please remember
4 to speak directly into the microphone and face the court
5 reporter so that she can get your comments accurately. We
6 also ask that you spell your last name for the benefit of
7 the court reporter. Also, if you hear me call your name,
8 please state your name for the record and who you're here
9 representing or your group affiliation.

10 Also note that we're here today set up to hear
11 oral comments. If your comments also contain a visual or
12 electronic component that you would like entered into the
13 record, please submit it in a video or electronic format.

14 When I call your name, please come up to the
15 podium, state your name, who you represent, and begin your
16 comments. First up, I have Jeffrey Jacoby, followed by
17 James Schnurr. Jeffrey Jacoby.

18
19 MR. JACOBY: Howdy. My name is Jeffrey
20 Jacoby, J-A-C-O-B-Y, and I'm here representing Texas
21 Campaign for the Environment and our 40,000 members
22 statewide. Over the course of three days' time, our staff
23 have knocked on a couple thousand doors here in the city
24 of Frisco, and residents are concerned. In fact, just
25 today we hand-delivered 758 letters from concerned Frisco

1 residents, bringing the grand total to 1,456 comments to
2 the mayor and city council saying that Frisco, a
3 world-class city, deserves a world-class facility.

4 This agreed order, this is a good step, but this
5 is not the final step. If people, whether they are the
6 agency, whether it's the politicians or the company, think
7 that this is good enough, the residents of Frisco have in
8 three short days' time said no, we deserve better.

9 I believe, again, that the work that TCEQ has
10 done, the work that the council has done, the work that
11 the mayor has done is admirable, but it's not enough.
12 This does not go far enough to address the concerns, does
13 not go far enough to address the health issues. This does
14 not go far enough to satisfy the people who live in what
15 they believe is a world-class town. Thank you.

16 MR. PATTERSON: Thank you. Ladies and
17 gentlemen, if you do have a cell phone or paging device
18 with you, if you would please turn it off or put it in
19 silent mode, we would appreciate that. Next up, I have
20 James Schnurr, to be followed by Jess McAngus.

21
22 MR. SCHNURR: Thank you. My name is James
23 Schnurr. It's S-C-H-N-U-R-R. I'm here as an attorney
24 representing Jim Mallett, M-A-L-L-E-T-T. You're also
25 going to hear from, right after me, Jess McAngus.

1 Mr. Mallett has hired Mr. McAngus, who is the president of
2 Spirit Environmental. He's an air expert and has reviewed
3 the proposed order and SIP revision and will comment on
4 the technical issues here tonight.

5 Jim's interest in this issue is that his son,
6 his daughter-in-law, and his grandson live here in Frisco.
7 Jim visits three to five times a week. He's here
8 constantly, and he's deeply concerned for the health and
9 safety of his son as well as his daughter-in-law and his
10 grandson. We are here tonight to voice our extreme
11 displeasure in the proposed agreed order and SIP revision
12 and tell you that it just simply doesn't go far enough.

13 The proposed order at best is designed to get
14 Exide to meet the absolute bare minimum lead standards.
15 Under the proposal, Exide, it estimates, will wind up with
16 a 0.147 while the EPA requirements of 2008 require it to
17 be at .15. So it's a .03 difference.

18 However, as you will hear from our air expert,
19 Mr. McAngus, there are multiple issues concerning how
20 the modeling was done as well as the numbers that were
21 used as part of the calculations to get Exide to the 0.14
22 estimates. They are just not realistic.

23 In any event, this proposed order falls far
24 short from the city's prior public promises to make Exide
25 one of the most technologically advanced facilities in the

1 country or to simply get Exide to move out of Frisco.

2 On a more disturbing note, it's come to light
3 that the lead levels here are not the only issues on the
4 property. Issues concerning the landfill and soil
5 contamination as well as contamination flowing directly
6 into Stewart Creek, which is a tributary to Lake
7 Lewisville, are just as or more troubling. These problems
8 are detailed in the EPA's 1200-plus-page report from their
9 multimedia site inspection that was conducted in
10 2009/2010.

11 One of the questions we'd like to pose to TCEQ,
12 even though you can't answer it tonight, is how did y'all
13 miss those problems? We're only here dealing with the air
14 quality and the lead standards. How did you possibly miss
15 a landfill that's opened up that you can visibly see the
16 chips coming out of the ground? How did you miss the
17 cracks in the concrete with everything flowing into
18 Stewart Creek? That's been going on for two decades.
19 Also, why isn't the TCEQ also addressing soil and water
20 problems in conjunction with this air problem in a single
21 comprehensive manner?

22 Therefore, what we're requesting is that the
23 TCEQ amend its proposed order to include a multimedia
24 solution not only to the air lead issues but to the soil
25 contamination and water contamination in Stewart Creek.

1 Folks, what we're dealing with here is a
2 three-headed monster. We have air contamination, we have
3 land contamination, soil contamination, and we have water
4 pollution. Tonight you're simply trying to cut off the
5 head of just one of this three-headed monster, and it
6 doesn't go far enough. This order needs to go further to
7 ensure the health, safety of not only Jim and his family
8 but of all the residents of Frisco and Collin County.
9 Thank you.

10 MR. PATTERSON: Thank you. Next is Jess
11 McAngus, to be followed by Howard Mielke.

12
13 MR. MCANGUS: Hello, I'm Jess McAngus,
14 president of Spirit Environmental. Last name is
15 M-C-A-N-G-U-S. As mentioned before, I'm representing Jim
16 Mallett. I've got visuals that I think will work, if I
17 know how to use this. To summarize, several issues. I
18 know I've only got five minutes, but I'll move through
19 these quickly.

20 First thing I want to talk about is a lack of
21 background lead used in the modeling. I also want to talk
22 about some specifics about the modeling that I think fall
23 short, which have been used to demonstrate attainment. In
24 the modeling or in the future case, there are also some
25 very optimistic control strategies I think the agency has

1 used, talk about those.

2 We personally did some remodeling using the
3 basic models that the agency used, and I talk about the
4 results of those. We also looked at other criteria, PM
5 and SO₂, talk a little bit about that, and then also want
6 to focus a little bit about the wet electrostatic
7 precipitator that's being used in other parts of the
8 country that the agency decided not to go forward with.

