



South Coast Air Quality Management District

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October 6, 2020

Sent by E-Mail

William Barr
United States Attorney General
950 Pennsylvania Avenue
Washington, D.C. 20530-0001

In re Exide Holdings, Inc., et al., Case No. 20-11157(CSS), D.J. Ref. No. 90-11-2-07802/8.

Dear Attorney General Barr:

South Coast Air Quality Management District (South Coast AQMD) is the local air quality regulatory agency responsible for the protection of public health from air pollution, which includes air toxics. South Coast AQMD is deeply concerned about the United States Department of Justice's (DOJ) intent to not oppose Exide Holdings, Inc. abandoning and orphaning its former lead acid battery recycling facility located in Vernon, California. Exide chose to continue smelting lead in a highly urbanized area even after learning that the facility was persistently emitting excessive amounts of lead and arsenic into the air. Lead is a poison that, when inhaled or swallowed, harms almost every organ in the body. Arsenic, which is used to strengthen alloys of lead, is also a poison and has no exposure threshold below which adverse health effects are not likely to occur. Vernon is just five miles south of downtown Los Angeles, in the heart of a large basin (the "South Coast Air Basin") between the Pacific Ocean and the San Gabriel Mountains. Emissions from the Vernon facility single-handedly took the South Coast Air Basin out of compliance with federal air-quality standards for lead.

Exide also has a history of willfully concealing its violations. Specifically, Exide went to great lengths to mislead the South Coast AQMD about the true scope and source of the lead and arsenic emanating from the Vernon facility. First, Exide falsely certified that it was in compliance with its Clean Air Act permit from the South Coast AQMD, when in fact – as Exide subsequently admitted in a non-prosecution agreement with the United States Attorney for the Central District of California – Exide was for decades "knowingly and willfully" storing lead-contaminated battery casings in leaky van trailers at the Vernon facility. Doing so allowed lead to escape and become airborne, where it was detected in the ambient air by sensors placed around the perimeter of the Vernon facility.

Second, Exide concealed test results that would have exposed the Vernon facility as the source of high arsenic concentrations in the ambient air. Third, Exide manipulated testing conditions during source tests to mask the true extent of the Vernon facility's pollution.

Because of Exide's long history of contaminating the surrounding community, and willfully concealing those violations, it is unacceptable to allow Exide to abrogate its responsibility to clean-up both the Vernon site and the surrounding community that was impacted by the facility's operations. Nor should the public bear the financial responsibility for the costs of remediation.

When DOJ was negotiating with Exide to allow it to essentially walk away from any responsibility to mitigate all of the soil pollution on and off the site, at no time did your department notify the interested parties. Yet, despite our active involvement in both the regulatory aspects and bankruptcy case involving Exide, South Coast AQMD only received an unofficial notice of these proposed actions from the California Department of Toxic Substances Control by email on October 2, 2020. Even if South Coast AQMD had been notified when public comment opened on September 25, 2020, seven business days is not an adequate amount of time to provide full comment.

South Coast AQMD requests a that the DOJ hold a public hearing to provide the public with information on the proposed abandonment and orphaning of the Exide facility in Vernon and to allow for full community engagement.

If you have any questions or would like to discuss the issue further, please call me at (909) 396-3104, or Derrick Alatorre, Deputy Executive Officer for Legislative, Public Affairs and Media at (909) 396-3122.

Sincerely,



Jill Whynot
Chief Operating Officer

BG:BB:DA:LT

cc: Meredith Williams, Director, Department of Toxic Substances Control