



Department of Toxic Substances Control

Matthew Rodriguez
Secretary for
Environmental Protection

Barbara A. Lee, Director
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806

Edmund G. Brown Jr.
Governor

March 24, 2017

The Honorable Anthony Rendon
California State Assembly
Speaker
State Capitol, Room 219
Sacramento, California 95814

The Honorable Cristina Garcia
California State Assembly
58th Assembly District
State Capitol, Room 2013
Sacramento, California 95814

The Honorable Miguel Santiago
California State Assembly
53rd Assembly District
State Capitol, Room 6027
Sacramento, California 95814

The Honorable Ricardo Lara
California State Senate
33rd Senate District
State Capitol, Room 5050
Sacramento, California 95814

Dear Speaker Rendon, Assemblymember Santiago, Assemblymember Garcia, and Senator Lara:

Thank you for your March 8, 2017 letter regarding recent allegations made against Arcadis US, Inc. (Arcadis), a contractor the Department of Toxic Substances Control (DTSC) retained to conduct sampling activities in residential areas near the inactive Exide Technologies, Inc. (Exide) battery recycling facility in Vernon, California. DTSC expects its contractors to conduct their activities in a professional, safe, and respectful manner and therefore takes these allegations very seriously.

As your letter acknowledges, DTSC has engaged the California Attorney General's Office to carry out a full and impartial investigation of the allegations outlined in DTSC's February 16, 2017 letter to Arcadis. DTSC's role in the investigation is to facilitate the gathering of documents and information, provide technical assistance, and answer questions. Any individual who wishes to reach the Attorney General's investigator may call (619) 738-9694 (English and Spanish). The Attorney General's Office expects to complete its investigation in approximately two to four months. At the completion of the investigation, DTSC will release the Attorney General's findings and conclusions.

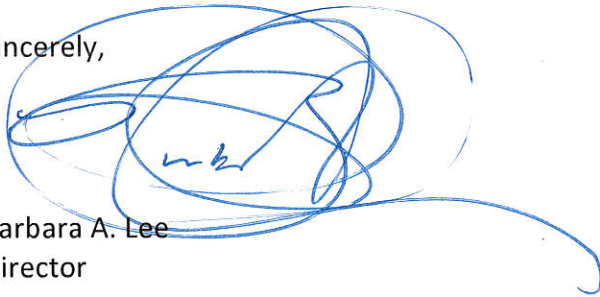
March 24, 2017

Page 2

DTSC is striving to provide everyone, including community members and groups, the Legislature, and the Exide Technologies Advisory Group, with as much information as possible while the investigation is ongoing. DTSC has received numerous inquiries regarding sampling protocols, work plans, other documents related to sampling activities, and the Attorney General's Office's investigation. Although we cannot comment on pending investigations, we have posted our sampling contracts and work plans in an easy-to-access format on our Exide project web page at www.dtsc.ca.gov/exide. DTSC has also listed key resources and hotlines for workers and community members. In addition, in an effort to provide the community with information regarding protocols for sampling and worker health and safety, DTSC prepared two presentations for the March 2, 2017 Exide Technologies Advisory Group meeting. Copies of those presentations are enclosed for your reference.

I appreciate the opportunity to provide the information requested and look forward to engaging in a continuing dialogue with the Legislature, community members, the Exide Technologies Advisory Group, and others regarding these issues.

Sincerely,



Barbara A. Lee
Director

Enclosures

DTSC Presentation on Worker Health and Safety
DTSC Presentation on Residential Sampling Protocols
Final Sampling Work Plan
Quality Assurance Plan
Arcadis Health and Safety Plan
EFI Health and Safety Plan
URS/AECOM Contract
Dust Monitoring and Air Sampling Activities Report

cc: Community Advisory Group
Assemblymember Quirk, Chair, Environmental Safety and Toxic Materials Committee
Senator Wieckowski, Chair, Environmental Quality Committee

Responses to Questions

Third-Party Oversight

- (1) *Can you please explain AECOM's authorities and responsibilities as the third-party oversight contractor? Please provide a copy of DTSC's contract with AECOM to the CAG.*

In addition to DTSC staff oversight of the sampling process, DTSC retained a third-party Independent Quality Assurance Auditor (IQAA) contractor, URS/AECOM, to assist DTSC staff to verify and document DTSC's sampling contractors' adherence to the Sampling and Analysis Plan and the Quality Assurance Project Plan for all field sampling and reporting activities. Copies of DTSC's contract with URS/AECOM and applicable work plans are enclosed and also available on DTSC's Exide project web page at www.dtsc.ca.gov/exide.

