

FACT SHEET FOR DOJ/EPA PUBLIC MEETING ON OCTOBER 13, 2020

Background: Exide Holdings, Inc. (“Debtors”) Bankruptcy Proceeding and Timeline

- May 19, 2020: Debtors filed petitions for relief in the United States Bankruptcy Court for the District of Delaware. In re Exide Holdings, Inc., No. 20-11157 (Bankr. D. Del.).
 - Debtors immediately filed a Motion seeking mediation and if necessary abandonment of what it called its “Non-Performing Properties,” i.e., not operating and/or not profitable.
 - Debtors stated that they do not have the financial ability to continue as an operating business and would be liquidating.
 - 17 Non-Performing Properties in eleven States (CA, FL, GA, IN, IL, LA, MS, PA, SC, TN, TX) are at issue. Most of the Non-Performing Properties require future remediation to protect public health, safety, and the environment.
- June and July 2020: The Debtors, state agencies (including California), EPA, Debtors’ noteholders, the Unsecured Creditors Committee, and two surety companies participated in court-ordered mediation before five experienced mediators including four retired judges.
 - While the mediation was on-going, the Debtors sought and obtained permission from the Bankruptcy Court to market and sell their operating assets.
 - Debtors have stated that after paying certain secured loan creditors, any remaining proceeds are needed to pay the Debtors’ operating expenses incurred during the bankruptcy and administrative expenses as required by the Bankruptcy Code.
- July 28, 2020: The five mediators filed their Final Certificate confirming that all participants either accepted or, in the case of the Governments (including California), would recommend acceptance of a Mediators’ Proposal to officials with authority to agree to the settlement.
 - The parties (including California) drafted a Settlement Agreement consistent with the Mediators’ Proposal and which was expected to have been lodged on September 15, 2020.
- September 15, 2020: After all other parties had signed, California DTSC informed the parties that it was unable to obtain approval of the Settlement Agreement from those with authority to sign it.
 - The remaining parties then reformulated the Settlement Agreement without California while maintaining consistency with the Mediators’ Proposal to the maximum extent possible.
- September 22, 2020: The revised Settlement Agreement was lodged with the Bankruptcy Court.
- September 23, 2020: Debtors filed their amended plan of liquidation that incorporates the proposed Settlement Agreement.
- October 9, 2020: The Bankruptcy Court indicated that it will not further delay its hearing on confirmation of debtors’ plan of liquidation.

- Debtors have stated that delays would cause them to run out of funds and result in a Chapter 7 liquidation and/or abandonments.
- October 15, 2020 at 11:00 am. The Bankruptcy Court will hold a hearing on approval of the plan of liquidation, which incorporates the proposed Settlement Agreement.

Background: The Vernon, California Site

- The Debtors previously operated a facility located at 2700 S. Indiana St. in Vernon, California that recycled lead from used automotive batteries and other resources. This facility is one of the seventeen Non-Performing Properties handled through the bankruptcy, as explained above.
- In 2002, DTSC issued a Corrective Action Consent Order requiring Exide to undertake corrective action of and investigate releases at the Vernon site.
- On March 11, 2015, the United States Attorney’s Office for the Central District of California and Exide Technologies entered into a Non-Prosecution Agreement (the “Non-Prosecution Agreement”) that required Exide Technologies to immediately and forever close the Vernon Plant and to pay \$50 million to clean up the site and surrounding neighborhoods.
 - The Non-Prosecution Agreement required Exide Technologies to comply with the 2002 Corrective Action Consent Order and 2013 and 2014 Stipulations and Orders with DTSC.
 - Exide attorneys represent that Exide has spent approximately \$166,000,000 necessary to decontaminate and deconstruct the site since the Non-Prosecution Agreement mandated that the facility be closed.
- The Debtors stopped operations at the Vernon facility in 2015.
- The DTSC required Exide to provide financial assurance which is currently in the amount of approximately \$26.5 million.
- In late 2017, the Debtors began a Phase 1 Closure of the Vernon facility in an attempt to safely decontaminate and deconstruct the facility.
- A temporary structure consisting of scaffolding, trusses, and a polyethylene barrier, was built to allow the safe decontamination and deconstruction of the facility.
- More information relating to the Vernon site, clean-up, and the enforcement actions taken by DTSC can be found at <https://dtsc.ca.gov/exide-home/>

Key Provisions of the Proposed Settlement Agreement

- Generally:
 - A key purpose of the Settlement Agreement is to reduce the risk of a chaotic and harmful abandonment of the Non-Performing Properties;
 - To achieve that purpose, Debtors will transfer sixteen Non-Performing Properties in ten states, free and clear of any liens or other encumbrances, to an Environmental Response Trust (“ERT”).
 - The ERT will own the properties and receive: (1) approximately \$24 million from financial assurance bonds; (2) approximately \$7.4 million paid at the

direction of Debtors' noteholder creditors; and (3) the value of the properties free and clear of any liens and any remaining equipment or other personal property.

- The purpose of the ERT is to manage and clean up the properties to the extent of available funding and ultimately to sell them if possible, using the sale proceeds to further support cleanup, and get the properties back into productive use.
- The state and federal governmental agencies are beneficiaries of the ERT.

■ For The Vernon Site:

- A similar Vernon ERT will be established if two conditions are met. If the conditions are met, the Vernon, California property would not be abandoned and the Vernon ERT will receive: (1) approximately \$2.6 million; (2) potentially approximately \$26.5 million from financial assurance proceeds; and (3) the value of the Vernon, California property free and clear of any liens and any remaining equipment or other personal property.
- The two conditions are: (1) releases from liability to California environmental agencies for certain parties relating to debtors and (2) appropriate assurances from the California DTSC to the trustee of the Vernon ERT.
- Both conditions are similar to what is being provided by EPA and the other state governmental agencies to the certain parties relating to debtors and the trustees.
- The proposed Trustees for the ERT, and the Vernon ERT, if established, are the Exide Environmental Response Corporation and Vernon Environmental Response Corporation, respectively. The corporations were established by Roberto Puga of PathForward Consulting, Inc., who has served as trustee for other environmental response trusts.
- Of note for the Vernon ERT is that Roberto Puga is a native of the Boyle Heights neighborhood in Los Angeles.
- The Vernon ERT will keep the public informed about its activities.
- California DTSC and EPA would be beneficiaries of the Vernon ERT.
- In order to preserve the option for the Vernon ERT and reduce the risk of abandonment of the Vernon, California property, the United States would agree that the California DTSC release is appropriate under the unique circumstances of the case including the mediation, the contributions towards cleanup, the litigation risks, and the preference for the resulting stability of an ERT over chaotic abandonment.
- If the conditions are not met, the Vernon, California property would be abandoned rather than placed into an ERT. However, even if the property is abandoned, the California DTSC will obtain the benefit of the approximately \$26.5 million in financial assurance as well as a lien on the value of the Vernon property which is significant.

If the Court Does Not Approve the Settlement Agreement

- If the Court does not approve the Settlement Agreement, the risk of abandonment of the Non-Performing Properties and Vernon, California property is significantly increased and cleanup funding may be reduced or delayed.