

FINAL FINDINGS OF FACT AND STATEMENT OF OVERRIDING
CONSIDERATIONS

CLOSURE PLAN, EXIDE TECHNOLOGIES BATTERY RECYCLING
FACILITY
FINAL ENVIRONMENTAL IMPACT REPORT (FEIR)

State Clearinghouse Number: 2015051081

Prepared by

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With

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**STATEMENT OF ENVIRONMENTAL EFFECTS, MITIGATION
MEASURES, FINDINGS, STATEMENT OF OVERRIDING
CONSIDERATIONS AND MITIGATING MONITORING PROGRAM
FOR THE CLOSURE PLAN FOR THE EXIDE TECHNOLOGIES BATTERY
RECYCLING FACILITY LOCATED AT 2700 SOUTH INDIANA STREET, VERNON,
CALIFORNIA**

1.0 INTRODUCTION

In compliance with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), a draft environmental impact report (DEIR) was prepared for the Closure Plan, Exide Technologies Battery Recycling Facility (Project). The EIR identified the potentially significant environmental effects that could result from implementation of the Closure Plan for the former secondary lead recycling facility located at 2700 South Indiana Street, Vernon, California (Exide Facility). The DEIR was circulated on December 8, 2015, for what ultimately became a 105-day public review and comment period to solicit agency and public input on the analysis of the potential environmental effects associated with implementation of the Project. A Final EIR (FEIR), responding to public comments, was prepared and published on December 8, 2016. The Findings of Fact (Findings) and Statement of Overriding Considerations presented herein address the environmental effects associated with the Project that are described and analyzed within the FEIR. These Findings have been made pursuant to Public Resources Code Sections 21081 and 21081.6, as well as the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) Sections 15090, 15091, and 15093.

Public Resources Code Section 21081 and CEQA Guidelines Section 15091 require that the Department of Toxic Substances Control (DTSC), as the Lead Agency for this Project, prepare written findings for any identified significant environmental effects along with a brief explanation of the rationale for each finding. Specific findings under CEQA Guidelines Section 15091(a) are:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the FEIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the FEIR.

In accordance with Public Resources Code Section 21081 and CEQA Guidelines Section 15093, whenever significant effects cannot be mitigated to below a level of significance, DTSC as the decision-making Lead Agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits of the Project against its unavoidable environmental impacts when determining whether to approve the Project. If the benefits of a Project outweigh the unavoidable adverse environmental effects, the adverse effects may be considered “acceptable,” in which case the Lead Agency must adopt a formal statement of overriding considerations.

When making the findings, the Lead Agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the Project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures. (CEQA Guidelines, § 15091.) Additionally, the Lead Agency must not approve a project that will have a significant effect on the environment unless it finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the unavoidable adverse environmental effects. (Pub. Resources Code, § 21081(b); CEQA Guidelines, § 15093.)

DTSC has made one or more of the specific written findings above regarding each significant impact associated with the Project. Those findings are presented in Sections 6 through 13 below.

2.0 CERTIFICATION REQUIRED UNDER CEQA GUIDELINES SECTION 15090

In accordance with CEQA Guidelines Section 15090, DTSC, as Lead Agency for the Project, certifies that:

- (a) The FEIR for the Project has been completed and processed in compliance with the requirements of CEQA;
- (b) The FEIR was presented to DTSC who, as the decision making body for the Project, reviewed and considered the information contained in the FEIR prior to approving the Project; and
- (c) The FEIR reflects DTSC’s independent judgment and analysis.

DTSC has exercised independent judgment in accordance with Public Resources Code Section 21082.1(c) in retaining its own environmental consultant, in directing the consultant in preparation of the FEIR, and in reviewing, analyzing, and revising material prepared by the consultant. DTSC finds and certifies that the FEIR was reviewed and information contained in the EIR was considered prior to approving the Project. Further, DTSC finds that the FEIR presents an adequate assessment of the potentially significant environmental impacts of the proposed Project, sets forth an adequate range of alternatives to this Project, and has otherwise been completed and processed in compliance with the requirements of CEQA.

