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California State Senate

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LEGISLATIVE BUDGET



April 24, 2013

Debbie Raphael
Director, Department of Toxic Substances Control
California Environmental Protection Agency
1001 I Street
Sacramento, CA 95814

Dear Director Raphael:

Thank you for taking action to shut down Exide's facility in Vernon. I have long been concerned about the air and water contamination stemming from the lead acid battery recycling conducted at that facility and I'm pleased the public's well-being has commanded attention.

There are still a couple of very troubling elements to this story. Other companies have faced similar situations and have already made extensive efforts to remediate their damage. I want to be assured this will be required of Exide as well. There also must be research into whether or not the polluters have the financial wherewithal in place to pay for any damage they cause. The absence of financial assurances that polluters can clean up their own messes is distressing. I understand Evergreen Oil is about to declare bankruptcy leaving a big question mark as to who will pay for its damage.

I understand there are two lead smelters (battery recyclers) in the country west of the Rockies. Both are in Southern California, one is the Exide facility in Vernon and the other is Quemetco (owned by RSR Corp) in City of Industry. Both have had issues with lead and other toxic emissions.

In 2007, Quemetco installed a pollution control technology (wet electro static precipitator) which has dramatically reduced toxic emissions from the facility making it one of (if not the) cleanest facility in the country as it relates to toxic emissions. With the pollution control technology in place, toxic level emissions from lead, arsenic, other toxic emission was reduced by about 99%. In the case of arsenic, the level was reduced from 96 lb./year to just over 1lb./year.



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By all accounts, installing this equipment at a plant such as Exide's would run in the millions of dollars. However, I understand Exide installed pollution controls at its plant in Frisco, Texas at a cost of \$20 million dollars. Why has this also not been done here? Does Texas actually have stronger environmental protection laws than California?

I'm not entirely clear if this technology would help with the recent findings by DTSC related to the degraded pipelines, though one might assume that if the toxic chemicals were adequately captured during the smelting process they would be less likely to leach through the pipelines.

Furthermore, I am concerned because it shouldn't take a *Los Angeles Times* story or letters from Legislators for the DTSC to become engaged. This is the first time in 15+ years that such action has been taken yet many more plants are operating on expired or temporary licenses. It begs the question, how many more communities are suffering from similar toxic impacts to their air and water?

I'm hoping this Exide action is not an aberration but a real shift in the culture and policies at your department toward making sure that we hold all polluters accountable for their actions. It is our duty to the citizens of California. As we continue the Senate investigation, brought about by the recent Consumer Watchdog report, I'd like to know exactly how many companies are operating on expired or temporary permits, and for how long in each case. Additionally, I'd like to know exactly how many staff you have dedicated to investigating sites under your jurisdiction. Moreover, how many regulators do you employ as a whole? I understand your Green Chemistry initiative is important but it cannot be pursued at the expense of the basic health and welfare of California citizens.

It is also not lost on me that in the vast majority of cases, these toxic issues arise in poor areas dominated by people of color. It is all too frequent that our most vulnerable citizens are the ones frequently subjected to deplorable conditions with such basic rights as access to clean air and water. I expect you and your staff to be even more vigilant and dutiful to make sure that we have the type of justice to which each and every person in California is entitled.

I look forward to your immediate reply

Sincerely,



KEVIN DE LEÓN
Twenty-Second Senate District