

Weaver, William (DEP)

From: Sargent's Court Reporting [service@sargents.com]
Sent: Monday, May 24, 2010 2:47 PM
To: Weaver, William (DEP)
Subject: 11/17/2009 - Hearing

Hi Mr. Weaver:

As per our telephone conversation you are permitted to post the hearing on the web. However, copies of the transcript are not permitted to be sold. If anyone wants to purchase a copy, they must contact us directly. As always, it is a pleasure working with your agency.

Thank you.

Stacey Mitchell

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

* * * * *

IN RE: EXIDE TECHNOLOGIES,
RENEWAL TITLE V AIR QUALITY PERMIT

PUBLIC HEARING

* * * * *

BEFORE: WILLIAM WEAVER, Air Quality Program Manager
Nora L. Carreras, Director,
Office of Environmental Advocate
Lauri Lebo, Community Relations Coordinator
Roger Fitterling, Permit Reviewer
Tom Marlon, Chief of East
Permitting Section

HEARING: Tuesday, November 17, 2009
7:01 p.m.

COPY

LOCATION: Muhlenberg Recreation Building
3025 River Road
Reading, PA 19605

WITNESSES: Eve Kimball, Jim Eppenstein, George
Honsberger, Peter R. Charrington, Mark Scott, Michael
Heckman, Dan Sauder, Rudy Fennig, Rob Leister,
Christian Leinbach

Reporter: Ben Hunter Mengel

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A P P E A R A N C E S

NO COUNSEL PRESENT

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TESTIMONY

By Rob Leister

36 - 38

TESTIMONY

By Christian Leinbach

38 - 40

CLOSING STATEMENT

By Lauri Lebo

40

E X H I B I T S

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P R O C E E D I N G S

1
2 -----
3 MS. LEBO:

4 Hi, I'm Lauri Lebo, I'm the Community
5 Relations Coordinator for DEP, thank you everybody for
6 coming out tonight. We're going to get started I
7 guess, it looks like nobody else is coming in. So as
8 you know, we're here tonight for a public hearing ---
9 I spoke too soon --- for a public hearing to go over
10 the draft for Title V Permit for Exide. What we're
11 going to do is have Bill Weaver, who is the program
12 manager for Air Quality, just go over and sort of
13 explain a little bit.

14 The real reason why we're here tonight is
15 to hear from you, we want to get your thoughts on
16 everything. This is your chance to weigh in on the
17 Title V Permit. We have eight people who have signed
18 up to speak, but after that what we'll do is we'll
19 open it up for anybody else who would like to talk.
20 Our goal is to give everybody a chance to weigh in on
21 this tonight. So we certainly don't want to turn
22 anybody away without having the chance to speak. I'm
23 going to just say right up front, I neglected to bring
24 the list of the eight people who signed in, so I'm
25 going to ask people to honestly raise their hands if

1 you signed up and we'll go with that. And also
2 anybody who has any objections, Eve Kimball, who
3 signed up, has bell practice, so she gets to go first
4 because she has to run out. So if nobody has any
5 objection to that ---?

6 MS. KIMBALL:

7 I was number three.

8 MS. LEBO:

9 Right, she was number three on the list,
10 but I don't know who was number one. Well, we're not
11 quite ready, but Bill is going to explain a little
12 about what the permit is and the permit process. But
13 before that I need to just also ask, we're asking
14 people to keep their comments limited to ten minutes
15 so everybody gets a chance to speak. As I said, we
16 don't want anyone to go home without having, you know,
17 being able to be heard. If you are unable to --- I
18 mean if you leave here feeling like there's a lot more
19 you want to say or if you choose not to talk tonight,
20 the public comment will be open for another 14 days
21 --- are we going 14 days?

22 MR. WEAVER:

23 I'm not sure.

24 MS. LEBO:

25 We typically go another 14 days after

1 this and you may continue to submit written comments
2 and we review both the written and the oral comments
3 the same. We review them and we will respond to them
4 when we complete the review of the permitting process.
5 So with that, Bill?

6 MR. WEAVER:

7 The proposed permit for the hearing this
8 evening is for the Exide Technologies Reading Smelter
9 Plant that's located in Laureldale Borough and
10 Muhlenberg Townships in Berks County. The permit
11 would authorize the continued operation of the
12 facility under Title V of the Clean Air Act, and thus,
13 is called a Title V Permit. The action being
14 considered would be a renewal of Exide's existing
15 Title V Permit, which nominally expired on July 31st,
16 2005. Exide applied for a renewal of its permit on
17 February 1st, 2005.

18 Even though Exide's existing Title V
19 Permit has nominally expired, it is nevertheless still
20 in effect under 25 Pennsylvania Code Section 127.446
21 because DEP has not yet taken action on the renewal
22 application from 2005. Since 2005 DEP has prepared
23 several drafts of the Title V Permit renewal for
24 Exide, but these drafts, most of them were never
25 released for public comment because of continuing

1 compliance issues at the facility. One of the most
2 persistent problems at the facility has been malodor
3 nuisances associated with the smelter plant. There
4 have also been other significant violations related to
5 the maintaining smelter afterburner temperatures and
6 maintaining baghouse leak detectors on ignition
7 sources.

