

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:

EXIDE TECHNOLOGIES, *et al.*
Tax ID# 23-0552730,

Debtor.

:
: Chapter 11
:
: Case Nos. 02-11125
: through 02-11128 (JCA)
:
:

**GEORGIA DEPARTMENT OF NATURAL RESOURCES OBJECTION TO
DEBTORS' CHAPTER 11 PLAN OF REORGANIZATION**

The Georgia Department of Natural Resources, Environmental Protection Division (“Georgia EPD”), files this its objection to the confirmation of Debtors’ Plan of Reorganization under Chapter 11 of the Bankruptcy Code, and in support thereof respectfully shows the Court as follows:

1. The Debtors have filed with the Court their Plan of Reorganization (“Plan”) under Chapter 11 of the Bankruptcy Code. The Court has set a hearing on the confirmation of the Plan for October 21, 2003.

2. The Georgia EPD filed a proof of claim in the instant case for total financial assurance required under Georgia’s environmental laws for Debtor’s lead acid battery manufacturing facility (the “Battery Facility”) located at 3639 Joy Road, Columbus, Georgia in the total amount of \$13,905,972.00 as an unsecured, nonpriority claim.

3. The Georgia EPD objects to the Plan to the extent it states or implies that the Georgia EPD is precluded from pursuing its claim from Debtors or other responsible parties, including successors. See Torwico Electronic, Inc. v. State of New Jersey, Department of Environmental Protection and Energy, 8 F.3d 146 (3rd Cir. 1993), cert. denied, 511 U.S. 11046

(1994) (finding that debtor's obligation to remediate its former site of operations ran with the waste and was not subject to discharge); Penn Terra Ltd. V. Dept. of Environmental Resources, 733 F.2d 267, 277-78 (3rd. Cir. 1984); In re Chateaugay Corp., 944 F.2d 997, 1008 (2nd Cir. 1991), aff'g 112 B.R. 513 (S.D.N.Y. 1990) (holding that a cleanup order is not a dischargeable claim even where it requires taking action to both remove accumulated wastes and stop or ameliorate ongoing pollution from such wastes). The Georgia EPD respectfully requests that the following language be inserted into Debtors' Plan prior to confirmation:

Debtors shall comply with all environmental laws and regulations of the State of Georgia, including, but not limited to, those regulations specifically referenced herein. The confirmation of the Debtors' Plan will not discharge, release, or limit the Debtors' or any other party's obligations to comply with Georgia environmental laws and regulations. Nor will the confirmation of the Debtors' Plan discharge, release or limit the liability of the Debtors for claims on behalf of the State of Georgia that may arise as a result of the Debtors' failure to comply with Georgia environmental laws and regulations. Debtors shall comply with the all provisions of Georgia's environmental laws as set forth in O.C.G.A. § 12-1-1 et. seq. and all rules and regulations of the Georgia Department of Natural Resources, Environmental Protection Division, promulgated thereunder.

This 6th day of October, 2003.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that I have this day served a copy of the foregoing GEORGIA DEPARTMENT OF NATURAL RESOURCES OBJECTION TO DEBTORS' CHAPTER 11 PLAN OF REORGANIZATION upon:

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Attn: Mark S. Kenney

And those parties listed on attached Exhibit A via electronic filing and notice or via pre-paid Federal Express next morning delivery and to

Bankruptcy Management Corporation
Attention: Exide Solicitation Agent
1330 E. Franklin Avenue
El Segundo, CA 90245

Via e-mail at exide@bmccorp.net.

This 6th day of October, 2003.

/s/ Lesley W. Berggren
LESLEY W. BERGGREN
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Exhibit A

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