Bcc: Salazar, Matt[Salazar.Matt@epa.gov]; McDaniel, Doug[McDaniel.Doug@epa.gov]
Cc: Johnson, Kathleen[Johnson.Kathleen@epa.gov]
To: Reyes, Deldi[Reyes.Deldi@epa.gov]
From: Jones, Joel E.
Sent: Sat 4/23/2016 12:24:03 AM
Subject: Re: Modified - RE: LA Times request Fwd: Exide DUE MONDAY

I would be more forthcoming in acknowledging failure on EPA's part (specifically) to act more aggressively in the last 20 years, rather than the "passive voice" noting so-called "shortcomings" without assigning blame.

Of course that's easy for me to say because I wasn't working on RCRA programs until 2013 when we "acted aggressively" in our state oversight role.

The community/media/Congressional staff/etc. already know EPA Region 9 failed to act. . . they told me directly during a public meeting.

Sent from my iPhone

On Apr 22, 2016, at 4:36 PM, Reyes, Deldi <Reyes.Deldi@epa.gov> wrote:

Are we comfortable with this statement that Jeff has posed to include in a response to a Tony Barboza question?
It was suggested by Jeff:

1. 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 and remains a complex facility for DTSC and other environmental agencies to regulate. There have clearly been short comings in the historic permitting and enforcement at Exide. 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. (REFERENCE CRIMINAL INVESTIGATION HERE?)

From: Huetteman, Tom

Sent: Friday, April 22, 2016 3:29 PM
To: Reyes, Deldi <Reyes.Deldi@epa.gov>; PerezSullivan, Margot <PerezSullivan.Margot@epa.gov>; Lyons, John <Lyons.John@epa.gov>; Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>; Jones, Joel E. <Jones.Joel@epa.gov>; Minor, Dustin <Minor.Dustin@epa.gov>; Christenson, Kara <Christenson.Kara@epa.gov>; Knowles, Robert <Knowles.Robert@epa.gov>
Cc: Karlson, Kristine <Karlson.Kristine@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>; Scott, Jeff <Scott.Jeff@epa.gov>
Subject: Modified - RE: LA Times request Fwd: Exide DUE MONDAY

I slightly modified my pieces below based on feedback from Jeff Scott and added the following sentence under 6 that I want to flag: "There have clearly been short comings in the historic permitting and enforcement at Exide." I also spoke to Robert at ATSDR and am copying him so he can weigh in on whether to include reference to ATSDR in #2. Thanks, Tom

Tom Huetteman, Assistant Director

Land Division, USEPA Region 9

415-972-3751

From: Reyes, Deldi
Sent: Friday, April 22, 2016 2:36 PM
To: PerezSullivan, Margot <PerezSullivan.Margot@epa.gov>; Lyons, John <Lyons.John@epa.gov>; Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>; Huetteman, Tom <Huetteman.Tom@epa.gov>; Jones, Joel E. <Jones.Joel@epa.gov>; Minor, Dustin <Minor.Dustin@epa.gov>; Christenson, Kara <Christenson.Kara@epa.gov>
Cc: Karlson, Kristine <Karlson.Kristine@epa.gov>; Huetteman, Tom <Huetteman.Tom@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>
Subject: RE: LA Times request Fwd: Exide DUE MONDAY

Margot, here's where we are now. This version incorporates input from me and Tom and is still pretty rough.

I have to attend to some other issues for the rest of this afternoon but if others want to have at it, I can look at it again first thing Monday.

Also, I'm taking Dan off this chain since he's out until May 2 and adding John, Enrique and Dusty since I know they will both want to review, particularly in Dan's absence. Kara, if you could give this a read, that would be great.

Jessica had been our liaison in terms of fielding questions related to the criminal investigation. We could use some help with that.

List of Questions re Exide from Tony Barboza, LA Times

OPA Contact: Margot Perez-Sullivan

DRAFT Response, April 22, 2016 (RESPONSE REQUESTED BY MONDAY, APRIL 25)

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.

SHORT VERSION:

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.

LONG VERSION:

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.

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?

QUESTION FOR ORC or OR JESSICA

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 and remains a complex facility for DTSC and other environmental agencies to regulate. There have clearly been short comings in the historic permitting and enforcement at Exide. 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. (REFERENCE CRIMINAL INVESTIGATION HERE?)

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.

From: Huetteman, Tom
Sent: Friday, April 22, 2016 2:19 PM
To: Miller, Amy <Miller.Amy@epa.gov>; PerezSullivan, Margot <PerezSullivan.Margot@epa.gov>
Cc: Karlson, Kristine <Karlson.Kristine@epa.gov>; Reyes, Deldi <Reyes.Deldi@epa.gov>; Meer, Daniel <Meer.Daniel@epa.gov>; Christenson, Kara <Christenson.Kara@epa.gov>
Subject: RE: LA Times request Fwd: Exide

I have a suggested responses for 1 (except for the inspection question), 2, 6 and 7.

Tom Huetteman, Assistant Director

Land Division, USEPA Region 9

415-972-3751

From: Miller, Amy
Sent: Friday, April 22, 2016 12:37 PM
To: PerezSullivan, Margot <PerezSullivan.Margot@epa.gov>
Cc: Karlson, Kristine <Karlson.Kristine@epa.gov>; Reyes, Deldi <Reyes.Deldi@epa.gov>; Huetteman, Tom <Huetteman.Tom@epa.gov>; Meer, Daniel <Meer.Daniel@epa.gov>
Subject: RE: LA Times request Fwd: Exide

Hi Margot – I have copied the senior team from ENF/LND/Superfund that are involved in Exide. They will need to get back to you on this.

Amy C. Miller, Deputy Director

Enforcement Division

US EPA Region IX

(415) 947-4198

miller.amy@epa.gov

From: PerezSullivan, Margot
Sent: Friday, April 22, 2016 12:21 PM
To: Miller, Amy <Miller.Amy@epa.gov>
Subject: LA Times request Fwd: Exide

Hi Amy:

Below are questions from the LA Times on Exide. I have some talking points from the administrator's visit, but these are a bit more specific. Can we accommodate this request? His deadline is Monday...

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

C: 415.412.1115

E: perezsullivan.margot@epa.gov

Begin forwarded message:

> **From:** "Barboza, Tony" <Tony.Barboza@latimes.com>
> **Date:** April 22, 2016 at 11:46:53 AM PDT
> **To:** "PerezSullivan, Margot" <PerezSullivan.Margot@epa.gov>
> **Subject: RE: Exide**
>
> Hi Margot,

I'm sorry to hear that staff will not be made available to discuss such a significant case and cleanup. Below are some of the questions I would like to ask. My deadline is Monday.

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 Technical Advisory Group so that we can also hear directly from community members and other stakeholders about issues of concern.

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 levels.

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

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?

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 has been a very challenging 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.

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 oversight of DTSC's RCRA program. Nationally, EPA is taking steps to more closely examine sources of lead contamination.

Thank you,

_____

Tony Barboza

Staff Writer

Los Angeles Times

Office: 213-237-6612

Cell: 213-219-0047

tony.barboza@latimes.com

From: PerezSullivan, Margot [mailto:PerezSullivan.Margot@epa.gov]
Sent: Friday, April 22, 2016 10:58 AM
To: Barboza, Tony
Subject: Exide

Hi Tony:

I talked to a few folks here and since we're not the lead, there's not much we can say about it that hasn't already been said. Do you have any specific questions?

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

C: 415.412.1115

E: perezsullivan.margot@epa.gov