

AGENDA

OVERSIGHT HEARING: STATUS OF THE EXIDE RESIDENTIAL CLEANUP UNDER THE INTERIM CONTRACT

ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 ON RESOURCES AND TRANSPORTATION

ASSEMBLYMEMBER RICHARD BLOOM, CHAIR

THURSDAY, AUGUST 9, 2018

5:00 P.M. – RESURRECTION CHURCH
3324 OPAL ST., LOS ANGELES, CA 90023

I. Welcoming Remarks and Introductions

- a. Assemblymember Richard Bloom, Chair of Assembly Budget Subcommittee #3 on Resources and Transportation
- b. Assemblymember Anthony Rendon, Speaker of the Assembly
- c. Assemblymember Wendy Carrillo, District 51
- d. Assemblymember Miguel Santiago, District 53
- e. Assemblymember Cristina Garcia, District 58
- f. Supervisor Hilda Solis, County of Los Angeles

II. Status of the Exide Clean-up

III. County of Los Angeles' Perspective and Involvement

IV. Community Stakeholders

V. Public Comment

BACKGROUND

Exide Technologies in Vernon, CA. Exide Technologies was a manufacturer of lead-acid batteries and owned a battery recycling facility in Vernon, California. The facility began operations in 1922, with Exide beginning operations there in 2000, recycling lead from used automotive batteries and other sources. The facility processed about 25,000 batteries a day, providing a source of lead for new batteries.

Lead Contamination from Exide Operations. Over the course of decades of operation, the facility polluted the soil beneath it with high levels of lead, arsenic, cadmium and other toxic metals. It also contaminated groundwater, released battery acid onto roads and contaminated homes and yards in surrounding communities with lead emissions.

DTSC estimates properties up to 1.7 miles away from the facility may potentially be affected by Exide's lead contamination, which amounts to roughly 10,000 properties. Tests show more than 7,500 properties exceed California's Human Health Screening Level for lead of 80 parts per million (ppm). Under California's conservative screening level, properties below 80 ppm are considered safe, while those with levels greater than 80 ppm require further evaluation.

Exide Closure and Cleanup. In March 2013, the South Coast Air Quality Management District (SCAQMD) released a human health risk assessment that showed that arsenic emissions from the Exide facility created an elevated risk of cancer for as many as 110,000 people in an area, stretching from Boyle Heights to Huntington Park. In the spring of 2014, DTSC ordered Exide to suspend operations because Exide was violating hazardous waste laws and by posing a significant risk to the community with its emissions based upon the SCAQMD health risk assessment. In October of 2013, DTSC issued an enforcement order, directing Exide to resolve its hazardous waste violations, develop a cleanup plan for approximately 219 residential properties near Exide and provide funds to Los Angeles County to provide free blood lead testing.

In November, 2014, DTSC issued an enforcement order requiring Exide to provide financial assurances in the amount of \$38.6 million that will be used by DTSC to safely close the Vernon facility, if Exide is unable or unwilling to do so, and required Exide to establish a trust fund of \$9 million to cover the costs of cleaning up the 219 residential properties near the facility, if Exide is unable or unwilling to do so. On January 30, 2015, DTSC ordered Exide to investigate the extent of contamination under the containment building, so that Exide could implement any necessary corrective actions at the facility. In addition to facility closure activities, DTSC ordered Exide to conduct sampling at nearest residences to the north and south of the Exide Facility in the communities of Boyle Heights/East Los Angeles and Maywood.

In March, 2015, Exide was required to cease operations and permanently close its Vernon facility pursuant to an enforcement order it agreed to with DTSC and a non-prosecution agreement it reached with the United States Department of Justice, that

allowed the company to avoid federal criminal prosecution for violations of hazardous waste laws. As a result of this closure agreement, Exide is required to submit a closure plan to safely close the facility, investigate potential contamination in the industrial area near Exide and, by October 2019, submit a corrective measures study to DTSC to address the off-site impacts in the residential area affected by Exide's operations.