8 Because of these violations, DEP has
9 taken enforcement actions against Exide including
10 since July 31st, 2005, 14 notices of violation, five
11 consent assessments, and one consent order and
12 agreement. The consent order and agreement required
13 Exide to undertake a comprehensive study to identify
14 and correct problems contributing to malodor nuisances
15 in the neighborhood. Pursuant to the consent order
16 and agreement, Exide has made numerous improvements at
17 the facility, including replacement of smelter
18 afterburners, improvement of preventative maintenance
19 procedures and computerization of environmental
20 control systems.

21 Also in the near future Exide intends to
22 replace the elder smelter afterburner. At the present
23 time it appears that the known air quality violations
24 at the facility have either been corrected or are
25 being appropriately addressed. The only outstanding

1 compliance issue at the facility relates to its
2 history of malodor problems. Nevertheless, despite
3 continued citizen complaints and continuing
4 investigations by DEP, the most recent document of
5 malodor violation was over a year ago on October 16th,
6 2008. DEP will continue investigating any odor
7 complaints that may be received. Also, Exide's
8 pending replacement of the second afterburner should
9 further improve the reliability of Exide's emission
10 control systems.

11 With Exide's compliance issues being
12 appropriately addressed, DEP has a legal obligation to
13 consider the status of Exide's five-year-old
14 application for renewal of its Title V Permit.
15 Exide's existing Title V Permit is clearly out of date
16 in various ways and it needs to be updated to current
17 standards. Since Exide's existing Title V Permit was
18 issued on November 15th, 2000, there have been five
19 plant approvals for changes to the facility, which
20 have updated and changed the requirements related to
21 the Title V Permit.

22 These plant approvals need to be
23 incorporated into a Title V Permit renewal for the
24 facility so that all of the current requirements are
25 in one place and do not conflict with old outdated

1 requirements in the Title V Permit, in the old Title V
2 Permit. DEP also intends to incorporate the ongoing
3 malodor consent order agreement into the renewed Title
4 V Permit. DEP believes that it is critical to update
5 the requirements in Exide's Title V Permit via this
6 proposed renewal action, so that the permit is
7 current, accurate and useful to all parties for
8 compliance expectations and enforcement purposes.

9 To this end and because we have received
10 several requests for a public hearing on this action,
11 we are holding this public hearing to receive comments
12 on the draft permit renewal. DEP will consider the
13 input gathered at this hearing in order to make the
14 most appropriate decision regarding the final issuance
15 of the Title V Renewal Permit for the Exide Reading
16 Smelter Plant. DEP will prepare a comment and
17 response document to consider and respond to public
18 comments received on this draft permit since it was
19 released for public comment earlier this year.

20 Comments made at this hearing will be
21 considered as part of that comment and response
22 document. With those introductory remarks about the
23 subject of the hearing, I turn the floor back over to
24 our moderator.

25 MS. LEBO:

1 We also have Nora Carreras here tonight,
2 and she's our Director of Environmental Justice.
3 Nora, do you have a few words you wanted to say?

4 MS. CARRERAS:

5 I just wanted to let everybody have a
6 copy of the plan management summary. Also, if there
7 is anybody in the room who needs a translator to ask a
8 question in Spanish or any language they speak, we'll
9 be happy to do that. If you or anybody you know would
10 like to make public comment or questions, something
11 that's in Spanish, I will be glad to do that.

12 MS. LEBO:

13 Is everybody signed in? Sounds like
14 everybody is signed in. Terrific. So we'll go with
15 our first eight people who signed up, we'll start with
16 Eve Kimball and then I'll just ask who signed up to
17 raise your hands and then we'll go from there and then
18 after that we'll open it up to everybody. Again, if
19 you can keep your remarks brief so everybody gets a
20 chance to speak, let's keep it to ten minutes, no more
21 than ten minutes. Thank you.

22 MS. KIMBALL:

23 Should I come there?

24 MS. LEBO:

25 It might be easier for our stenographer.

1 MS. KIMBALL:

2 I have my back to you, but I think you
3 can hear me. I'll use my very best school board
4 voice. I'm Eve Kimball, I am a pediatrician, I'm here
5 on behalf of the Reading Board of Health, the City of
6 Reading Board of Health and also on behalf of myself.
7 I have Board of Health's review of my comments and
8 they wished me to bring this to you from them. Why
9 would Reading be here at Muhlenberg, because we are
10 very concerned about Exide's lack of corporate
11 citizenship with respect to the park, it's been
12 supposed to be fixed now for more than five years,
13 since before that permit was applied for. No
14 remediation has been done and the park is basically
15 being used illegally by those folks who are using it.

