

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/16/13

DEPT. 82

HONORABLE LUIS A. LAVIN

JUDGE

N DIGIAMBATTISTA

DEPUTY CLERK

HONORABLE
1

JUDGE PRO TEM

M CLARK/COURTROOM ASST

ELECTRONIC RECORDING MONITOR

NONE

Deputy Sheriff

NONE

Reporter

8:30 am

BS143369

Plaintiff
Counsel

EXIDE TECHNOLOGIES INC

VS

Defendant NO APPEARANCES

DEPARTMENT OF TOXIC SUBSTANCES
CONTROL

Counsel

NATURE OF PROCEEDINGS:

COURT ORDER

The court, on its own motion, schedules an order to show cause re lifting the stay and dissolving the preliminary injunction for October 15, 2013, at 9:30 a.m. in Department 82 for the reasons set forth in the Order signed and filed this date.

Any written response to the order to show cause is to be filed and served by October 7, 2013.

All papers are to be served either by fax or by personal service and are to be filed directly in Department 82.

A copy of this minute order as well as the court's Order are mailed to counsel of record via U.S. Mail addressed as follows:

STEPHEN J. O'NEIL, SHEPPARD, MULLIN, ET AL, 333 S. HOPE ST., 43RD FL., LOS ANGELES, CA 90071-3132

THOMAS G. HELLER, DEPUTY ATTY GENERAL, 300 S. SPRING ST., SUITE 1702, LOS ANGELES, CA 90013

MINUTES ENTERED 09/16/13 COUNTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FILED
Superior Court of California
County of Los Angeles

FOR THE COUNTY OF LOS ANGELES

SEP 16 2013

Sherri R. Carter, Executive Officer/Clerk
By Henry DiGiambattista Deputy
N. DiGiambattista

Exide Technologies, Inc.)
Plaintiff/Petitioner,)
)
v.)
)
Department of Toxic)
Substances Control,)
Defendant/Respondent.)

Case No. BS143369

Notice of Order to Show Cause
Re: Lifting Stay and Dissolving the
Preliminary Injunction on October 15, 2013

To the parties and counsel of record:

This matter is currently scheduled for a trial setting conference, and a hearing on the Department of Toxic Substances Control's motion to strike, on October 15, 2013.

On April 24, 2013, the Department issued an order requiring Exide Technologies, Inc. to cease operations on the same date the order was issued because it determined that this action was necessary to prevent an imminent and substantial danger to the public health or safety or the environment. The Department's Order asserted the following: Exide was operating its underground storm sewer pipelines in violation of hazardous waste requirements which caused releases to the environment; and Exide's emissions from the facility operations posed a significant risk to the surrounding community.

On July 2, 2013, the Court stayed the Department's April 24, 2013 Order pending completion of the administrative proceeding before Administrative Law Judge Julie Cabos-Owen. The Court's stay required Exide to comply with three conditions: Exide shall use the recently installed temporary piping and sump system to bypass the existing storm water piping system; Exide shall, as soon as possible, with notice to the Department and the SCAQMD conduct source testing to confirm emissions reductions as a result of the installation of the isolation door on the blast furnace; and after completing start-up testing, Exide's air emissions shall comply with SCAQMD's Rule 1402. The stay and preliminary injunction were issued because Exide's post-deprivation administrative hearing would not be completed for months in violation of its due-process rights under California Health & Safety Code § 25186.2.

If ALJ Cabos-Owen has not taken the matter under submission, or if the administrative hearing will not be completed by September 30, 2013, Exide is ordered to appear in Department 82 of the Los Angeles Superior Court, 111 N. Hill Street, Los Angeles, California, 90012, on October 15, 2013, 9:30 a.m., to show cause why the Court should not lift the stay and dissolve the preliminary injunction based on Exide's failure to

complete the administrative proceeding in a timely fashion. Any written response to the OSC must be filed and served by October 7, 2013.

The clerk shall provide notice to counsel of record.

IT IS SO ORDERED.

September 16, 2013



Luis A. Lavin
Judge of the Superior Court