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EXIDE TECHNOLOGIES

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10 BEFORE THE HEARING BOARD OF THE  
11 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

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13 EXECUTIVE OFFICER OF THE SOUTH  
COAST AIR QUALITY MANAGEMENT  
14 DISTRICT,

15 Petitioner,

16 v.

17 EXIDE TECHNOLOGIES, INC., a Delaware  
corporation,

18 Respondent.

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21 Respondent Exide Technologies (“Exide”) files this Status Report in accordance with the  
22 Order for Abatement issued in Case No. 3151-32. This Status Report covers the period from  
23 November 14, 2015 to December 15, 2015 (“Update Period”), summarizing the work performed  
24 during this Update Period.

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26 Exide performed planned (non-routine) maintenance and other tasks requiring mitigation  
27 measures under the Dust Mitigation Plan during this Update Period, including (i) soil sampling as

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Case No. 3151-32

**DECEMBER 2015 STATUS REPORT OF  
RESPONDENT EXIDE TECHNOLOGIES  
FILED IN ACCORDANCE WITH  
STIPULATED ORDER FOR  
ABATEMENT**

1 part of the facility investigation process; (ii) work on installation of roof gutters and down spouts;  
2 and (iii) installation of stormwater manhole sensor covers.

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4 Tetra Tech is the District’s third-party monitor. Exide received copies of the three Tetra  
5 Tech weekly reports submitted during this Update Period related to dust mitigation measures for  
6 the tasks described above. A fourth weekly report is expected, but Exide has not received a copy  
7 as of the date of this update. In each of the three reports, Tetra Tech confirmed that “mitigation  
8 measures were observed to be implemented in full compliance with the previously approved  
9 mitigation measures under the [Dust Mitigation Plan]. . . .”

10  
11 On December 1, 2015, Exide filed a “Petition for Modification of Order to Clarify Exide's  
12 Obligation to Pay for Third Party Consultant Oversight Activities.” As the Hearing Board is  
13 likely aware, Order for Abatement No. 3151-32 expires on December 31, 2015. However, on  
14 November 24, 2015, the District filed a “Petition for Modification of the Order for Abatement”  
15 requesting that the Order be extended through June 30, 2016 or until Respondent's Compliance  
16 Plan for Closure Activities submitted pursuant to Rule 1420.1(p)(2) is approved by the Executive  
17 Officer, whichever is sooner. If the Hearing Board grants the District’s Petition, Exide seeks  
18 modification of the Order to clarify the role of the independent third party oversight consultant  
19 appointed by the District pursuant to the Order. Specifically, Exide seeks clarification that it is  
20 only obligated to reimburse the District for the third party consultant costs for overseeing dust-  
21 generating activities requiring mitigation pursuant to the Mitigation Plan for Construction of Risk  
22 Reduction Measures, RCRA RFI Sampling, and Other Plant Activities (“Mitigation Plan”).

23  
24 Exide seeks this clarification of the Order because starting in September 2015, the District  
25 has directed the third party consultant to be on site at Exide’s facility every weekday, excluding  
26 Labor Day, as well as at least one Saturday. This is significant because the District submitted the  
27 third party consultant’s invoice to Exide for reimbursement, notwithstanding that the “oversight”  
28 of general activities at the site was beyond the scope of the Order. The weekly amount charged by

1 the third party consultant has been approximately \$12,000, and the total amount submitted to  
2 Exide to date is over \$1.286 million. Included in this amount are significant charges for third  
3 party oversight of activities beyond the scope of the Order. Accordingly, if the Hearing Board  
4 extends the Order as requested by the District, Exide requests that it is only obligated to reimburse  
5 the District for oversight of dust-generating activities that require mitigation under the Monitoring  
6 Plan, not general or routine activities at the site.

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8 Dated: December 15, 2015

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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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By  \_\_\_\_\_  
JEFFREY J. PARKER

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Attorneys for Respondent  
EXIDE TECHNOLOGIES

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