3.0 DESCRIPTION OF PROPOSED PROJECT

3.1 Project Location

The proposed Project is the approval and implementation of a Closure Plan for the Exide Facility located at 2700 South Indiana Street in Vernon, California. Vernon is five (5) miles south of downtown Los Angeles, adjacent to the cities of Maywood and Huntington Park, and 2.9 miles from the City of Bell. The region is marked by a number of dense urban centers with residential, commercial, and industrial uses in close proximity to each other. Cars are the main mode of transportation in the region; there is also a municipal public bus system and limited light rail service. The region is highly connected through an integrated transportation network of freeways, highways, and surface roads.

The entire City of Vernon is zoned for industrial uses; there is no residential zoning, but there are residential units within the city. The former Exide Facility is located in the City of Vernon's (City's) M-2 heavy industrial/warehousing zone and is surrounded by industrial land uses. The Project setting is described more in Section 2.1 of the DEIR.

3.2 Project History

The Exide Facility has been used for a variety of metal fabrication and metal recovery operations since 1922, with the primary use consisting of lead-battery recycling since the late 1970s. During operation, Exide received spent (used) lead-acid batteries and other lead-bearing materials and recycled them to recover lead and polypropylene. The sulfuric acid in batteries was recycled and used in the on-site wastewater treatment system, and the polypropylene was sent to an off-site facility for recycling. In recent years, the Exide Facility's average production was 100,000 to 120,000 tons of lead per year. This amount is equivalent to recycling approximately 11 million automotive batteries, which is about the same number of spent batteries generated in California annually. Approximately 85 percent of the recycled lead was derived from used automobile batteries, whereas the remaining 15 percent came from other batteries and scrap lead.

In early 2014, Exide submitted a revised permit application for a Resource Conservation and Recovery Act (RCRA) Hazardous Waste Facility Permit (Cal. Code Regs., title 22, article 2, § 66270.10 et seq.) to DTSC. At that time, Exide was implementing phased corrective action activities in accordance with a 2002 Corrective Action Consent Order with DTSC and operating under Interim Status authorization.

In March 2014, Exide ceased recycling operations at the facility to install new equipment to meet South Coast Air Quality Management District (SCAQMD) requirements under a Stipulated Order for Abatement, which included meeting SCAQMD rules on arsenic emissions. From March 2014 to May 2015, maintenance, housekeeping, and improvement activities occurred, but recycling operations did not occur.

Operations were expected to resume in spring 2015 to begin emission testing of new equipment installed to comply with SCAQMD rules. In March 2015, however, Exide was required to cease operations and permanently close its facility pursuant to a Stipulation and Order between DTSC and Exide (2015 Amendment) and a Non-prosecution Agreement reached with the Department of Justice. As ordered by the 2015 Amendment, Exide withdrew its permit application and notified DTSC of its intent to close the facility permanently by implementing a DTSC-approved Closure Plan.

3.3 Baseline

CEQA Guidelines Section 15125 requires that an EIR include a description of the physical environmental conditions in the vicinity of the proposed Project as they exist at the time the Notice of Preparation (NOP) is published, or if no NOP is published, at the time the environmental analysis is commenced, from both a local and regional perspective. These environmental conditions are referred to as the environmental setting. Further, Section 15125(a) of the CEQA Guidelines states that “the environmental setting normally constitutes the baseline physical conditions by which a Lead Agency determines whether an impact is significant.”

The NOP for the Exide Facility was published and sent to the California State Clearinghouse as well as responsible and trustee agencies on May 28, 2015. At that time, the Exide Facility was closed and nonoperational; there were no batteries at the facility and batteries were no longer received by the facility or shipped to other facilities; however, some battery-related waste remained at the facility and was actively being shipped out. There was minimal activity at the site related to equipment and site maintenance and security. During this time, Exide was also implementing a number of corrective actions at the facility (see DEIR Section 2.3), including ongoing roof and yard washing. These conditions were used as the baseline for the DEIR’s analysis.

Exide commented on the DEIR that DTSC should have adopted as a “baseline” the environmental setting conditions that predated the NOP. Though CEQA does allow the Lead Agency a certain amount of discretion on the use of a baseline to avoid abnormal and temporary situations (see *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439 (*Smart Rail*)), use of a baseline representing conditions that differ significantly from those that exist when the NOP is published would, in this case, present a false comparison. The baseline used in the DEIR is the appropriate baseline to assess impacts as of May 2015. At that time, the Exide Facility had been closed and non-operational for 14 months. If, as some commenters suggest, DTSC had used as the baseline the conditions that existed when the facility was operating, it would have overstated the existing level of activity and understated the additional potential impacts from the proposed Project. Such a comparison would have made it difficult to gauge the impacts from the proposed Project (closure) because baseline impacts would have greatly exceeded closure impacts. The baseline used in the NOP represents the condition of the Exide Facility since March 2014 and, thus, allowed for a more meaningful CEQA analysis of the potential impacts associated with Exide’s proposed Closure Plan.

