



March 11, 2014

Governor Jerry Brown
c/o State Capitol, Suite 1173
Sacramento, CA 95814
Fax: (916) 558-3160

Dear Governor Brown,

Consumer Watchdog thanks you for taking a first step and intervening in the Exide Technologies case yesterday to have the Department of Toxic Substances Control (DTSC) alert the public to the news that 39 area homes are contaminated with dangerous lead. I call on you now to spearhead toxic cleanups in the state, and ensure that the DTSC takes meaningful and prompt action to force Exide to clean up its contamination in Maywood and Boyle Heights.

Regulators at the DTSC have known for years about Exide's extensive lead contamination.

For more on this, see:

<http://www.consumerwatchdog.org/story/report-toxics-regulator-aware-recycling-plant-risks-years>

For the DTSC to essentially tell pregnant mothers and children not to expose themselves to the lead in their yards is not taking meaningful action to protect the public from toxic harm. For the DTSC to tell Exide to perform yet more tests is a slap in the face to communities that are sick and tired of paying for our society's productivity and for corporate profits with their health.

The exposure of adults and children to levels of lead that can damage internal organs, cause cancer, and plant the seeds of learning disabilities in unborn children is simply unacceptable. I ask that you now take charge on environmental cleanups in the state if your regulators are either unable or unwilling to protect the public from toxic harm.

In a ruling on November 6, 2013, Judge Luis Lavin of the Los Angeles Superior Court lifted a stay of a suspension order against Exide by the DTSC in the wake of a mishandled case by the department.

The DTSC suspended Exide's operations last April because of what they said were emissions that threatened the public health and violations of hazardous waste laws. Exide and the DTSC subsequently went to court over the enforcement of the shutdown and the judge issued a temporary stay against the DTSC suspension order. He imposed conditions on Exide to protect the public health while administrative hearings were pending.

But the DTSC subsequently failed to submit a response to Judge Lavin's order to show cause and Exide failed to deliver the requisite test results. The judge concluded that "the Court does not believe that the Department is adequately enforcing the conditions imposed by the Court or is adequately protecting the public."

For the LA Superior Court order, see:

<http://www.consumerwatchdog.org/resources/judgelavinexideorder.pdf>

As of last fall, Exide was still violating environmental laws in the state of California, according to DTSC regulators. A storage area for crushed battery fragments didn't meet the regulations as a proper containment system, meaning that lead could continue to migrate off site. Exide continued to use a storm water retention pond never constructed as a containment system in a sweetheart deal struck years ago with the DTSC.

Overall, this company has demonstrated that it does not deserve a permit to operate in the State of California. At the same time, this situation is of the DTSC's own making.

The DTSC has considerable tools at its disposal, and it is time for you as Governor to see that the department uses them. The DTSC can and should immediately take financial measures to ensure that the company cleans up contamination, and installs the proper technology to prevent lead deposits at hazardous waste levels going forward. The company should be required to put up \$50 million, and not the inadequate \$10 million that the DTSC only recently required, to pay for the outlined

measures, and for the cleanup of contamination if the company folds.

The DTSC previously contracted with outside experts to “fingerprint” lead coming from metal shredding giant SA Recycling on Terminal Island. That culminated in a successful enforcement action and judgment against the company.

Why this has not been done in the case of Exide is inexplicable. Although it is clear that the contamination in people’s yards is Exide’s based on the levels and proximity to the plant, the DTSC could have had an airtight case against the company if it could prove that the lead was Exide’s beyond a reasonable doubt. The DTSC should have already had those results in hand when it made the fact of residential contamination public.

Exide is not the only community subject to toxic harm. Your intervention and leadership is needed in other cases around the state where regulators are either unwilling or unable to protect the public from toxic harm. As Governor, the public looks to you to set an example and show Californians that their health and the wealth generated by a productive economy are not mutually exclusive. Californians should not have to choose between them. As Governor in the 1970s, you served as an example on the environment. I respectfully ask you to do so again.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Liza Tucker", with a long horizontal flourish extending to the right.

Liza Tucker, Consumer Advocate