9 First of all, I also want to acknowledge the
10 agency. You've done a tremendous job. It's very
11 complicated, lots of things to do, so I understand it's a
12 very hard job to do. We're just here trying to help so
13 that we're not here in another couple of years doing this
14 all over again. Just as soon we did it right the first
15 time.

16 Talk to you about the background lead. The
17 agency used 0 for the background lead. They basically
18 assumed that there was no other background source of lead
19 that would affect this area. The EPA, when they just came
20 out with a new lead NAAQS in 2008, acknowledged there were
21 like 16,000 sources of lead in the U.S. Even the TCEQ
22 acknowledges there are about 20,000 sources of lead. So
23 there's lead that's throughout the United States.

24 The EPA in their documents associated with the
25 NAAQS indicated the background concentrations of lead are

1 somewhere between .028 micrograms per cubic meter and .1
2 micrograms per cubic meter. In the most recent lead NAAQS
3 background document, they assumed a -- EPA assumed a
4 background concentration of .03 micrograms per cubic
5 meter. We think that at least a .03 micrograms per cubic
6 meter background concentration should be added to the
7 Exide emissions to get a realistic idea of what the
8 concentrations should be.

9 It's also interesting to note that the TCEQ,
10 even as recently as two weeks ago, acknowledged that
11 there's a background concentration of lead -- in their
12 comments to EPA on the lead NAAQS that was just two weeks
13 ago, the EPA -- or TCEQ acknowledged that there's a
14 background concentration of .02 micrograms per cubic
15 meter. Even that when added to the 0.147 would be more
16 than .15. When we took a look at the modeling as
17 mentioned before, the model number was .147 micrograms per
18 cubic meter. Jim had said that it was .03. It was
19 actually .003 micrograms per cubic meter short, so it's
20 like 2 percent or 98 percent of the standard.

21 When I took a look at the emissions that were
22 modeled, what we see is you did not use the allowable
23 emissions when looking at the case. You actually used
24 stack emissions or actual emissions that occurred
25 historically. In some cases, these stack tests went back

1 to 1994. I was quite surprised to see that there wasn't
2 an annual stack test required of these lead emissions.
3 There were very spotty lead emissions, some of them,
4 again, over 50 years old.

5 The modeling didn't include all of the sources.
6 I was surprised you missed some. What most surprised me
7 is that when you did the modeling using the emissions you
8 had, you came up short on concentrations. You actually
9 showed that the actual concentrations were higher than
10 what the model predicted. So you generated a source, an
11 unknown source, that you ultimately called battery breaker
12 to make up the difference.

13 Unfortunately this unknown source was 40 percent
14 of the concentration. I would think even more significant
15 is that this source in the future cases assumed to be
16 100 percent controlled. So you have the source that you
17 didn't even know existed, and now you say in the future
18 case, well, we're going to control it 100 percent. You
19 know, it could be a multitude of sources that caused that
20 problem.

21 The agency assumed 100 percent capture and
22 control of fugitive sources. That's just not going to
23 happen, and I think everybody knows that. The TCEQ's own
24 contractor assumed 90 percent control in their document.
25 We redid the modeling assuming a 90 percent control and

1 came out with a .221 micrograms per cubic meter number as
2 opposed to the .15. So we were 47 percent above that
3 number.

4 MR. PATTERSON: Mr. McAngus, are you close
5 to wrapping up, or could you summarize, please?

6 MR. MCANGUS: I've got three more slides.
7 We also looked at the PM and SO2. We modeled the
8 allowables. In both cases we saw non-attainment
9 situations for PM and SO2, so we just suggest that the
10 agency should put monitors out for PM and SO2 and/or at
11 least the model and require permits that demonstrate
12 attainment.

13 With respect to the control technology, we think
14 WESP is a viable technology. There's one, as you know, in
15 California. There's one under construction that will
16 start up in the fourth quarter of 2012 -- no, fourth
17 quarter of this year, and one that will start up in 2013.

18 Then on RACT and RACM guidance, the agency
19 cherry picked information out of the EPA's NAAQS guidance
20 to indicate why they shouldn't have to look at individual
21 sources. I just wanted to put these other cherry pickings
22 of my own that suggest that if there is a technology
23 that's out there that a state has used, the state needs to
24 consider it more seriously than the state has done thus
25 far.

1 Then finally, if Exide were to install a WESP
2 technology at their facility in Frisco, we think that
3 their emissions will be dramatically reduced. It will
4 help them get into attainment, maybe get the .221 number
5 down to the .15. We also think that by doing that, they
6 could possibly achieve somewhere less than 100 pounds of
7 lead. There's a facility in California that's down to
8 12 pounds of lead from the point sources.

9 And then the last thing is the TCEQ and Exide's
10 claim that through the implementation of this agreed order
11 and SIP that there's going to be an additional 90 percent
12 lead reduction is just not true. When you look at the
13 numbers, the math doesn't add up. We just ask that you go
14 back, get the numbers right this time, and make sure that
15 you actually demonstrate a number that will achieve a
16 concentration of less than one point five micrograms per
17 cubic meter. Thank you. Sorry I ran over.

18 MR. PATTERSON: Thank you. Next up is
19 Howard Mielke, to be followed by Joseph Dowd.

20
21 MR. MIELKE: Good evening. My name is
22 Howard Mielke, M-I-E-L-K-E, and I'm very pleased to be
23 here. I guess you would call me an expert because I've
24 come across a state line to make this presentation. My
25 main work is on lead in the environment as it relates to

1 children's health, and I've had a lot of experience in
2 this area. I want to bring to your attention some of the
3 emerging issues that will need to be focused on when you
4 start thinking about any emissions source that would be
5 contributing aerosols to the environment.

6 The first point is that we often are using
7 children as canaries in our environment. We're waiting
8 until they get sick, and then we try to find out what the
9 sources are. And this is true across the country. And
10 I'm sure you're all aware of this, that as a result, we're
11 using -- often using children as a lead dust detection
12 system. But this is not necessary to do.