3.4 Project Objectives

Pursuant to CEQA Guidelines Section 15124, a “statement of the objectives sought by the proposed project” is to be provided as part of the Project Description in an EIR. The purpose of the proposed Project is to achieve Exide Facility closure. To achieve facility closure in accordance with all federal and state regulations, the following objectives must be accomplished:

- Decontaminate or remove all contaminated equipment, structures, and soils and comply with requirements identified in federal, state, and local hazardous waste and air quality regulations.
- Control, minimize, or eliminate, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated rainfall or runoff, or waste decomposition products to the ground or surface waters or to the atmosphere.
- Minimize or eliminate the need for further site facility maintenance.
- Implement construction, management, and long-term monitoring programs to protect public health and ensure all closure standards are met.

3.5 Facility Information

The Exide Facility occupies 15.5 acres of land on two parcels bisected by South Indiana Street (see FEIR Figure 1.2.2-1). The administrative office building is located on the east side of South Indiana Street, and the industrial complex is located on the west side. The Exide Facility is bounded to the north by East 26th Street and the Atchison, Topeka, and Santa Fe Railroad Yard (Hobart Yard); to the south by Bandini Boulevard; and to the west and north by Command Packaging (formerly Pioneer Aluminum). The Los Angeles River flows through a concrete-lined channel located approximately 515 feet south of the property at its closest point. The Exide Facility and adjacent areas are in the City of Vernon’s M-2 heavy industrial/warehousing zone. The Exide Facility is also within the Rendering Overlay District, which allows for the operation of rendering plants, fertilizer plants, and junk/salvage yards.

The nearest residences are south of Fruitland Avenue in Maywood, approximately 0.6 miles to the south, and at East Vernon Avenue between Alcoa Avenue and South Downey Road in Vernon, approximately 0.6 miles to the west. I-5 runs east-west to the north of the facility, and I-710 runs north-south to the east of the facility. Local access to the Exide Facility is provided by South Indiana Street, a surface street connecting Bandini Boulevard to the south and 26th Street to the north.

3.6 Closure Plan Phasing

The Closure Plan addresses the RCRA-regulated Interim Status hazardous waste units (former RCRA Interim Status units) at the facility, along with all contaminated structures, equipment, and soil. The Closure Plan has been developed and modified to meet the closure requirements of

California Code of Regulations, title 22, sections 66265.110 to 66265.120, 66265.197, 66265.228, and 66265.1102, as applicable for closure of RCRA tank systems, RCRA container storage areas, RCRA surface impoundments, RCRA containment buildings, and miscellaneous units. The Closure Plan was also developed in general accordance with Permit Writer Instructions for Closure of Storage and Treatment Facilities (DTSC 2007). The closure and post-closure care of all tank systems and containment buildings will also comply with California Code of Regulations, title 22, Sections 66265.197 and 66265.1102, respectively.

Hazardous wastes handled at the Exide Facility are managed in containers, tanks, containment buildings, a surface impoundment, or miscellaneous units. Some of the structures at the facility were not used in hazardous waste management. These structures are still required to be sampled and, if found to be contaminated, must be decontaminated to meet closure and cleanup performance standards. If the confirmation sampling results show levels of contamination above performance standards, Exide will be required to either clean up the structures to meet the standards or remove them. If no contamination is identified, the structure would not have to be deconstructed or removed. Under the proposed Project, Exide would permanently close the facility and implement the DTSC-approved Closure Plan, which would include dismantling operations and cleanup of the facility. The Closure Plan outlines a multi-year approach for removal and decontamination of equipment, structures, and soils at the site during three phases, as follows:

- **Phase 1** would include removal of all hazardous wastes from all hazardous waste units; decontamination and removal of all contaminated equipment, structures, and soils; and subsurface soil and soil gas sampling to characterize the contamination under the equipment and structures. As outlined in the DEIR, Phase 1 of the proposed Project includes Exide's proposal to re-fire the gas burners to melt a portion of lead remaining at the facility. Phase 1 activities are expected to require 34 months to complete.

