To: Zito, Kelly[ZITO.KELLY@EPA.GOV]
Cc: Kao, Jessica[Kao.Jessica@epa.gov]
From: Manzanilla, Enrique
Sent: Tue 5/3/2016 10:38:51 PM
Subject: FW: Exide Questions and Answers sent to LA Times

Let's discuss when you get a chance.

I sent these to Barbara Lee and Grant Cope early this morning.

From: Maier, Brent
Sent: Tuesday, May 03, 2016 3:33 PM
To: Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>
Subject: RE: Exide Questions and Answers sent to LA Times

Let me know if you are fine with my sharing the Exide Questions and Answers with Congressman Becerra's staff following your discussions with your DTSC counterparts. Thanks.

Brent Maier

Congressional Liaison

U.S. Environmental Protection Agency, Region IX

75 Hawthorne St. (OPA-3)

San Francisco, CA 94105

Ph: 415.947.4256

From: Maier, Brent
Sent: Tuesday, May 03, 2016 10:22 AM
To: Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>
Subject: Exide Questions and Answers sent to LA Times

From: PerezSullivan, Margot
Sent: Tuesday, April 26, 2016 4:11 PM
To: Strauss, Alexis <Strauss.Alexis@epa.gov>; Kao, Jessica <Kao.Jessica@epa.gov>
Cc: Zito, Kelly <ZITO.KELLY@EPA.GOV>
Subject: Exide Questions and Answers sent to LA Times

Here is the information I sent to Tony Barboza with the LA Times in response to specific questions.

Questions Received April 22

Response Sent April 25

The EPA applauds the recent approval of $176.6 million funding plan to expedite and expand the California Department of Toxic Substance Control's (DTSC) on-going testing and cleanup of residences, schools, daycare centers and parks surrounding the former Exide facility in Vernon. The agency will continue to work closely with the state.

1. Please describe EPA's current role and involvement in the Exide Technologies case, including the closure and cleanup of the Vernon facility and the surrounding neighborhoods and any inspection or enforcement activities.

EPA Region 9 is providing technical support on the facility closure plan and the residential cleanup. We have facilitated a peer exchange between DTSC and EPA Region 7's staff working on a large lead smelter site in Omaha. Region 9 staff participate in monthly meetings of the Exide Community Advisory Group so that we can also hear directly from community members and other stakeholders about issues of concern.

Region 9 is currently engaged in actively monitoring the activities regarding Exide several ways:

- We work with the CA DTSC, who is the lead agency for the clean-up at Exide to provide DTSC with technical assistance. Some examples of that type of assistance include:
  - Organizing a peer exchange with EPA Region 7's Remedial Project Manager for the Asarco Lead Smelter Site in Omaha.

- Review by technical experts within the Region of the technical aspects of the clean-up—the draft facility closure plan, the residential sampling plan; and soon, the cleanup plan.
- We've also advised DTSC on managerial aspects of the clean-up, such as best ways to manage information and data related to the sampling of homes.

- We are tapping other programs within the Region to provide assistance to DTSC. For example,
  - Region 9's toxics section chief will be part of a DTSC-led working group on the effects of lead, in particular, lead-based paint.
  - Region 9's brownfields program has provided referrals re job training organizations to DTSC in support of DTSC's plans to train local workers as part of cleanup activities.

EPA will continue to provide technical support and oversight to support DTSC's ability to meet their commitments at this site and in this community.

Prior to the closure of the facility, EPA issued a Notice of Violation to Exide for excessive lead emissions on May 22, 2014. In August 2014 we conducted a thorough RCRA hazardous waste inspection but did not observe any significant violations of federally enforceable hazardous waste management regulations.

2. Is EPA examining soil testing results? Is EPA or any other federal agency examining the elevated blood lead levels found among children near the plant?

Yes, we are examining the soil testing and blood lead levels and we have reached out to the Agency for Toxic Substances and Disease Registry (ATSDR) regarding the blood lead level study to consult with them on next steps.