13 When children are exposed, they are exposed not
14 only to the aerosols but also to the aerosols as they have
15 accumulated in the environment, and they are picking it up
16 very easily through hand-to-mouth activity, which is
17 demonstrated here. This is a normal behavior for
18 children, and it puts them into a terribly vulnerable
19 position.

20 You have, I think, made some presentations in
21 the past that are very good about the fact that there is
22 no known safe lead level, and despite that, we find
23 ourselves in a quandary where right now we have a
24 guideline from CDC that equal to or greater than 10
25 micrograms per deciliter. That's not been revised over

1 the last 20 years. This is unusual.

2 The research community has generally led the way
3 towards these guidelines, and we now have a tremendous
4 amount of research available showing as low as 2
5 micrograms per deciliter showing up -- I mean, children
6 that have 2 micrograms per deciliter have learning
7 problems. And there are many types of problems, chronic
8 diseases, that are connected with lead exposure.

9 So the purpose -- it's really important to start
10 paying attention to the emerging issues that are going to
11 be coming out of the fact that we're -- both standards are
12 going to be changed. What does this mean? We've done a
13 major survey of children, 55,551 children, in New Orleans
14 and 286 census tracts. The amount of lead in those census
15 tracts is also well known. So we have a good sense of the
16 relationship between the amount of lead in the soil and
17 blood lead of those children.

18 What we're finding is that there's a very steep
19 rise in blood lead at amazingly low soil lead levels.
20 This gives you a really good understanding about the
21 vulnerability that children have to their general
22 environment. And we're finding that steep slope or steep
23 increases taking place at around 20 parts per million.
24 This is not the 400 parts per million which is often
25 talked about, simply doesn't meet what we are now

1 understanding about children with vulnerability and their
2 exposure.

3 It puts us into a terrible situation that
4 there's actually a negative margin in safety. From
5 New Orleans, I fully understand what a negative margin of
6 safety is. Our levy system had a negative margin of
7 safety. Within the first 2 miles of Exide, the soil lead
8 levels are hovering around twenty-two fifty parts per
9 million. That doesn't seem like a lot, but that's exactly
10 the level of soil lead that we're finding this very rapid
11 rise in blood lead level.

12 We also are aware that the property itself
13 probably has a lot of that. There's been recent research
14 in El Paso, Texas, showing that airborne lead is, in fact,
15 from the soil. The dominant source is coming from the
16 soil, and this is very relevant to this situation. The
17 background is terribly important to pay attention to, and
18 this particularly occurs during drought periods of time or
19 during periods late in summer and fall that we will start
20 to see increasing amounts of resuspension of the soil, and
21 as a result, if it's contaminated with lead, also with
22 lead.

23 MR. PATTERSON: Mr. Mielke, are you close
24 to wrapping up? Could you please summarize?

25 MR. MIELKE: I'm very close.

1 MR. PATTERSON: Thank you.

2 MR. MIELKE: In fact, this is my last
3 slide. Primary lead prevention issues then are critical.
4 And in order to protect the children from Frisco, we, I
5 think, all agree that primary prevention is essential.
6 The regulatory gaps are huge. I talked about 10
7 micrograms per deciliter where, in fact, the research is
8 showing 2 micrograms per deciliter as being important.
9 Instead of 400, something more like 20, much lower lead
10 levels in the soil showing a very rapid rise, and as a
11 result, the city needs to be aware that there appears both
12 a legacy of lead dust, that soil mapping is one way of
13 getting a handle on what the environment looks like right
14 now, and some methods of developing health studies so that
15 you really know connections between the environment that
16 has become contaminated and the children. And it's very
17 important to reduce ongoing lead emissions to the maximum
18 degree possible. Thank you very much.

19 MR. PATTERSON: Thank you. Next up, Joseph
20 Dowd.

21
22 MR. DOWD: Good evening. My name is Joe
23 Dowd. That is D-O-W-D. And I'm the vice-president and
24 general manager of the North American recycling business
25 of Exide Technologies. As some background, Exide is a

1 leading stored energy company, which really means that we
2 make and recycle batteries. Our batteries are found in
3 military uses, typical automobiles, specialized hybrid
4 vehicles, and many other applications. We offer a
5 solution to some of the pollution and energy problems this
6 country is facing today.

7 As one example, we manufacture batteries for
8 what is called start/stop hybrid technology. This
9 technology is currently used in Europe and is coming to
10 the United States very soon. This technology reduces fuel
11 consumption in vehicles, which, in turn, reduces emissions
12 from the vehicle.

13 When batteries reach the end of their useful
14 life, they are responsibly recycled at the Exide Frisco
15 facility. This helps ensure the batteries do not end up
16 where they don't belong, such as in our streams and on the
17 side of our roads. Lead acid batteries are the most
18 highly recyclable consumer product in the world.

19 Exide appreciates this opportunity to comment on
20 the State Implementation Plan, referred to as the SIP. We
21 want to acknowledge the hard work of the TCEQ to develop
22 the SIP package that addresses a ten-fold reduction in the
23 lead and air standard for the National Ambient Air Quality
24 Standards, also called the lead NAAQS.

25 The SIP package contains stringent control

1 measures embodied in an agreed order, which will ensure
2 that Collin County will attain a new low standard as
3 quickly as possible. And at the request of the City of
4 Frisco and Senator Shapiro, Exide agreed to additional
5 measures in the agreed order that we believe go even
6 beyond those required to meet the lead NAAQS and will make
7 the Frisco facility world-class.

8 Due to the expedited time frame, we have already
9 engaged a national engineering contractor, AE Com, to
10 manage the implementation of these measures, some of which
11 are already completed and others of which are well
12 underway. We expect to invest approximately \$20 million
13 into these projects on the Frisco site. We support the
14 SIP package, and we recommend adoption. Thank you very
15 much for your time and consideration this evening.

16 MR. PATTERSON: Okay. I actually have two
17 Kim Youngs signed in tonight with the same spelling. The
18 first Kim Young is with Senora Affiliation. The second is
19 with Lead Free Frisco. At this time I'm calling Kim Young
20 with the Senora Affiliation.

