



**Downwinders**  
reducing toxic air pollution in north texas *at risk*

June 1, 2013

Mr Ron Patterson,  
Assistant City Manager  
6101 Frisco Square Blvd.  
Frisco, TX 75034

Mr. Patterson,

We've read your response to our May 28th letter (attached) concerning the protectiveness of the soil testing being used to clean-up the "J Parcel" of the Exide lead smelter property.

It was our understanding that the City of Frisco, along with Exide, chose COMMERCIAL/INDUSTRIAL testing methodology, not the Texas Commission on Environmental Quality.

The City of Frisco promised residents a "residential or better" clean-up of Exide's contaminated buffer zone, or the so-called "J Parcel." While we acknowledge that a 250 parts per million lead-in-soil clean-up standard is below the official Texas Commission on Environmental Quality residential standard, determining whether that standard has been actually met can only be achieved through implementing appropriate residential sampling protocols.

This is true of other potential contaminants on the J Parcel as well, such a cadmium, and arsenic. However, the City of Frisco and Exide, signed a Voluntary Cleanup Program Agreement in March of this year and specified to the TCEQ that a COMMERCIAL/INDUSTRIAL CLEANUP would be undertaken as the standard under which the J Parcel would be tested and remediated. The City of Frisco could have specified a RESIDENTIAL STANDARD - as was promised to residents - rather than COMMERCIAL/INDUSTRIAL. With this decision, the TCEQ then directed the Frisco and Exide to undertake a particular level of sampling to be done at the property--in this case COMMERCIAL/INDUSTRIAL. Had the City of Frisco chosen to specify a RESIDENTIAL STANDARD, then residential sampling protocols would have been specified by TCEQ that requires sampling at levels of eight per acre, rather than two samples per acre now being undertaken.

Although you state in your response to our letter that "an industrial sampling protocol is not being used on the J Parcel," you are incorrect. Please refer to the Texas Commission on Environmental Quality memo, dated March 8th of this year, accompanying our May 28th letter and again attached here. TCEQ's Danielle Lesikar clearly states that the 2 samples per acre testing method, **"is a Commercial Industrial Standard,"** and **"only meets (the) Commercial-Industrial" standards.** We'd appreciate if you'd forward documentation that disproves this statement and provides evidence that residential testing protocol under the Texas Risk Reduction Program Rules routinely demands only two samples per acre instead of the required eight.

By testing only twice per acre instead of eight times per acre, Exide and the City are going out of their way to avoid finding hot spots of contamination that would otherwise require clean up. This is occurring at exactly the same time that the city's own reports show there's probably more contamination on the Exide property than previously documented. We need more testing to find this contamination, not less. As long as Exide and the state use the less-rigorous industrial testing method to enforce a residential standard, we aren't really getting a full "residential or better" clean-up that conforms to the spirit and the letter of the Texas Risk Reduction Program Rules governing clean-up of the contaminated area.

While the city has decided to zone the area commercial/industrial, the City's Comprehensive Plan has also designated the area bordering Stewart Creek as a greenbelt or parkland that feeds into Grand Park. In the years to come, there will be plenty of opportunities for undiscovered contamination on the Exide property to affect both the creek and surrounding soil, and for residents to come in contact with that contamination outside of commercial/industrial uses on the property. This is why we need to get it right the first time.

Frisco Unleaded never stated that the City has independent environmental regulatory authority regarding the Exide clean up , but it does (or at least did) have the ability to determine the clean up levels and testing levels for the buffer zone property. Further, the City does have independent financial authority in deciding how "clean" is "clean." Exide doesn't get the money it so desperately needs from the City until the City signs-off that indeed a full "residential or better" clean-up is achieved under the Texas Risk Reduction Program Rules. The City should exercise this authority in requiring the kind of cleanup that it promised Frisco residents.

Sincerely,



Colette McCadden, Chair, Frisco Unleaded

Equilla Harper, Board Member

Meghan Green, Board Member

cc:

Mayor Maso and City Council  
6101 Frisco Square Blvd.  
Frisco, TX 75034

Mr. George Purefoy  
City Manager  
City of Frisco  
6101 Frisco Square Blvd.  
Frisco, TX 75034

Mr. Mac Borchardt  
City of Frisco  
6101 Frisco Square Blvd.  
Frisco, TX 75034  
mborchardt@friscotexas.com

Mr. Ron Curry  
Regional Administrator, Region 6  
U.S. Environmental Protection Agency  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202  
curry.ron@epamail.epa.gov