16 The other reason that I'm here is because
17 the prevailing winds that circulate over the Exide
18 factory brings whatever comes out of those smokestacks
19 into the City of Reading and dump them on the City of
20 Reading, as do everything from that portion of the
21 city, and because of the way the winds blow. So
22 whatever is done in terms of permits for the stacks
23 needs to be considered about that --- we need to stop
24 polluting and stop dumping lead and other pollutants
25 into the city and into that area of very, very

1 congested population.

2 I understand and I agree that we need to
3 update the permit, I'm glad you presented that, that
4 was a big help. The odor is still there, there may
5 not have been complaints, but I've smelled it on a
6 number of occasions up in that area. Our main --- the
7 other thing that I would like to have you all look
8 into and I have a couple of copies here that you can
9 have, is a document that was obtained for us by our
10 council that the city hired with respect to the park.
11 And this comes from a website at the Federal EPA, it's
12 called TRI Explorer, and this is the emission from the
13 lead from Exide.

14 And the question that I don't know the
15 answer to is this red stuff that you see increasing is
16 lead compound. The amount of lead --- there are two
17 things on here, one says lead and one says lead
18 compound. And I'm not sure what lead compound should
19 look like. If they're nontoxic, that's one thing, but
20 if they are toxic, it's clearly an increase and it's
21 clearly staying essentially the same. So I would like
22 that addressed in your report, please, in some kind of
23 understandable English. And with that I think I can
24 quit, unless you have questions for me. Thank you.

25 MS. LEBO:

1 Thank you very much. Just one thing, we
2 won't be responding. We're here to get feedback from
3 you tonight, so we won't be addressing questions
4 tonight. Okay. So people who are signed up, sir,
5 would you like to come up next? Just please state
6 your name for the record.

7 MR. EPPENSTEIN:

8 Jim Eppenstein. In September of 2007 the
9 County Commissioners contracted Science International
10 to perform heavy metal sampling at my home. The
11 reason for the testing was my wife had five times the
12 normal levels of cadmium in her blood and was
13 suffering from neuropathy. The results, lead level
14 exceeded the EPA standards found throughout my home.
15 This was done from surface wipes on my home
16 furnishings, samples done on floors, and dirt
17 samplings taken from the front and backyard.

18 The most disturbing findings were the
19 levels of lead in my drinking water after the water
20 was run on the third draw, and it was on for two
21 minutes and that tested the highest. EPA maximum
22 contaminant levels of 15 micrograms per liter, ours
23 tested at 23. The report said this is unexpected and
24 should be further evaluated. And the report concludes
25 that my home needs complete remediation and then

1 further evaluation. Since the testing was completed
2 two years ago my wife's health has continued to
3 deteriorate. Countless calls to the County
4 Commissioner, EPA, DEP, local and federal
5 representatives have gone basically unanswered.

6 And I have given a copy of the report to
7 Exide and their response was that they were too busy
8 to study the report, but they will test two drinking
9 foundations at the Exide plant. And although Exide
10 has tested homes for lead contamination, no homes were
11 tested north of Elizabeth Avenue, which is where I
12 live. I live approximately three quarters of a mile
13 away. And this report that was --- this testing done
14 on my home was probably more thorough than the testing
15 done around the plant. They test everything from
16 surface wipes, cadmium, arsenic, air quality, and I
17 just think that something needs to be done. I think
18 that Exide needs to go a little further in and around
19 their plant when they are coming to work, maybe on
20 Elizabeth Avenue, because, you know, if I have it, my
21 neighbors have it. My neighbors behind me have it,
22 across the street, and so basically my home in that
23 area is the only one that's been tested on behalf of
24 the residents of Laureldale. I have the smoking gun
25 here. That's it.

1 MS. LEBO:

2 Thank you. Sir?

3 MR. HONSBERGER:

4 My name is George Honsberger and I'll
5 tell you right now I wasn't going to come tonight.
6 I've been there before and was very discouraged when
7 we had a meeting on this out at the junior high
8 school. Had a few people there to say the least, but
9 nothing really came out of it. Exide naturally wasn't
10 there, the federal government was there and I
11 questioned all kinds of issues and nothing was
12 answered. I called Philadelphia, a number that was
13 given to me by the federal government and I was
14 guaranteed I wouldn't have any more problems.

15 By the way, I live about a mile --- half
16 a mile from the plant and sometimes you can't breathe
17 it gets so bad. That's all I want. When I moved
18 there four years ago I took a walk around the
19 neighborhood and I went down to Kutztown Road, if
20 anybody knows where that's at, and I seen these
21 manhole covers bubbling out green stuff. Well, I
22 thought it was a problem with the borough or with the
23 township and a couple days went by and I seen these
24 white trucks in there with the long hoses and making
25 noise and vibrates your insides ten blocks away. And

1 then as time went on I put two and two together, when
2 I seen these trucks about three, four days later, the
3 odor came.