Generally, URS/AECOM verifies that:

- Contractors' staff are trained and certified in compliance with applicable work practices.
- Field testing is performed in accordance with applicable requirements.
- Field testing equipment is calibrated and operated in accordance with applicable requirements.
- Soil samples are collected and transported in accordance with applicable requirements and with the appropriate chain of custody.
- Analytical laboratories are certified for the type of soil analysis the laboratories are conducting.
- Quality assurance sampling is performed in accordance with project quality assurance requirements.
- Field testing and soil sample results are reported in accordance with applicable requirements.
- Field testing and laboratory data are managed in accordance with the United States Environmental Protection Agency (US EPA) SCRIBE protocols (SCRIBE software is a data integration tool recommended by US EPA to manage large amounts of data for quick response environmental projects).
- Field testing, lead hazard evaluation, and laboratory results are reported in accordance with applicable requirements and in a timely manner.

For more information regarding URS/AECOM's responsibilities, please see Section 5 of Exhibit A of the URS/AECOM contract.

(2) If the soil sampling technicians have concerns about working conditions or the sampling protocol, who should they talk to? What do DTSC and AECOM do to ensure worker access to this person/entity?

Soil sampling technicians' concerns about the working conditions or soil sampling protocol, as well as other concerns, may be reported to their employer (each contractor has a project manager and site safety officer who are responsible for verifying that project activities are completed in accordance with sampling and health and safety protocols), Rafat Abbasi (DTSC Exide Project Manager), or Tamara Zielinski (DTSC Exide Branch Chief). Mr. Abbasi is available in the field and provides all soil sampling technicians with his mobile number. Soil sampling technicians may also contact the California Division of Occupational Safety and Health, known as "Cal/OSHA," for worker health and safety issues and, as stated above, the California Attorney General's Office for matters related to the investigation. DTSC posts the contact information for these external entities on its website.

(3) Can the CAG receive a copy of AECOM's weekly reports?

Yes, DTSC can provide the Exide Technologies Advisory Group with copies of AECOM's weekly reports.

(4) Can the CAG call an AECOM representative to speak at one of their meetings?

Yes, the Exide Technologies Advisory Group may invite AECOM to provide a presentation at a meeting.

Worker Health and Safety

(1) At the March 2nd hearing, DTSC made a presentation regarding worker safety. Please provide highlights of that presentation in writing.

The presentation provided an overview of the health and safety protocols for residential sampling. The health and safety protocols for Arcadis and EFI Global, Inc. (EFI) (another contractor retained by DTSC to conduct sampling activities) are specified in the enclosed Worker Health and Safety Plans. The presentation also summarized the air monitoring and air sampling data associated with residential sampling. To date, air monitoring and air sampling has not demonstrated exposures to workers engaged in the Exide residential sampling efforts that exceeds the Cal-OSHA action level thresholds. The presentation also highlighted that DTSC will have a Certified Industrial Hygienist and an Associate Industrial Hygienist engaged in the Exide residential sampling efforts on an on-going basis. DTSC's presentation regarding Worker Health and Safety is enclosed for your reference.

(2) What has DTSC determined to be potential hazards to soil sampling technicians?

There are a number of potential worker safety and health hazards for the sampling technicians working at any project similar to the Exide residential sampling project. The Health and Safety Plans for each contractor identify the potential physical, chemical, and biological hazards, such as exposure to lead, vehicle traffic, overhead energized lines, sub-surface installations, improper ergonomics, and conditions that may cause heat-related illnesses. For more information, please see Section 9 of EFI's Health and Safety Plan, and Section 5 of Arcadis' Health and Safety Plan, enclosed and also posted at www.dtsc.ca.gov/exide.

(3) What protective gear does DTSC expect workers to use?

The Health and Safety Plans for each contractor establish control measures to protect workers from the potential hazards associated with the residential sampling project, such as requiring the use of specific personal protective equipment (PPE). The residential sampling workers use PPE including disposable nitrile gloves, ANSI-compliant safety glasses, ASTM-compliant safety boots, reflective safety vests and ASTM-compliant hard hats (if overhead hazards are present). For more information please see Section 11.5 of EFI's Health and Safety Plan, and Section 5.3.1 of Arcadis' Health and Safety Plan, enclosed and also posted at www.dtsc.ca.gov/exide.

(4) Given that homeowners have been advised to remove their shoes when entering their homes and take other actions that help minimize the tracking of soil into their homes, what actions and/or protective gear are workers instructed to use so they too can avoid bringing contaminated soils into their homes? What hygiene methods are being followed during and after work shift and during lunch?

Both contractors' Health and Safety Plans require their workers to either wear disposable paper boot covers while conducting soil sampling or to clean their boots before leaving work areas if the sampling work could result in workers tracking soil off-site. Both contractors provide potable water, soap, and towels so workers can wash their hands and face prior to the consumption of food, and at the end of each shift. Both contractors also provide their workers with disposable gloves. For more information see Section 16.0 of EFI's Health and Safety Plan, and Section 11 of Arcadis' Health and Safety Plan, enclosed and also posted at www.dtsc.ca.gov/exide.