Mr Zac Covar, MC-109  
Director, Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087  
zac.covar@tceq.texas.gov

Mr. Bill Shafford, MC-123  
Texas Commission on Environmental Quality  
Office of Waste  
P.O. Box 13087  
Austin, TX 78711-3087  
bill.shafford@tceq.texas.gov

## Merrie Smith

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**From:** Danielle Lesikar  
**Sent:** Friday, March 08, 2013 1:40 PM  
**To:** Merrie Smith  
**Cc:** Anna Brulloths  
**Subject:** RE: Exide VCP Parcel investigation activities

So then it appears to be as I'd guessed...they will only have a sampling frequency of 2 samples per acre, or a ½ acre exposure area, which is C/I standard, but whatever they find they plan to clean up to residential, as per their agreement with the city. So long as they understand that still only meets C/I for us, should be fine.

Danielle

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**From:** Merrie Smith  
**Sent:** Friday, March 08, 2013 12:05 PM  
**To:** Danielle Lesikar  
**Subject:** FW: Exide VCP Parcel investigation activities

Sorry - forgot to cc you on this FY to Anna

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**From:** Tim Nickels [<mailto:tim.nickels@pbwllc.com>]  
**Sent:** Friday, March 08, 2013 11:42 AM  
**To:** Gary Beyer; Merrie Smith  
**Cc:** LOVE, Matt (Reading Equipment Center); COLEMAN, Vanessa (Frisco, TX); Eric Pastor; Wheatley, Wade; Rusty Simpson  
**Subject:** Exide VCP Parcel investigation activities

Hello Gary and Merrie,

I wanted to let you know that PBW will be continuing investigation activities related to the VCP Parcel investigation at the Exide facility starting on March 18<sup>th</sup>. This portion of the investigation will consist of collection of surface soil samples across the VCP Parcel to fill in the data gaps needed to achieve a sample density of two samples per acre across the site. This phase of the investigation will also include advancing soil borings along former 5<sup>th</sup> Street/Eagan way to evaluate vertical and horizontal distribution of elevated lead concentrations previously observed at sample location O-15 and other locations in the ditch along the roadway. While we have the geoprobe rig there we'll also push some borings in the former 5<sup>th</sup> Street/Eagan Way roadway to verify battery chips weren't used in road construction (planned for Friday, March 22).

Please let me know if you have any questions.

Regards,  
Tim Nickels

**PASTOR, BEHLING & WHEELER, LLC**  
2201 Double Creek Dr., Suite 4004  
Round Rock, Texas, 78664  
512-671-3434 Tel  
512-671-3446 Fax

-----Original Message-----

From: Ron Patterson [mailto:RPatterson@ friscotexas.gov]

Sent: Thursday, May 30, 2013 11:06 PM

Subject: RE: Insuring a Protective Exide Clean-up

Thank you for your email regarding the cleanup of the property the city is purchasing (the "J Parcel"). This response to your email is being sent out on behalf of Mayor Maso and the Members of the City Council.

Unfortunately, it appears that you may have been provided with some inaccurate information concerning the J Parcel. Therefore, in the interest of providing you with some factual information, we offer the following data.

The City has pursued and obtained a "better" than residential standard for the remediation of the J Parcel property in that the TCEQ/EPA standard is 500ppm but through agreement, obtained a commitment to 250ppm. As one can see this will require the remediation level to be double the best regulatory standard.

With regard to the testing protocols, the City is not "allowing" the use of any particular testing protocol. Such protocols are set and approved by TCEQ/EPA regulations. That said, just to clarify, an industrial sampling protocol is not being used on the J Parcel. Exide is using the TCEQ approved residential grid sampling methodology designed for this type of site and it is a residential sampling protocol (not industrial) that was specifically approved by TCEQ for the J Parcel. Even though the future land use of the J Parcel will not be residential, a residential sampling protocol is being utilized. Statements to the contrary are simply incorrect.

The current investigation and proposed remediation of the J Parcel fully complies with the requirements of the Exide settlement agreement and applicable TCEQ/EPA regulations. As mentioned above, the City has assured that the clean-up will be significantly below the regulatory residential clean-up level even though future use of the J Parcel will be deed restricted to commercial type uses.

The City of Frisco has no independent regulatory authority to impose any specific investigation or remediation requirements on Exide in regard to the J Parcel. That is why the City negotiated specific standards in the Exide settlement agreement and is working closely with TCEQ and EPA to assure that the investigation and remediation of the J Parcel is protective of human health and the environment.

Respectfully,  
Ron Patterson  
Assistant City Manager