4 So I did a little asking about why these
5 --- what's going on. And what I found out was that
6 the pipes in there that was laid by Exide are smaller
7 than they should be and they were not carrying the
8 load that they should. And then I questioned; why is
9 it green? It goes to a contributory down the street.
10 Look, we've been talking about this for years; nobody
11 seems to be doing anything about it. Well, then the
12 odor got to me, my wife has some problems, I'm
13 starting to get a little bad after I smell this stuff.

14 Now, they came around and took care of
15 some of these lines and treated up some of the yards,
16 but how did them yards get contaminated in the first
17 place? A little man didn't come down the street and
18 throw it on it that came from the air. Then I did
19 some more checking and I found that the federal level
20 --- their regulatory amount that they could do had
21 been increased by the last administration that was in
22 Washington. But then doesn't the state have some kind
23 of authority to override the federal government?
24 Because after all, you're responsible here, we have
25 states --- that's why we have 50 states, it's a state

1 law, but nothing was done.

2 So figured out a little bit more, it
3 happens most --- well, I have to tell you this, I
4 bother the local office continuously. They know who I
5 am upside down and backwards, believe me. But I found
6 out that the level is okay, the aroma is okay. And
7 even today's meeting, if you do not approve a permit
8 somehow, we're going to play limbo. Do you remember
9 the limbo dance? If you can't go under, it's too low,
10 you raise the bar up a little bit for him. And I will
11 continually have problems.

12 Then after I called the local office
13 dozens and dozens of times, I put two and two together
14 again. These cooperative individuals are trying to do
15 the best they can they say --- Veteran's Day, in fact,
16 I had a visit at the house from one of the local
17 representatives and I told him you don't work tomorrow
18 do you, I said that's when I'm going to catch it and I
19 caught a heavy dose last Wednesday. Weekends,
20 holidays, Thanksgiving, Christmas. And then they
21 holler and shout that they're going bankrupt. They
22 must be paying their men time and a half and double
23 time to come in. And why are they being so sneaky
24 about it on one hand and saying they're being so
25 cooperative on the other hand?

1 But why isn't something done? About a
2 year or so ago they said they were going to fix the
3 two smelters, tear one down and fix it and when it's
4 fixed tear the other down. I still get it full blast,
5 nobody says anything. Why? Is it because you don't
6 have the strength to do anything about it or is there
7 something under the table, Heaven forbid. I have to
8 speak that way, because I've been here, 40 years I've
9 been complaining. Ask the people in the local office,
10 they'll tell you. The last meeting two years ago up
11 at the high school, they'll tell you, my elected
12 officials, everyone's Senator O'Pake to the County
13 Commissioners, Muhlenberg's supervisors, everybody
14 that I can possibly go to and nothing.

15 So this comes in the paper, one time in
16 the paper. I cut it out and I made a copy of it and I
17 wrote on it that this is a very important meeting and
18 I passed a few of them out to say the least, trying to
19 get somebody here. I'm going to thank everybody here
20 for coming, because I've been busting my rear end for
21 four years and it makes me feel good to see all of
22 these people.

23 So I'll leave you with this, not a four
24 letter word, but a three letter word, why, why are
25 here and why is it going to continue after we leave?

1 Thank you.

2 MS. LEBO:

3 Thank you. You had signed up to speak,
4 sir. Would you like to go next?

5 MR. CHARRINGTON:

6 My name is Peter Charrington, I'm from
7 Stantec Consulting Services and the comments I'm going
8 to make today are relative to the Berks County
9 Commissioners. The first question I have is relative
10 to the operating procedures manual, which is
11 referenced in number 17 of Section C of the Title V
12 Permit, and it says the facility will be operated
13 based on approved standard operating procedures
14 manual. This has to do with the fugitive emissions
15 and my question is has a fugitive emission report been
16 given to the Department to review? And if so, will it
17 be included into the Title V?

18 The second comment has to do with odor
19 complaints we've talked about a little bit already.
20 They have entered into a consent order and agreement
21 and a lot of things have been done. But the curious
22 comment in response from Exide was that the source of
23 malodor complaints has not been conclusively
24 identified and could include a number of sources in
25 pathways at Exide's smelter as well as neighboring

1 operations including nearby battery sulfuric acid
2 charging operations.

3 This report continues to say, it says
4 absence of a determination by PA DEP that the blast
5 furnaces are the source of the malodors, 25 Pa. Code
6 123.31 is not applicable at the blast furnace
7 operation. The comment that we'd like to say --- I
8 don't think that it's incumbent upon PA DEP to do
9 this, make this determination. If there's an odor
10 leaving the threshold of the plant, it has to be
11 determined by the facility and measures have to be
12 taken to control this.