(5) Does DTSC have any protocols to check for impacts on worker health, such as blood level check?

Based on the air monitoring conducted by DTSC, EFI, and Arcadis, the airborne concentrations of lead do not exceed the Cal/OSHA action level for lead and, as a result, workers do not require medical monitoring. If DTSC and/or the contractors determine that exposures may exceed the Cal/OSHA action level for lead, then the medical monitoring requirements of Cal/OSHA's Lead in Construction Standard will be required. In addition, as also noted in your letter, out of an abundance of caution, DTSC has instructed both sampling contractors not to conduct soil drying in the field to eliminate any potential of exposure during this activity.

Data Sampling and Reliability

- (1) *DTSC had intended to make a presentation about the sampling process, but that presentation was never made. Please provide highlights of that presentation in writing.*

The presentation provided an overview of previous sampling efforts, plans for future sampling in the Preliminary Investigation Area, sampling and analysis methods, and quality assurance protocols. The presentation included a discussion of the use of certified lead assessors and sampling technicians and the details of locations where soil samples and exterior paint samples are taken at each property. The presentation emphasized that both contractors are using the same sampling protocol approved by DTSC. DTSC's presentation regarding residential soil sampling is enclosed for your reference.

- (2) *Please explain the sampling protocol and how workers are required to treat the drip zone area.*

The sampling procedures for the project are established in the Sampling and Analysis Plan (SAP). The procedures for achieving the data quality objectives are included in the Quality Assurance Project Plan (QAPP). These procedures address Data Quality Objectives, Sampling, Analysis, and Reporting. Arcadis and EFI are contractually required to follow these procedures and certify the validity of the data they report to DTSC. There are two sampling protocols approved in the SAP. The sampling protocol used depends on the weather and soil moisture content. The U.S. EPA Method 6200 "Field Portable X-Ray Florescence (XRF) Spectrometry for the Determination of Elemental Concentrations in Soil and Sediment" is used for dry weather sampling when the soil moisture content is below 20%. Generally, to confirm samples taken during dry weather, two soil samples collected from the XRF sample location with the highest lead concentrations are also sent to a certified laboratory for analysis in accordance with the protocol established by U.S. EPA Method 6010B in "Test Method for Evaluating Solid Waste, Physical/Chemical Methods" (SW846). If the soil moisture content is greater than 20% or there is wet weather, the XRF is not used and all soil samples are sent to a certified laboratory, which dries the samples and then conduct analysis in accordance with U.S. EPA Method 6010B.

Eight to 17 sample locations are selected at each property, depending on the size of the property. In most cases, 15 soil sample locations are spaced as evenly as possible to achieve coverage of the area, with preference for bare soils in child play areas. The 15 soil sampling locations are distributed as follows: five locations in the front yard; five locations in the back yard; and five locations distributed in drip zones, near downspouts, side yards, and other open bare soils areas. These procedures may be modified based on the conditions encountered at an individual property. For example, drip zones may not be sampled at a property if there are utilities or plants obstructing the drip zone, or the drip zone is covered or otherwise not accessible. In addition, if the property is small, separate drip zone samples may not be taken; instead, drip zone samples may be included in the five samples in the front or back yards.

For more information see Section 3.3 of the Final Sampling Work Plan and Section 5 of the Quality Assurance Project Plan, which are enclosed and posted at www.dtsc.ca.gov/exide.

(3) Are both soil sampling contractors (Arcadis and EFI) subject to the same contract provisions? Is DTSC providing the same additional oversight over EFI that is being done for Arcadis?

Yes, both contractors are subject to the same contract provisions and additional oversight.

(4) What training is provided to Arcadis and EFI supervisors?

Based on discussions with both contractors, supervisors receive the following training:

- 40-hour lead-related construction Inspection and Assessment training (Supervisors are Certified Lead Assessors).
- 40-hour OSHA Hazardous Waste Operations and Emergency Response Standard training.
- 8 hours of health and safety training.
- Corporate ethics training.
- Preventing discrimination and harassment training.

(5) How is DTSC communicating with the wider community about data reliability concerns and DTSC's response to the Arcadis allegations, other than speaking with the CAG?

DTSC engages with community members on a daily basis through a variety of methods, including canvassing, community meetings, and the DTSC Exide Cleanup Project Information Hotline. DTSC staff have informed community members that it has engaged the Attorney General's Office to carry out a full and impartial investigation of the allegations and that a report will be released outlining the Attorney General's Office's findings and conclusions. DTSC also has provided community members with a phone number to contact the Attorney General Investigator directly. DTSC has also updated its website to ensure that the contracts, residential sampling and cleanup protocols, and health and safety plans for the residential sampling are accessible.