On December 8, 2016, DTSC released the Final Exide Closure Plan and Final Environmental Impact Report. The Final Exide Closure Plan describes how the hazardous waste management units at Exide will be decontaminated and removed in a manner that is protective of public health and the environment. The plan incorporates many of the recommendations submitted by the community during the public engagement process.

Residential Cleanup near Exide. DTSC is the lead agency overseeing the investigation and cleanup of residential properties, schools, parks, daycare, and childcare centers within the approximately 1.7-mile radius of the former Exide facility. DTSC is working with communities within this proposed cleanup area, which includes the Cities of Bell, Commerce, Huntington Park, Los Angeles (Boyle Heights neighborhood), Maywood, and Vernon, and the County of Los Angeles (East Los Angeles).

On July 6, 2017, DTSC released its Cleanup Plan and Final Environmental Impact Report (EIR) for the cleanup of lead-impacted soil in neighborhoods around the former Exide facility. The Cleanup Plan calls for cleaning up approximately 2,500 properties within 1.7 miles of the former battery-recycling facility, over a two-year period.

To select properties for cleanup, DTSC will evaluate those properties with the highest levels of lead in soil and greatest risk of exposure. For each property sampled, the results were statistically analyzed to determine a representative, property-wide lead level that is more health protective than a simple average of results. Using these sampling and analysis criteria, the Cleanup Plan provides for the following categories of properties:

- Residential properties with a representative soil lead concentration of 400 ppm or higher.
- Residential properties with a representative soil lead concentration of less than 400 ppm, but where any soil sampling result of 1,000 ppm or higher is detected.
- Daycare and child care centers with a representative soil lead concentration of 80 ppm or higher that have not yet been cleaned up.
- All parks and schools that require cleanup will be cleaned up during this phase.

Initial prioritization for this cleanup is based on properties sampled prior to June 30, 2017. DTSC may identify additional properties for cleanup if funding permits. The publicly owned stretches of land, known as parkways, are not included in the cleanup plan.

Exide, and any other responsible party, is legally responsible to clean up all of the properties that were contaminated by its operations.

Outreach and Community Engagement Plan. DTSC developed an Outreach and Community Engagement Plan to: (1) inform affected communities about lead sampling and cleanup activities associated with Exide and the closure of the Exide facility; (2) collaborate with communities, local governments, nonprofit organizations, legislative offices, and other agencies on engagement strategies; and, (3) protect public health by ensuring that information is made available to communities, and that resources are allocated appropriately.

In addition to the Outreach and Community Engagement Plan, DTSC and SCAQMD jointly created the Exide Technologies Advisory Group in May 2015, to create a forum for the diverse interests of the community to discuss their needs and concerns related to the oversight of closure and cleanup work on and around the Exide facility.

In October 2015, Los Angeles County approved \$2 million to fund a public health outreach campaign to conduct soil testing at 1,000 homes, and dispatch community outreach workers to neighborhoods around the Exide facility.

Cost of Cleanup and Funding. According to DTSC, cleaning each home costs around \$45,000. As part of the closure agreement, Exide was required by DTSC to deposit \$9 million into an account for residential cleanup and will provide another down payment of \$5 million by March 2020.

In August 2015, the Governor authorized \$7 million to test additional residential properties within the 1.7-mile radius, and to clean up 50 of those with the highest levels of lead and greatest risk of exposure. Instead of waiting until Exide completed its off-site investigation of potential residential contamination by the fall of 2019, the Legislature, in April 2016, approved the Governor's proposed \$176.6 million general fund loan to expedite and expand testing and cleanup in the residential area near Exide. The additional funds would allow approximately 10,000 properties to be sampled and about 2,500 properties with the highest levels of lead and greatest risk of exposure to be cleaned up.

Ultimately, Exide, and any other responsible party, is legally responsible for the costs to clean up properties that were contaminated by its operations.