13 So we're asking that an addendum be added
14 to the part of Title V in the general cite
15 requirements number three to put a compliance schedule
16 for those areas that are still in noncompliance with
17 respect to odor emissions. I do have several copies
18 here I can provide you afterwards. The next comment
19 has to do with the Ambient Air, National Ambient Air
20 Quality Standard for lead, which has been reduced by a
21 factor of .10 to .15 micrograms per cubic liter.
22 Previous to that reduction it was at 1.5 and the
23 Laureldale area did show that it was in compliance,
24 but now with the reduction of that standard to .15
25 micrograms per cubic liter, it doesn't seem like the

1 existing emissions will comply with that. And
2 therefore, we'd like to make sure that this is
3 reviewed before the Department approves the Title V to
4 make sure there is assurance that they're going to
5 meet these ambient air standards or a compliance
6 schedule to be put into the Title V that addresses
7 these issues.

8 Thirdly --- or fourthly I should say,
9 there's been a recent change where the EPA has vacated
10 what they call a startup, a shutdown and malfunction
11 part of the regulation regarding lead emissions. Now
12 this is an issue where they used to have some relief
13 when they have these startup problems or malfunctions
14 when they're occurring or on shutdown. But that has
15 been vacated as of October 16th of 2009, and what we
16 are requesting that an additional requirement be added
17 to section C, cite level requirements to reflect what
18 specifically the facility will do to control
19 particular emissions and odors during these
20 startup/shutdown/malfunction events in order to comply
21 with the MACT general provisions, 40 CFR 63.

22 And finally, in reviewing the
23 Department's annual emission statement, which was
24 provided by Exide, Exide to the Department for 2007,
25 it seemed like the total emissions were about 1.47

1 tons per year and the proposed Title V limits the
2 facility to 1.2 tons per year of lead emissions. Now,
3 the Department did on an e-mail say they found this
4 and there was some adjustment in the Aims report
5 percentages that might take care of that, but we are
6 requesting that those lead emissions be reviewed. And
7 to make sure that the data provided by Exide in the
8 annual emissions statements, in fact, be less than the
9 permitted level. Thank you.

10 MS. LEBO:

11 Are these copies of your statement?

12 MR. CHARRINGTON:

13 Yes.

14 MS. LEBO:

15 Yes, go ahead.

16 MR. SCOTT:

17 Good evening. I am Mark Scott, the
18 Chairman of the Berks County Board of Commissioners.
19 Both of my colleagues, Christian Leinbach and Kevin
20 Barnhart, are present tonight. On behalf of the Board
21 I'd like to summarize some supplemental comments and
22 recommendations prepared in consultation with another
23 consultant, Wheeler Environmental Services of
24 Boyertown, Pennsylvania for your consideration in
25 preparing and issuing the new Title V Permit.

1 The operating legacy of Exide
2 Technologies constitutes one of the greatest
3 environmental catastrophies in the history of Berks
4 County. So severe and pervasive has been the lead
5 contamination from that facility going back several
6 decades that lead remediation was required in the
7 yards of 203 properties, no less than 203 properties
8 per requirement of the United States EPA. I'm going
9 to try to, as a layman, summarize some of the
10 technical aspects of this. And if you bear with me, I
11 think I'm going to do okay. All right.

12 First of all, a lead sampling that we
13 recently received pursuant to a Right to Know request
14 revealed and demonstrates egregious violations of the
15 new lead air standards at Exide Laureldale. At five
16 locations surrounding the plant, quarterly monitoring
17 results from 2006 into 2009 exceeded the standard a
18 total of 59 out of 60 observations. And the most
19 recently observed quarter by a factor of two to three
20 times the .15 limit.

21 We have the benefit of these monitoring
22 results courtesy of a 1984 state implementation plan
23 addressing lead non-attainment. I believe that's ---
24 yeah, 1984. The five company operated monitors should
25 be required a new title by permit to continue

1 operating. Further, we recommend these monitors be
2 located or relocated in areas more likely to reflect
3 potential public health impacts, such as schools,
4 playgrounds and residential areas. For purposes of
5 modeling future lead non-attainment areas and
6 disbursement of emissions operation of the Exide
7 meteorological station, which was discontinued in
8 2008, should again be required.

9 We also believe the interval between lead
10 sampling on and outside plant operations should be
11 narrowed. This is because, as you have heard, some
12 residents believe the company may schedule activities
13 most likely to result in odors and excess emissions to
14 be conducted when monitors are inactive or DEP
15 personnel are unavailable to respond to or observe
16 violations. Three versus six-day intervals would
17 limit this possibility of manipulating sample results.
18 The historical emissions sampling data from the five
19 high volume monitors significantly exceeds company
20 reported emissions dated --- derived from stack
21 testing. This suggests the occurrence of fugitive
22 emissions due to failure to maintain negative furnace
23 pressures, inadequate afterburner temperatures, and
24 plant and roadway dust containing lead.