21 MS. YOUNG: Same one.

22 MR. PATTERSON: One in the same. Did
23 someone sign in for you, perhaps?

24 MS. YOUNG: I signed in for myself, but my
25 penmanship is not very good. Good evening. My name is

1 Kim Young, Y-O-U-N-G. My affiliation is with Lead Free
2 Frisco, but primarily it's with my good friends who live
3 here and truly care about the community.

4 I actually live in Dallas, a community that
5 learned a hard lesson about what lead smelters can do to
6 the community and can severely impact the health of
7 children in a community for a long time. Dallas finally
8 stepped up and did the right thing.

9 What I'd like to do this evening -- one of the
10 things, too, is that we often come out to Frisco and enjoy
11 the entertainment facilities here. Since I've been
12 working on this project and have learned what facility and
13 what's happening, how close they are to the plant, I'm
14 concerned and probably won't be bringing my nieces and
15 nephews out here anymore. Also, when I drove here
16 tonight, my heart stopped because I turned the corner and
17 I saw the location for the new train museum. I love
18 trains and they have a wonderful museum in Fair Park and
19 they are moving it here.

20 I actually got to consult in the early phases of
21 that museum, and I know some of the family orientation and
22 activities that are planned. My heart stopped when I
23 realized that right in the background of that museum is
24 the lead smelter, right here. It really concerned me.

25 My primary reason that I'm here in front of you

1 this evening is what I'd like to do, with all the
2 wonderful expertise that you've had and that's been shared
3 this evening, what I'd like to do is bring it back to what
4 it's really about. This is not about a state agency.
5 This is not about a global corporation based in another
6 state. It's about people, and it's about the people of
7 this community and about people who live in the region
8 because of the potential water contamination. It's a
9 regional issue now.

10 What I'd like to do is bring it back to that
11 because there is no safe level of lead. That's widely
12 known. There's no safe level of lead, and it's amazing
13 how much the key assets of this community, people and its
14 facilities, are within a 5-mile, even a 3-mile radius of
15 this plant.

16 This community has households -- almost half the
17 households in this community have children, and here
18 again, when you look at information that shows how many
19 children-oriented and family-oriented facilities are
20 within the shadow of a plant that's been spewing toxins
21 for almost 50 years. And here again, speaking to
22 Dr. Mielke's point, it's not just air. Speaking to
23 Mr. Schnurr's point, it's not just -- it's a three-headed
24 monster. The concern is there.

25 What I'd like to do, though, is because of that

1 concern, what I'd like to do is go back and encourage the
2 people in Frisco to look at the protections that they lost
3 when Senator Shapiro vacated her bill and what they are
4 kind of losing now. It's -- there's a copy on a website,
5 Leadfreefrisco.com, and I'm going to step through it
6 quickly. I have some slides. It's kind of hard to read,
7 but we have copies in the lobby and also on the site.

8 Quickly, what is being lost is the ability to
9 require comprehensive health risk assessment of a
10 facility's air contaminant emissions, and that includes
11 studying the increase of cancer risk. You're also losing
12 the ability to allow state-collected funds to be used for
13 the assessment of environmental impact of lead acid
14 battery recycling activity and the study of effects of
15 lead acid battery recycling on public health.

16 You're also losing the ability to require
17 comprehensive health risk assessment of the facility's
18 solid waste units. And if you've gone online, there's a
19 Flickr Photo stream of the photos from the EPA report on
20 this plant. If you look at how horribly maintained this
21 plant is, it's frightening.

22 You're also going to lose the ability to mandate
23 the facility's cease operations immediately if health risk
24 assessments reveal lifetime increases in noncancerous
25 health effects or an increased risk of cancer. You're

1 going to lose the ability to require specific emission
2 controls for all material handling and processing areas,
3 which is a concern pointed out again in the EPA report.

4 You're going to lose the ability to require
5 semiannual performance test of emissions controls over
6 95 percent reduction in cancer-causing particulates and
7 vapors. You're going to lose the protection of -- the
8 ability to provide facility 30 days to correct emissions
9 that are not 95 percent effective.

10 You're going to lose the ability to mandate the
11 installation of continuously operating air monitors to
12 detect metals and volatile organic compounds at facility
13 boundaries. You're going to lose the protection to
14 mandate monitored emission levels be posted in real time
15 to publicly accessible website. You'll lose the ability
16 to mandate caps on closed or inactive solid waste
17 management units. Again, that's a problem outlined by the
18 EPA.

19 You're going to lose the ability to mandate
20 negative pressure and enhanced filtration systems on
21 active solid waste management units, and you're going to
22 lose the ability for TCEQ to revoke a state-issued permit
23 for two or more violations within 36 months. And finally,
24 you're going to lose the ability for the City of Frisco to
25 revoke the municipal permit for two or more violations

1 within a 36-month period.

2 To close my comments, what I'd like to do is
3 refer to the map again. I understand it's tough to see.
4 We have copies in the lobby. This is definitely a picture
5 that's worth a thousand words. This represents a 5-mile
6 radius of the plant and over 125 locations that are
7 children and family friendly, and they are all documented
8 with a legend. But if you look at that, look at what's in
9 the middle of all that. And I just ask the City of Frisco
10 to see if you think you deserve better. Thank you very
11 much for your time.

12 MR. PATTERSON: Thank you. Next up, Ranji
13 Koka.

14
15 MR. KOKA: First of all, thank you for the
16 opportunity and thank you for coming to Frisco. Welcome
17 to Frisco. This is the first time I am in this kind of
18 environment. I apologize if I'm not speaking well, but
19 I'm not used to talking in such environments.

20 MR. PATTERSON: Would you please state your
21 name?

22 MR. KOKA: My name is Ranji Koka, K-O-K-A.
23 Two days back, somebody came to my home and said this is a
24 problem. I didn't know this is a problem. So looks like
25 that is my problem that I had to look into this problem.