Status of Cleanup. As of June 2018, DTSC has sampled approximately 8,500 parcels and oversaw the cleanup of approximately 330 parcels. The bulk of the cleanup was not able to begin until after DTSC certified a final EIR, which was done in July 2017. DTSC then awarded a contract for the cleanup of approximately 2,500 homes in the fall of 2017, with the expectation that cleanup work would begin at the end of 2017 or beginning of 2018. However, that contract fell through, with DTSC officially revoking the winning bid in May 2018. Community groups and legislators have criticized the glacial pace of the cleanup. At this time, most of the \$176.6 million allocated in 2016 has not

been used. Many point to the environmental review process and contracting problems to be the primary causes of the delays.

Interim Cleanup Contract. On April 25, 2018, DTSC announced that the Department entered into an interim contract with National Engineering and Consulting Group Inc. (NEC), to accelerate the clean-up of lead-contaminated properties in the area surrounding the now closed Exide Technologies battery recycling facility, as DTSC prepares to award a larger cleanup contract for the area.

DTSC initially awarded the larger cleanup contract to Environmental Quality Management, but terminated its negotiations with the firm in May 2018, after they failed to execute a contract because they could not comply with the bid they submitted. DTSC has referred the matter to the Attorney General's office for review.

STAFF COMMENTS

The Exide cleanup effort spans 10,000 residential properties as well as daycare centers, schools and parks across seven southeast Los Angeles County communities surrounding the former car battery-smelting plant. This is a massive undertaking and is considered the largest-ever cleanup of lead-contaminated homes in California.

Despite the urgency to clean up the lead contamination, progress has been slow. Residents are concerned that they are continuing to be exposed to high levels of lead in their homes. DTSC has argued that it could not complete any cleanups until the year-long environmental review was complete in December of 2016. However, since the completion of the final environmental review in the summer of 2017, DTSC continues to make little progress on cleaning up the homes. Even if DTSC cleans up the 2,500 properties it plans to, residents are concerned and frustrated that there is no plan and no funding for the remaining properties, and are left to wonder what will happen to those properties.

Further, DTSC's decision to not include parkways in the cleanup plan has resulted in heavy criticism from community members and legislators. They assert that this piecemeal approach leaves a checkerboard-like pattern of safe and contaminated land.

The Budget Act of 2018 reappropriated the \$176.6 million that was originally appropriated in 2016 in order for DTSC to continue to have access to the funds for cleanup. The Budget Act additionally appropriated \$6.5 million for the testing and remediation of parkways.

The Legislature may wish to ask the Department the following questions:

Getting to the interim contract

- Can the Department please describe changes that they made in the cleanup approach under the interim contract, compared to past Exide residential cleanups such as the time-critical cleanups, including those changes made with respect to interior cleanups?

Cleanup under the interim contract and pending full contract

- How often are DTSC and NEC meeting to discuss whether timeframes and costs are consistent with the contract?
- What are the cost drivers of cleanup?
- What is the Department doing to avoid future delays?
- What are some of the lessons learned from the current interim contract?
- How is the Department working with local governments to enhance the cleanup efforts?
- Are we reaching the target of cleaning ten homes per week?
 - Can the pace be scaled up as we gain experience with the cleanup?
- What portion of residents is agreeing to have the interior of their homes cleaned? What are some of the common concerns that may result in residents not agreeing to the interior cleanup?
- What is the status of awarding the next cleanup contract for the remaining 2,500 homes?
- When does the Department anticipate finishing the clean-up of the remainder of the 2,500 homes?
- What measures does the Department have in place to overcome language barriers during cleanup and in interacting with residents?

Parkways

- Please describe the parkway testing and cleanup process that DTSC will be following.
- When can the Legislature expect early testing results from the parkways that will help indicate if there is a strong correlation between the lead levels on a property and the adjacent parkway?

Looking forward

- What are the next steps?