25 To address actual and potential fugitive

1 lead emissions, Exide should be required to
2 continuously measure furnace pressures and
3 temperatures as opposed to the currently required
4 three-hour average measurement. A minimum afterburner
5 temperature of at least 1,400 degrees should be
6 required at all times, perhaps more. And new total
7 hydro-carbon testing should be performed; I don't
8 think it has been performed yet with respect to the
9 new afterburners. That would of course address the
10 possibility or the prevalence I should say of odors
11 associated with emissions.

12 And roadway dust, lead content should
13 also be periodically tested to either verify or rule
14 out this is the source of other fugitives. Standard
15 operating procedures and manuals intended to address
16 and minimize fugitive emissions should be incorporated
17 or attached to the Title V Permit when issued. These
18 include maintenance measures for devices, which
19 monitor air pollution control devices such as
20 scrubbers, the SO₂ monitors and baghouse leak
21 detectors. More importantly, a standard operating
22 procedure ensuring emissions compliance during
23 startup, shutdown and malfunction of furnaces must be
24 included as required by the Appeals Court decision
25 earlier referenced, the Sierra Club versus the EPA

1 decided in December of 2008. With respect to minor
2 sources which may impact the smelters' potential to
3 emit, we believe, SLI operations, that's the startup.
4 License and emissions operations which are adjacent to
5 and include battery formation scrubbers should be made
6 a part of the Title V Permit, and that's been
7 established by previous president.

8 We believe that site is and has so long
9 been noncompliant with respect to off site malodors
10 caused by sulfur compounds and other organic fumes.
11 The Department has supported this conclusion by virtue
12 of a 2007 consent order earlier referenced. In terms
13 of the consent order respecting malodor compliance
14 complete with an enforceable schedule including
15 milestones and stiff penalties should be incorporated
16 into the Title V Permit for this noncompliant facility
17 as required by 25 Pa. Code, Sections 127.445 and
18 127.513.

19 To summarize, the primary concern of this
20 permit and its issuance should be capture efficiency,
21 100 percent capture efficiency. This is not an
22 unreasonable expectation; it may be achieved by
23 correcting shortcomings and the operation of the
24 furnace, the afterburners, the baghouse, the handling
25 of SSM events and facility and roadway dust. These

1 weaknesses are surely the cause of these fugitive
2 emissions and less than optimal stack emissions that
3 are responsible for noncompliance. Exide and the
4 Department may identify operational deficiencies which
5 cause odors and excess lead by continuous versus
6 periodic monitoring and minimum versus average furnace
7 and afterburner temperatures.

8 We know that compliance with the new lead
9 air standard and malodors prohibitions is possible by
10 looking only a dozen miles of Exide's northeast.
11 There East Penn Manufacturing has achieved an enviable
12 operating record whereby a larger facility has very
13 nearly already complied with the new stricter
14 standards and where odors are never an issue. The
15 citizens of Laureldale are entitled to an industrial
16 neighbor with no worse a performance record.

17 Lastly, the Commissioners are acutely
18 aware of documented disproportionate disease and
19 pathology statistics pertaining to the Muhlenberg and
20 Laureldale area. While causation remains
21 undetermined, we believe residual risks may arise from
22 other metals emitted in conjunction with lead. And
23 incomplete testing of adjacent properties in the 1980s
24 revealed disturbingly high levels of arsenic and
25 cadmium in conjunction with lead in soils on

1 properties surrounding Exide. We applaud DEP's verbal
2 promise on October 21st of this year to engage in
3 monitoring not only for lead, but also for airborne
4 arsenic and cadmium, which are companion emissions
5 from lead smelters.

6 We expect that promise to be kept and the
7 monitoring results will be regularly disclosed to the
8 public without resort to a Right to Know request.
9 Again, Exide remains a major health concern for Berks
10 County, DEP has the regulatory tools to dramatically
11 improve or remedy those concerns. We insist you
12 incorporate the necessary requirements in Exide's
13 Title V Permit to once and finally protect public
14 health with compliance and enforcement. Thank you.

15 MS. LEBO:

16 Thank you. Yes, sir?

17 MR. HECKMAN:

18 My name is Michael Heckman. I'm a
19 resident of Laureldale. I'd like to thank everybody
20 for coming out tonight and I thank the Commissioner
21 for his speech. Being a resident of Laureldale for
22 the past six years I have serious concerns about the
23 permit renewal with the smelter unit at Exide. The
24 issue with the smelter has been an ongoing and chronic
25 problem that has plagued our community. The odor

1 emanating from the plant can only be described as
2 nauseous and choking. I can only imagine the
3 difficulties that the elderly and people with
4 respiratory problems must experience. Not only lead
5 spews from the smelter, but high levels of arsenic and
6 cadmium as well. Both are known to cause health
7 problems.

8 Exide has been cited numerous times over
9 the past few years over a wide range of infractions
10 from discharging polluted water into Bernhart's Creek
11 to continually exceeding safe lead levels. In 2007,
12 when ordered by the DEP to clean out an overflow
13 discharge pipe, Exide had originally agreed to do so,
14 but upon a secondary inspection it was discovered that
15 they did not. This has been all too common of a story
16 with Exide. They have shown time and time again that
17 they are not acting in good faith and being
18 responsible in the operation of their facility.