1 The reason I'm here is -- the reason we all are here is we
2 acknowledge that there is a problem. What I would like to
3 know is what has already been done? That means, how much
4 by the commission has been done and what are the actions
5 that are being taken by the Exide and by the government?

6 And then another issue here is the logistics.
7 When we talk about a battery plant, we are talking about
8 chemicals. We're talking about transporting the
9 chemicals, transporting the chemicals in a heavily
10 populated area. So when you transport chemicals in a
11 heavily populated area that is so dense with children, as
12 previously explained by the previous speakers, what
13 precautions are taken to avoid a spillage?

14 You know, a chemical spill in a heavily
15 populated area with a lot of children can cause permanent
16 damage. So what action or what precautions or what steps
17 are being taken for this most important issue? A truck
18 accident that involves the chemicals that are being
19 transported to the battery plant, what action is being
20 taken? Do we have a strategy in place? Are we in a panic
21 when that happens?

22 And then I would like to know does the -- does
23 your agency have the data of how many health-related cases
24 have been reported around this 1-mile, 2-mile, 3-mile area
25 and what action has been taken?

1 I understand that for a community to grow, we
2 need business, and that's how the community grows. But a
3 business cannot grow at the expense of somebody's health,
4 and it cannot be a political issue, etcetera. I'm just an
5 ordinary person. I've come here because my wife is
6 delivering a baby next week. So that's the reason I've
7 come here. And we want businesses to come to Frisco.
8 It's not like we're against something like that. But it
9 cannot be at the expense of a child's health, somebody's
10 health, a senior citizen or something like that. There
11 should be a balance.

12 We want the company to take precautions to make
13 sure that this happens, or if the precautions are not
14 being taken, we want the government to take proper action
15 to provide the safety of the people. That's all I have.
16 Thank you.

17 MR. PATTERSON: Thank you. Next up is Jim
18 Schermbeck, to be followed by John Archman.

19
20 MR. SCHERMBECK: My name is Jim Schermbeck.
21 I'm representing Downwinders At Risk, the 17-year-old
22 citizens' group dedicated to protecting the DFW air shed
23 and standing up for folks that are getting dumped on by
24 industrial pollution, which I suppose in this audience
25 means most of y'all as well.

1 I'm going to address you because for tonight's
2 event, this is a pro forma, a public hearing for TCEQ.
3 They are not really going to accept any comments. They
4 are not really going to change this document. What you
5 have before you is really what you're going to get unless
6 the EPA raises some objections and they have some leverage
7 with them. But in terms of our leverage with them, they
8 are not listening to the public anymore and haven't been
9 for quite some time.

10 For you, this could be a decisive evening, and I
11 think you know why. First of all, let me tell you about
12 why I believe that and what my experience is. I was there
13 in west Dallas in the late '80s and early '90s when
14 citizens had to themselves document that this was a super
15 fund site. Citizens had to go out and do their own
16 sampling of their attic dust and soil and so on, and they
17 had to bring in the state EPA to action. It was a long
18 time between those events, but it actually happened. But
19 they had to do it themselves.

20 There's an insidious amount of information about
21 how toxic lead is to a child. You've heard some of that
22 tonight. There is no safe level. Even the smallest
23 amount can harm a child's ability to learn and also cause
24 antisocial behavior. This is something I learned
25 firsthand because folks would come in and complain about

1 all the diseases, and the literature at the time in the
2 late '80s hadn't connected with lead yet. And then yet
3 five to six years later, sure enough, they found the
4 studies, and those people were not imagining their
5 ailments. Science, the studies just hadn't caught up to
6 them. It's a moving target in terms of toxicity of lead.

7 I'm a veteran of the Midlothian air fights where
8 we had to convince the state to bring in newer
9 technologies that they were convinced would never work on
10 these kilns, and yet right now two of those kilns have
11 adopted technology that we forced them to put on because
12 of a lawsuit that we brought in one case. If we left it
13 up to these guys, they still wouldn't have them on there.
14 They still don't have state-of-the-art controls. We've
15 been pushing for those for ten years. They are being used
16 in other places, in European cement plants, 90 percent
17 effective. They won't bring them here to DFW where we
18 have a chronic smog problem. Does that sound familiar?

19 Finally, I'm a veteran also of the smog wars in
20 DFW over the last 20 years. I've seen these kinds of SIPs
21 being written for smog plants. I've also seen every SIP
22 ever written by this agency for smog fail. They have
23 never written a successful SIP in terms of air quality.

24 So what is the lesson that you learn from all of
25 this? Don't leave the health of your family, don't leave

1 the health of your community to other people.

2 Now, you may be reluctant to agree to that
3 because it means you don't want to believe that these
4 agencies aren't doing their jobs. You don't want to
5 believe that they're not looking out for your best
6 interest. You don't want to believe that you are risking
7 your children's health by putting trust in their
8 judgments, but you are. And it's not only their track
9 record that suggests that you are, it's the way things are
10 being handled about this SIP, and this is something right
11 now that points to that conclusion.

12 There's an inadequate understanding of harm
13 here. There is literally a geology of lead in this
14 community that is 50 years old, layers of lead sitting
15 around in attics and attic dust. There's layers of lead
16 in the soil. There are eddies of lead in the creeks
17 around here. That's never been investigated. It's like
18 west Dallas. There are slag tiles and battery chip tiles
19 that nobody even knows about yet, or maybe they do and
20 they haven't spoken up. But they are out there.

21 This place has been operating for 50 years. You
22 know in the mid '60s they did a lot of stuff that would
23 not be acceptable now, and that has never come to the
24 surface. That is what you're dealing with as well as the
25 air emissions.

1 I understand we have an ag exemption, that
2 somehow they baled hay on this piece of property. I would
3 really love to see the sampling of that hay. I would
4 really love to see the sampling of the animals that eat
5 that hay. But you don't find that evidence in the record
6 here at all.

7 If you look at the blood sampling that's been
8 done, oh, my God. The other agency, state agency, that
9 gives TCEQ a run for its money for being the most useless
10 agency is the Texas Parks and Community Services. That is
11 not a timely sampling of blood in this community, and that
12 is only a snapshot that doesn't go back in time. It
13 doesn't tell you what's already out there. It doesn't
14 tell you what you will be exposed to in the future. It's
15 just a snapshot. Nobody should pay attention to that as
16 to any kind of indication of what's out there right now.