3. Is the site being evaluated or considered for inclusion in Superfund/National Priorities List?

The lead agency for the clean-up of the Exide facility and surrounding residences is the CA Department of Toxic Substances Control. Since there is a state agency in the lead, EPA is not evaluating the site for the Superfund National Priority List.

4. What resolutions have there been to the violations Exide was cited for by U.S. EPA, including those issued in May 2014, March 2015 and any other citations? Did Exide pay any penalties in connection with those or other alleged violations?

On May 22, 2014, EPA issued a Notice of Violation to Exide for excessive lead emissions. Prior to the closure of the facility, EPA had been requested by the South Coast Air Quality Management District to review the facility's compliance with lead emission requirements contained in the federally enforceable State Implementation Plan. Up to the closure of the facility, EPA continued to coordinate with South Coast Air Quality Management District's enforcement efforts, which included two abatement orders approved the District's Hearing Board in July 2014.

5. Does EPA have any ongoing investigations involving Exide, related companies or public officials that oversaw the plant? Is EPA monitoring the company's compliance with the requirements of the U.S. attorney's office March 2015 non-prosecution agreement?

EPA's policy prohibits commenting on the existence of investigations. The Non-Prosecution Agreement (NPA) signed on March 11, 2015, is an agreement between the U.S. Attorney's Office and Exide Technologies. EPA-CID Region 9 is not monitoring Exide Technologies compliance with the terms of the NPA. Questions concerning the NPA should be directed to the Thom Mrozek U.S. Attorney's Office at thom.mrozek@usdoj.gov or 213-894-2400.

6. Is EPA satisfied with the California DTSC's oversight and its allowance of the continued operation of this facility, even as it logged a long history of lead emissions and hazardous waste violations? Having been informed of those violations, what did EPA do to ensure the problems and any state regulatory deficiencies were corrected?

Exide was a complex facility for DTSC and other environmental agencies to regulate. As concerns associated with the facility mounted, EPA increased its involvement at the Exide facility, including increased review of RCRA activities, and EPA led inspections and enforcement responses. EPA's criminal investigation led to the permanent closure of the Vernon facility in March 2015 under the NPA.

7. Has EPA or Region 9 changed any policies or procedures in how it oversees the California DTSC, lead-acid battery smelters, lead-emitting industries and other hazardous waste facilities in the wake of what happened at Exide? What has been done to ensure a similar outcome does not happen elsewhere?

EPA's oversight of DTSC evolves over time to respond to issues that arise and any performance concerns. We have increased our involvement at Exide over the past few years and have increased our overall oversight of DTSC's RCRA program. Nationally, EPA is taking steps to more closely examine sources of lead contamination.

Follow up Questions received April 26

Response sent April 26

1. Is EPA satisfied with the state's oversight of this facility? Were any regulatory deficiencies identified or corrected? How has EPA increased its overall oversight of DTSC's RCRA program? Can you elaborate on how such changes will work to prevent similar outcomes at other facilities?

DTSC is making comprehensive changes to its RCRA program to improve its effectiveness at Exide and across the state. EPA increased its oversight of DTSC's RCRA program in response to issues and challenges in the program. Some of the changes include increased review of proposed RCRA permits, more frequent regular engagement with DTSC on all elements of the RCRA program, and increased oversight of RCRA inspections and enforcement which also includes the role of the CUPA program.

2. Was this specifically because of the Exide case?

No

3. Lastly, can you please describe or list the "enforcement responses" to which you refer?

At Exide, EPA conducted Clean Air Act and RCRA inspections as well as a criminal investigation. EPA worked closely with the South Coast Air Quality Management District to issue a Notice of Violation for excessive lead emission. The EPA criminal investigation led to the non-prosecution agreement between Exide and the U.S. Attorney's Office, the terms of which included the permanent closure of the facility and Exide's admission to multiple criminal RCRA violations.

4. Did Exide pay any penalties paid for those violations? Have those USEPA citations been resolved or settled in any way?

No. Since the facility is shut down, the NOV is considered resolved.

Margot Perez-Sullivan
U.S. Environmental Protection Agency
D: 415.947.4149

C: 415.412.1115

E: perezsullivan.margot@epa.gov