19 These problems are not isolated to the
20 Laureldale plant. A simple Google search reveals that
21 many communities across the country are fighting these
22 same issues. This is apparently the way that Exide as
23 a corporation has chosen to conduct its business.
24 Only when faced with the threat of serious fines and
25 the possibility of permits being revoked do they take

1 the necessary steps in remediating their problems.

2 This is why I suggest at this time that
3 Exide's permit to operate their smelting unit be
4 denied at least until all steps are taken to improve
5 their smelter operations. I also suggest that given
6 their past history, that more stringent inspection and
7 fine systems be put in place in order to keep better
8 control on their compliance and safe operation. Thank
9 you.

10 MS. LEBO:

11 Who are the two other people who had
12 signed up? Do we have the two others? No? We have
13 everyone? Okay. So let's open it up to people who
14 would like to speak who did not sign up. Yes, sir.
15 Please state your name.

16 MR. SAUDER:

17 My name is Dan Sauder. I'm a legislative
18 aide from Senator Mike O'Pake's office. The Senator
19 extends his thanks for everyone being here this
20 evening and apologizes for not being able to attend,
21 but I have written testimony that I will be submitting
22 on the Senator's behalf. I'll read over this quickly
23 because I think most people have a copy.

24 Over the past several years my office has
25 received numerous complaints from local residents

1 which were reported to DEP regarding acrid odors
2 emanating from the Exide plant. These odors,
3 especially in the warmer months, have forced local
4 residents to close their windows and stay inside.
5 These incidents negatively impact the quality of life
6 of local residents and may pose health issues. There
7 are several senior living facilities and an elementary
8 school just over the hill from the plant and the
9 Muhlenberg School District complex less than a mile
10 away. These incidences are of particular concern.

11 Therefore, the company and the Department
12 have an obligation to identify the cause of these
13 problems and rectify it. I would encourage the
14 company to work collaboratively with local, state and
15 federal officials to find solutions, there may be
16 government resources that can help. The Department
17 has the opportunity to definitively protect local air
18 quality through this regulatory process. As part of
19 this process, the Department must consider the
20 company's compliance history as well as any efforts
21 the company has made to improve plant operations.

22 Obviously, the protection of jobs in this
23 challenging economy is of great importance, but so are
24 health, safety and quality of life of local residents.
25 Therefore, I strongly urge the Department to consider

1 all of these factors as it prepares its decision
2 regarding Exide's Title V Renewal Permit application
3 with a view toward taking substantive action to
4 protect local air quality.

5 In this instance I'm hopeful that the
6 goals of environmental protection and job retention
7 are achievable. Thank you for your consideration.
8 Sincerely, Michael O'Pake, Senator, 11th District.
9 Thank you.

10 MS. LEBO:

11 Who would like to go next?

12 MR. FENNIG:

13 I don't quite understand this thing about
14 this law. This law says that they can operate without
15 a permit for so long ---.

16 MS. LEBO:

17 Would you like to come forward?

18 MR. FENNIG:

19 I'm all right here.

20 MS. LEBO:

21 Okay. Could you please give your name
22 for the record please?

23 MR. FENNIG:

24 My name is Rudy Fennig; I live at 1304
25 Elizabeth Avenue in Laureldale. I don't understand

1 how you can pass a law and have a law and say hey,
2 it's okay to run five, seven years without the law.
3 We're just not going to look at this law, but we made
4 it. Explain that to me. I don't understand that.
5 Mr. Christian, could you explain that to me?

6 MS. LEBO:

7 If I may, this is part of the public
8 hearing so our comments --- you know, this for the
9 public record.

10 MR. FENNIG:

11 Yeah, you know, there's many of days that
12 we got to get out of our yards, we got to close our
13 windows, we got to leave our house completely. We
14 have company for a cookout; you got to call it off
15 because Exide's fumes are burning your face. I mean
16 it's absolutely ridiculous. I don't see why the
17 people of Laureldale don't go down to Exide and close
18 them down ourselves. It's crazy. And yet they make a
19 law to protect us, but hey, what does this law mean?
20 Nothing. That's about it. Oh, by the way, I got
21 neuropathy, too.

22 MS. LEBO:

23 Thank you, sir.

24 MR. FENNIG:

25 Thank you.

1 MS. LEBO:

2 Next? Are we concluding? Nobody wants
3 to speak? Okay. With that, we'd like to thank ---
4 I'm sorry, yes?

5 MR. LEISTER:

6 Rob Leister from Laureldale. I think in
7 the beginning you said that there were no complaints
8 since October of '08?

9 MR. WEAVER:

10 No, what we said there are continuing
11 complaints. We don't have any violations documented.

12 MR. LEISTER:

13 Okay. Well, there were so many in
14 September we had a DEP representative out there. He
15 stood in the street. He says yeah, I smell it. We
16 asked him to go up to Montrose Avenue because it's so
17 bad up there, but he refused to do it. The people up
18 there were complaining. Two hours later, folks in
19 that 3129 Montrose called the Berks County
20 Communication Center and asked for the fire company,
21 they smelled odors in their home. The fire company,
22 and you can check this in their records, they said it
23 was chemical odors. I told them it's not chemical
24 odors, it's Exide, the whole area was polluted with
25 it.