17 There are inadequate pollution controls, and I
18 think you heard a great presentation tonight about why
19 that's true. There's a sister plant in California that's
20 using better technology, by the same company, but they
21 won't bring it here. Why is that? Why is there a double
22 standard that goes against Frisco in this matter? Why do
23 California residents get better protection against lead
24 than Frisco residents? I don't think it's because you
25 love your children any less.

1 There's equipment that can be added, and yet
2 they won't add it. 2,000 tons versus 12 pounds -- 2,000
3 pounds, I'm sorry, versus 12 pounds. That's a lot of
4 difference of lead. That's a lot of brain cells that
5 we're saving by reducing it by that amount. That's a lot
6 of kids' futures you're saving by reducing it to that
7 amount. There's no excuse for not including the best
8 available control technology.

9 It's an inadequate SIP. It aims too high. As
10 was noted earlier, it comes in just below the level, and
11 this is how they always write their SIPs for smog. They
12 are just below where they need to go. And they all work
13 on paper, but when you exercise these things out in the
14 real world, they all completely fail.

15 So there is no margin of error in this plan for
16 that kind of failure. When you haven't gotten a SIP right
17 in the last 20 years, you ought to be more conservative
18 when you write them, not just getting barely under the
19 margin. They are based on only 40 percent of the
20 allowable emissions. That was never permitted in
21 Midlothian. You had to indicate what the plant's
22 allowable emissions were, and then you modeled on those,
23 not with stack testing because as everybody who lives by
24 one of these facilities knows, the way they do stack
25 testing, it's almost pristine. It does not represent

1 reality in any way, a real operating facility in any way.
2 They are a lot dirtier day-to-day than they are when
3 somebody is looking over their shoulder, just like we are.
4 When somebody is looking over your shoulder, you're a lot
5 more careful about things than when somebody isn't, and
6 most the time nobody is looking over their shoulder.

7 MR. PATTERSON: Mr. Schermbeck, are you
8 close to wrapping up?

9 MR. SCHERMBECK: Close to wrapping up.

10 MR. PATTERSON: Thank you.

11 MR. SCHERMBECK: It causes new problems, as
12 you've heard, potential new areas of non-attainment under
13 the Clean Air Act for PM and sulfur dioxide, pollutants
14 you really don't want to have your kids exposed to. So
15 add that as well.

16 If after having heard all these comments tonight
17 your reaction is, well, they seem to have everything under
18 control, God bless you and I wish you well because you can
19 sleep better at night knowing that or believing that. But
20 if you have a nagging question, if you believe that
21 perhaps this needs more attention, more personal attention
22 by people who have vested interests in this community
23 rather than somebody in Austin, then you're exactly the
24 kind of person that myself and Jeff are looking for.

25 We're reaching out. Our groups, Downwinders and

1 Texas Campaign for the Environment, are looking for people
2 in this audience tonight to help us organize against what
3 is happening here and for more control, for better
4 controls, for a better future here, much like we did in
5 Midlothian, much like we did in west Dallas.

6 It's important that you know that the ability to
7 do this, the ability to turn this situation around is in
8 this room right now. If you look at west Dallas, poor
9 black and Hispanic parents who had annual incomes a
10 fraction of what they are here in Frisco, and yet they
11 were able to turn that situation around. Same thing in
12 Midlothian, poor and middle class rural white folks who
13 have a tenth of the resources that Frisco has was able to
14 turn that around.

15 Please, contact one of us tonight. I've got a
16 sheet here that you can sign up for and let us know you're
17 interested in doing more. That's the most important thing
18 you can do tonight coming out of this meeting is to decide
19 to do something. Be the person that does something about
20 it. Don't let it keep getting worse, because as long as
21 there's a lead smelter in the middle of town, this will
22 always be a problem.

23 People like me and Jeff, we look at this
24 situation and we say, what is going on? Why don't those
25 people get organized? They have the wealth. They have

1 the resources. They have the political connections.
2 What's going on? And I don't know the answer to that.
3 You have to be sick and tired of being sick and tired.
4 You have to be like the people in west Dallas. You have
5 to be like the people in Midlothian who say this is not
6 good for us. We have to do something, and it has to begin
7 here. That's my hope for y'all tonight is that you will
8 begin that here because it's within the power of this
9 group of people right here. Thank you.

10 MR. PATTERSON: Thank you. Next up is John
11 Parchman.

12
13 MR. PARCHMAN: Good afternoon. My name is
14 John Parchman, P-A-R-C-H-M-A-N. This is my third time
15 speaking on this, and this room still intimidates the heck
16 out of me, so bear with me here.

17 The original SIP that came out, preliminary SIP
18 they came out with had a 2.6-mile-square setup for
19 non-attainment, and it was reduced -- or that SIP had
20 Pizza Hut Park, Frisco Middle School, Frisco High School,
21 Starwood, the neighborhood of Starwood, Pizza Hut Park
22 soccer fields were also included. Then the new one came
23 out and dropped to 1.3 square miles, and all the
24 above-listed things came out of the non-attainment zone.

25 The risk is the same. The mileage has changed.

1 And so it doesn't really matter whether you are in the
2 non-attainment zone from the old version, the new version,
3 or the future versions. The lead is a problem.

4 Since 2008, monitor number 9, which is the north
5 monitor, has had 15 sample violations in excess of the
6 1979 levels. All the monitors, if you look at all the
7 data that's available currently, have a very, very low
8 percentage of compliance with the new standard. It's
9 close to 2 percent on the north side monitor. And the two
10 days that it actually complied was Thanksgiving and
11 Christmas. On those two days when the plant was closed,
12 it was actually in compliance.

13 There's a three-month rolling average for the
14 number 9 monitor, which is the north monitor, and that has
15 for very long periods of time remained in excess of 1.0
16 micrograms. That's, you know, what, seven times, four
17 times, six times the new standard. So I'm very curious to
18 find out how enclosing the battery breaking facility is
19 going to stop all that lead. I just don't see it.

