UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

SEP 30 2014

OFFICE OF THE
REGIONAL ADMINISTRATOR

The Honorable Lucille Roybal-Allard
Commerce District Office
Attention: Ms. Anna Figueroa
500 Citadel Drive, Suite 320
Commerce, CA 90040

The Honorable Xavier Becerra
Los Angeles District Office
Attention: Ms. Liz Saldivar
350 South Bixel Street, Suite 120
Los Angeles, CA 90017

Dear Congresswoman Roybal-Allard and Congressman Becerra:

Thank you for sharing your concerns about the Exide facility in Vernon, California during our video conference call on September 4. I am committed to taking appropriate steps to address the longstanding environmental issues at this facility. As promised, I am providing you with an update on state agency activities related to residential cleanups, permitting and enforcement efforts at Exide, as well as EPA's increased role in its oversight.

Residential Cleanups:

On September 16, 2014 the California Department of Toxic Substances Control announced a public comment period on the draft Interim Measures Work Plan for the removal of lead contaminated soils in residential yards located in portions of Boyle Heights, East Los Angeles and Maywood (collectively known as the northern and southern assessment areas), an area of about 214 homes. This work is being required under an enforceable Resource Conservation Recovery Act corrective action order previously issued by DTSC.

The plan includes soil removal, dust control and air monitoring, yard restoration work, and interior home cleaning. Soil sampling is being made available to all homeowners within the assessment areas. Soil removal will be made available to homes that meet an 80 ppm criteria if the homeowner elects to have this work done, which will be at no cost to the homeowner. Homes with higher concentrations will get priority attention. Soil testing of yards is ongoing and once the public comment period concludes on October 20, 2014, DTSC will work with Exide to finalize the cleanup plan and commence with cleanup. Concurrently, additional sampling is being performed at over 144 homes to investigate the extent of contamination beyond the current assessment areas.

EPA has reviewed the cleanup plan against our standard procedures including the U.S. EPA *Superfund Lead-Contaminated Residential Sites Handbook (2003)* (Lead Handbook). Based on our review we have found the cleanup work being conducted under DTSC's oversight to

generally be consistent with the EPA Lead Handbook. DTSC is requiring a more conservative approach to the cleanup in some aspects, including requiring cleanup level for lead of 80 mg/kg, where the EPA residential regional screening level is 400 mg/kg. EPA is continuing to discuss with DTSC the particulars of the area to be sampled to ensure full delineation of the extent of contamination. In addition, we will continue to monitor progress on the sampling and cleanup efforts that are planned and underway.

Permitting:

DTSC is currently reviewing Exide's submittals in response to a third "Notice of Deficiency (NOD)" in its permit application that was issued by DTSC on June 17, 2014. This third notice focused in particular on closure plan requirements and needed financial assurance for the closure costs. The closure plan and related financial assurance is not only a requirement for a permit, but is an existing requirement for a facility like Exide that is under interim status and waiting for a permit.

DTSC is currently in discussions with Exide over needed changes to the closure plan that would substantially increase the required financial assurance. A decision from DTSC is expected shortly on the financial assurance requirements. The requirement applies as both a permit condition if a permit is issued and as a current requirement under interim status.

The next step in the permitting process is a decision by DTSC as to whether the permit application is complete, followed by a proposed decision whether to issue or deny the permit. The proposed decision to deny or issue a permit is subject to public comment.

EPA has increased its oversight of permitting activities at Exide. We have conducted our own review of the closure plan and cost estimates and initiated weekly calls with DTSC. DTSC's staff lead for evaluating closure cost estimates is very experienced, having conducted similar work as a consultant before joining DTSC. We have found their evaluation of the closure plan and costs to be thorough and consistent with our guidance and practices. We will remain in close communication with DTSC as they undertake the next steps in the permitting process.

Enforcement:

On May 22, 2014 EPA issued a Notice of Violation to Exide for excessive lead emissions. We have since been gathering additional information from the facility and our investigation is ongoing. Subsequently, the South Coast Air Quality Management District issued an Abatement Order to Exide requiring the installation of new air pollution controls and in a separate action is seeking penalties for SCAMD rule violations. Exide has ceased operations while it upgrades its air pollution controls and is not expected to begin operations any earlier than April 2015.

Exide reported in documents filed with the Securities and Exchange Commission that on August 8, 2014, Exide received a federal grand jury subpoena seeking documents related to air emissions and materials transportation. Although as a matter of policy EPA cannot comment on ongoing criminal investigations by the Agency, we can in this instance confirm an ongoing investigation by EPA's Criminal Enforcement Division of Exide's management of hazardous wastes.

Finally, on August 11-12, 2014 EPA Region 9, accompanied by DTSC inspectors, conducted a thorough RCRA hazardous waste inspection at Exide. We did not observe any significant violations of federally enforceable hazardous waste management regulations. DTSC has recently assigned a new lead inspector for the facility.

EPA will remain actively involved at this facility as the state takes a number of critical actions over the next several months. If you have follow-up questions or would like to meet to discuss this matter, please have your staff contact our Congressional Liaison, Brent Maier, at 415-947-4256 or maier.brent@epa.gov.

Sincerely,

Jared Blumenfeld

cc: Matthew Rodriquez, Secretary, CalEPA
Mariam Ingenito, Acting Director, DTSC