1 And mayor of Laureldale says to me it was
2 so bad the other night, he goes on patrol at night and
3 it made him sick in the stomach. He went down to
4 Exide and complained, he said just like that the magic
5 wand, half an hour the odor was gone. Why? I think I
6 can tell you why. What they should do is put a chart
7 on that natural gas line coming in, that they can tell
8 the amount of natural gas flowing through those lines
9 with the consumption of battery parts or whatever
10 being put into that furnace. A chart 24/7, it will be
11 equal to all the trash going through that.

12 Then you'll know why the odors are coming
13 up. That stack --- we don't have to smell it, we can
14 see it. It goes straight up really nice, that's the
15 way it should be. But the afternoon and weekends it
16 gets like a mushroom cloud, they're not heating up the
17 furnaces, it's smog coming out, it's not heat. It's
18 just smoldering, you can see it. Do you want to see
19 pictures? I got thousands of them. It's a fact, but
20 nobody comes out when we need them. Like this
21 gentleman said weekends, after hours, there's nobody
22 around.

23 I called DEP emergency line, you know
24 what they told me, the only time we'll come out is if
25 there's a death or an explosion. If somebody's dead

1 that's the only time they'll come out. That was quote
2 from the emergency line when DEP is closed. You're
3 supposed to call a 1-800 number and then you get
4 somebody in Lancaster or Harrisburg, oh, we won't come
5 out unless there's a death, quote. There's so much
6 going on, you just can't believe it. You can't
7 believe it. I had a person from DEP sit in my living
8 room and witness these odors. They sat right in my
9 living room, that's how bad it was, but you can't do
10 nothing.

11 And to be honest with you, we don't want
12 to hurt the working man down there; it's not the
13 working man's fault. You know whose fault it is, it's
14 not the working man, it's the management. It's the
15 almighty dollar. Put a meter on the gas line and see
16 how much gas they're burning when they're putting
17 stuff through that and see what it equals. You'll see
18 what I'm telling you.

19 MS. LEBO:

20 Thank you, sir. Anyone else?

21 MR. LEINBACH:

22 I'll comment. I'm Mr. Christian
23 Leinbach, County Commissioner. And I'm actually going
24 to address the gentleman's comment on the nominally
25 expired permit. It's the one note that I made in the

1 opening comments. And nominally expired permit occurs
2 when DEP doesn't have the time to respond before the
3 permit actually expires; correct? I think that's
4 exactly what you said; you were unable to make the
5 determination on the permit by the deadline.

6 MR. WEAVER:

7 I didn't say they didn't have time.

8 MR. LEINBACH:

9 Be that as it may, the issue that is
10 before us this evening is that DEP is the only body
11 that has the enforcement ability within the
12 Commonwealth of Pennsylvania, it's EPA. The citizens
13 of this community and the elected officials of this
14 community calling DEP to enforce the law, I frankly
15 consider it very disappointing that a permit can be
16 expired nominally or otherwise for this period of time
17 and I believe the testimony this evening under old
18 rules of a permit and I would implore you to consider
19 very seriously all of the comments this evening, but
20 in particular the comments of the county that I think
21 are very well documented and document some very
22 serious concerns.

23 Finally, I want to reiterate Commissioner
24 Scott's point, this is not a case of where it can't be
25 done. We hear sometimes, and I'm sure you sometimes

1 hear businesses say we can't comply. East Penn
2 Manufacturing, depending on which numbers you look at,
3 either are in compliance with the new standard or are
4 very, very close to compliance. And we as
5 commissioners do not have the complaints from the
6 residents surrounding East Penn Manufacturing that we
7 get from the residents surrounding this facility.
8 There's a serious issue here, those issues need to be
9 considered before the Title V is reissued, if it even
10 should be reissued. Thank you.

11 MS. LEBO:

12 Okay. I want to thank everyone for --- I
13 thought the comments were wonderful, I thought you
14 gave --- they were very well informed and I appreciate
15 everybody coming out to participate in this. And
16 we'll be reviewing them as part of the permitting
17 process. Nobody has asked to speak? Okay. Thank
18 you. So I want to thank everyone for coming out and
19 we appreciate it and you have a great evening.

20 * * * * *

21 HEARING CONCLUDED AT 7:54 P.M.

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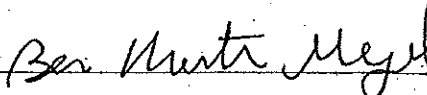
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CERTIFICATE

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.


Court Reporter