20 Finally, Exide has said that they pledge \$20
21 million to remediate this problem, but that really isn't
22 true. Most of that \$20 million is to remediate damage
23 that has already occurred, and a very small percentage of
24 that is actually to create a new baghouse facility and
25 enclosure of the battery breaking. So the \$20 million

1 number is somewhat inflated. The real answer here is WESP
2 and implementing a more stringent process to get the lead
3 out of the air. Thank you.

4 MR. PATTERSON: Thank you. Next up is Greg
5 Williams.

6
7 MR. WILLIAMS: Thank you as well for the
8 opportunity to speak. My name is Greg Williams, regular
9 spelling, and I'm an attorney and accepting clients that
10 are a little concerned about this issue. No lawsuits to
11 my knowledge have been filed by me or them on previous
12 occasions, but there is a great concern. And as I started
13 looking at the problem and the potential dilemma here, one
14 thing kept jumping in my mind.

15 Thank you again for having the meeting, and I
16 really don't know how to speak with you because I'm not a
17 scientist or anyone in a capacity that might bring
18 anything of significant intelligence. But I do know a few
19 things.

20 I'm glad the NFL is back. Thinking about the
21 NFL, I'm going, well, Arlington moved mountains and
22 apartment buildings and people's homes to build a football
23 stadium. Frisco can't move a known toxin, a carcinogen, a
24 lead-producing factory in the middle of our city. And I
25 get that they were here first, but things have changed.

1 And if we're going to move people and places and things to
2 build a football stadium, then I think it's probably time
3 that maybe we could move a plant.

4 And they're just doing what they are supposed to
5 be doing. They are a corporation. Their stated goal is
6 to maximize shareholder value. And I get that they are
7 doing what they got to do. But as someone here with three
8 children and again 17 additional clients on top of that,
9 we have to do what we have to do as well. I don't even
10 know what that is because only the city can implement
11 these procedures of eminent domain and can actually force
12 people to move. So I think it is important that that be
13 looked into a little bit stronger and put a little bit
14 more pressure on the people that actually have the power
15 to do something about it.

16 You know, we've got 14 million from not doing
17 the arts thing. That's cool. So maybe Exide can name a
18 price and we can start doing a bond or raising some funds
19 and maybe we could just buy them and make it legitimate
20 and move on down the road. But I'm thinking about these
21 kids, my own three -- I've got Whittaker, who is six,
22 Brendon, who is four and a half, and Crayton is about to
23 turn three. Then there's Bella and Salva and Lucas and
24 Nicholas and Carter and Grace and Cole and Landry and
25 Michael and Reese and Baby Peterman, Baby Danielson,

1 Jonah, Mayra, Bo, Ben, Bella, Salva.

2 I'm sitting here thinking if anything happens to
3 them and we know about this, it's not just on Exide. It's
4 not just on the city, but it's on all of us. And if we
5 know that something is out there and there's lead in our
6 soil and in our water and in our air and it's right
7 here -- I mean, the other day we went to church and we
8 were leaving, there's a chicken restaurant. I looked
9 back, it was a beautiful day, fall day last year, but
10 these smoke stacks are pumping this stuff in the air. I'm
11 like, what is that? After hearing these scientists and
12 the people that know something about all of this, quite
13 frankly, it's getting a little nerve racking. It makes me
14 nervous.

15 I've heard of this Asperger's and autism and
16 Down Syndrome and these things that are happening
17 disproportionately around here. I'm thinking, if that's
18 true, folks, what are we doing? Again, I just think that
19 no amount of control or policy or regulation is going to
20 do anything about this. They have got to go. We can move
21 people and things to build a football stadium in Frisco,
22 we can move a plant with lead for our families and
23 children. Thank you.

24 MR. PATTERSON: Thank you. Next up is
25 Terri Adkisson.

1 MS. ADKISSON: My name is Terri Adkisson,
2 A-D-K-I-S-S-O-N. I appreciate your time today. I'm just
3 going to take a few minutes and give some brief facts.
4 Professionally I work on projects that create business in
5 the community, but today I'm here personally because I
6 want North Texas to continue to be seen as one of the best
7 places in the country to live, work, and play. That
8 really matters to me.

9 The reasonably available control technology that
10 you're required to look at in the SIP, the criteria boosts
11 the economic benefit per ton. There are numerous academic
12 sources that show a pure effect of environmental hazards
13 on the value of housing distances up to 2.6 miles. Within
14 1.5 miles of the plant, there's over a billion dollars of
15 single-family residential property.

16 Using criteria established in the 2010 HUD
17 working paper by Carl (inaudible) the economic effect of
18 the Exide facility on a single-family housing can be
19 estimated. Using conservative numbers based on the
20 average benefits, these 2,786 homes being only another
21 3,000 feet further away, the numbers add up to over
22 \$51 million.

23 This is value that is lost to thousands of
24 homeowners who might wish to take it out on a loan against
25 their property or when they sell their property. It

1 results in substantial annual tax revenue loss to the City
2 of Frisco, the county, the school district, and the
3 community college district. The good news is that this
4 isn't a permanent effect. Other studies show that once
5 the hazard is fully mitigated and damages are remediated,
6 values return to communities.

7 I like North Texas. I like Frisco. I really
8 want to see this remediated and the effects mitigated.
9 Also I want to add those numbers are based only on air
10 quality. Those don't take into effect the additional
11 effects that will be there for soil. All I can say is
12 TCEQ needs to do the right thing for Texas economy. Thank
13 you.

14 MR. PATTERSON: Thank you. Next up is
15 Henry Bradbury.

16
17 MR. BRADBURY: Good evening. I'm Henry
18 Bradbury, H-E-N-R-Y, B-R-A-D-B-U-R-Y. Believe it or not,
19 I'm only going to take a minute or two. Some of the
20 audience might think otherwise. We've heard a lot of
21 speakers tonight. I attended the first stakeholder's
22 meeting. I also attended Exide's meeting with the public.
23 And I'm here tonight and I've listened to several people,
24 as everybody else has, and, you know, I won't try to
25 repeat or summarize, but there are a couple of points I

1 want to put into perspective.

2 The proposal package put together by TCEQ with
3 the agreed order and the SIP revision, in my professional
4 opinion -- I've been doing environmental work for almost
5 25 years. I was surprised. That's one of the poorest put
6 together packages I've ever seen. I'd be embarrassed.

7 Even when we asked about the -- when I asked
8 about some of the backup documents for your study, the
9 numbers didn't add up. And then y'all finally came back
10 and said, well, here's -- we readded, and here is another
11 set of numbers. Then you dive into it a little bit more
12 and find out they are not even based on permitted
13 emissions.

14 I don't know how in the world you can take a
15 document like that to look at control technology to assign
16 a cost per ton and you're not even using the right
17 numbers. You're not even using the numbers that are in
18 the permits. And when I call and ask about that, it's
19 like, well, yeah, it's just to kind of give you an idea.
20 Well, you put -- TCEQ put it out, put it out in front of
21 the public and said this is what we're talking about.
22 This is the level of control technology we're going to
23 provide in considering the community. If you're just
24 using seat-of-the-pants numbers, it's really discouraging.

25 You know, when technical people like Mr. McAngus

1 or myself, we want -- you know, we submit to y'all. They
2 have to be right. We want them to be right. I don't
3 understand why it doesn't go both ways. You know, from a
4 public information standpoint, you know, the state put a
5 website, kind of a nice idea, but when you can't get
6 questions answered and you're putting stuff out there
7 that's false and we've got -- you know, lay people don't
8 understand the difference between ambient standards,
9 allowable emissions, stack tests, annual inventories, they
10 are all mixed up.

11 You know, I applaud everybody to come out here
12 this evening to listen and try to understand the issue.
13 But TCEQ needs to do a better job of communicating to the
14 public and needs to make sure their packages are accurate
15 so that the professional, the lay people, can digest and
16 make good decisions, and more importantly than that, the
17 leadership, whether it be at the county level, city level,
18 so they know what the risk is because they are entrusting
19 to y'all.

20 I'll stop there for a second. The other thing
21 is in the proposed package, the emissions as proposed,
22 stack emissions, are five times higher than Exide's own
23 facility in California. California has a .045 pounds an
24 hour of lead emission per stack facility wide.

25 You know, they can sit up there and say we are

1 going to be world class and we're going to have 90 percent
2 reduction. You know, you need to walk the walk and follow
3 the talk, as they say here in Texas. I'm a big fan of
4 TCEQ. I love Frisco. I'm not a resident. It truly is a
5 world-class city, and everything they do is world class.
6 That's my observation.

7 It would seem to me, the consensus -- we've got
8 a PE up here who spoke tonight that has reviewed the
9 technology, and they identified that WESP is available,
10 wet electrostatic precipitator, which will take
11 2,000 pounds of emissions down to 12. That seems like
12 that's pretty reasonable available control technology.

13 But in your report, the inspection in your
14 report, you dial into it, they will say, well, it's too
15 expensive. Too expensive for who? Surely not too
16 expensive for the community for something that can take an
17 additional 2,000 pounds of lead a year for the next eight
18 or ten years.

19 So I've already told one story. I didn't intend
20 to talk so long, but I got up here and kind of got to
21 thinking about what I've heard, and I went a little longer
22 than I expected. Thank y'all for listening to my
23 comments, and thank you for having the meeting tonight to
24 be able to get some feedback from the public.

25 I will comment that, you know, the first meeting

1 we were here as stakeholders, you asked us as a community
2 and others to come back and make recommendations to you
3 about control technology. And the community was pretty
4 outspoken at the meeting about their fear of the
5 emissions. They were outspoken about getting the plant
6 out of town. Comments were filed about the WESP
7 technology, other control technologies. And y'all come
8 back with a proposal that technically, at least one
9 engineer in the room said, it ain't going to make it. It
10 doesn't even follow your own criteria. And even in your
11 own documents it says you've got a 3 percent margin of
12 error of comfort level, and you've left out a lot of
13 stuff. I mean, it's a false promise to the community.

14 The burden here is that the community accepts
15 that and y'all go forward with it, they're still going to
16 be dealing with noncompliance issues here in this
17 community in the next six years. And you've also heard --
18 and I'm closing -- is the NAAQS standard suggests it did
19 move from 1.5 to .15. That's a dramatic reduction. They
20 did it because it was done to protect the public. Now
21 it's up for renewal again, and they are probably going to
22 lower it another two points in the next three years.
23 Anyway, thank you very much.

24 MR. PATTERSON: Thank you. Mr. Bradbury
25 was the last person I had that signed in and indicated

1 they wished to provide comments at the hearing. At this
2 time, is there anyone else that would like to provide oral
3 comments at tonight's public hearing?

4 Once again, the commission will continue to
5 accept written comments on these proposals until August 8,
6 2011. All comments should reference the SIP or agreed
7 order project number that the comment pertains to. Copies
8 of the proposed SIP provision, appendices, and agreed
9 order can be obtained from the commission's website.
10 Please feel free to pick up the handout with the list of
11 web addresses from the registration table. The handout
12 also includes instructions on how to register to receive
13 e-mail updates on issues related to the development of the
14 SIP. We appreciate your comments, and thank you for
15 coming. With no further comments, this hearing is now
16 closed.

17
18 (WHEREUPON HEARING CONCLUDED
19 AT 7:05 P.M., JULY 28, 2011)
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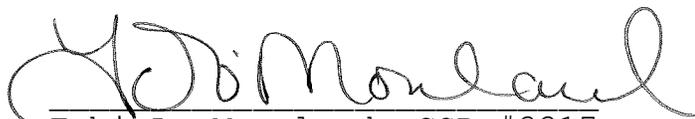
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REPORTER'S CERTIFICATION

I, Tobi Moreland, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the foregoing hearing was duly reported by the officer and that the transcript of the proceedings is a true record of all statements given by the witnesses;

Sworn to by me this ____ day of _____, 2011.



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