Phase 1 work is expected to occur generally in the following sequence, although the Closure Plan does leave some flexibility for minor changes during implementation or as proposed by the contractor, subject to review and approval by DTSC:

- Remove and manage regulated waste (inventory) and residuals at the Exide Facility at the time of closure.
- Decontaminate units.
- Perform confirmatory sampling of units.
- Remove units.
- Decontaminate containment area and building.
- Deconstruct all contaminated buildings; roof and walls will be enclosed during removal.

- Decontaminate areas with no regulated units.
- Decontaminate stormwater system.
- Remove and manage the concrete floor and pavement.
- Perform confirmatory sampling beneath containment area and buildings.
- Sample soil and soil gas.

(See DEIR, § 2.2.3.1; Closure Plan, § 4.3.)

- **Phase 2** would be contingent on the results of soil and soil gas sampling in Phase 1 and would include additional subsurface sampling to characterize potential contamination under the equipment and structures. Phase 2 would include removal of contaminated soil beneath the former equipment, buildings, structures, and pavement as well as restoration activities.
- **Phase 3** would include post-closure and contingent post-closure work to implement long-term inspections, monitoring, and maintenance.

4.0 ENVIRONMENTAL DOCUMENTATION BACKGROUND

The Project was reviewed by DTSC, serving as Lead Agency, in accordance with the requirements of CEQA. DTSC provided opportunities for the public to participate in the environmental review process. During the preparation of the DEIR, an effort was made to contact various Federal, State, regional, and local government agencies and other interested parties to solicit comments and inform the public of the Project. Below is a description of the environmental review process conducted for the Project.

4.1 Initial Study, Notice of Preparation (NOP), and Scoping Process

Under Section 15082 of the CEQA Guidelines, DTSC published an NOP on May 28, 2015. The NOP was publically released and posted on DTSC's website, in the Vernon City Hall, and in four local libraries. In addition to making the NOP available for a 30-day public comment period, DTSC also conducted a public scoping meeting in proximity to the Exide Facility. The meeting was held at the Maywood City Hall at 4319 E. Slauson Avenue, in Maywood, California, 90270, on Thursday, June 18, 2015. DTSC gave a presentation that described the proposed Project and the CEQA process. In addition to responsible agencies and trustee agencies, the public was also invited to provide input on the DEIR through both verbal and written comments.

Project-related information, maps, and literature were provided at the scoping meeting. To encourage public comment at the meeting, collection boxes for written comments were provided by DTSC. Copies of the NOP were made available to the public at the venue. All Project-

related printed materials provided by DTSC were available in both English- and Spanish-language versions. The scoping meeting began with presentations by DTSC staff describing their role as Lead Agency under the CEQA processes, followed by an overview of the technical aspects of the proposed Project. Lastly, DTSC discussed opportunities for public involvement and provided an overview of the environmental issues already identified that would be addressed in the DEIR. Spanish-language translation services were available for all who requested them. The meeting concluded with a public comment segment in which DTSC invited the public to provide written and verbal comments on the scope of the DEIR. Participants were also given the opportunity to take a comment form to mail in later and were notified that comments could be provided at a later time via email or fax.

Two comment letters were received during the public scoping period, 16 individuals provided verbal comments during the public scoping meeting, and six individuals provided written comments via comment cards at the scoping meeting. The comment letters and cards, and a transcript of the scoping meeting were included in Appendix B-2 of the DEIR. The NOP was also summarized in the DEIR's Executive Summary under the "Summary of Known Controversial Issues" subheading. (DEIR, Executive Summary, pp. ES-15 to ES-18; see also DEIR, § 1.3.4.)

4.2 DEIR

Based on the Initial Study prepared in association with the NOP and comments received during the public review period, DTSC prepared a DEIR (State Clearinghouse No. 2015051081), incorporated herein by reference in full. The DEIR addressed the following environmental topics where the potential for significant impacts was identified: Aesthetics, Air Quality, Biological Resources, Cultural and Historic Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Land Use, Noise, Public Services and Utilities, Transportation/Traffic and Water Quality and Hydrology. For each of the environmental issues described above, the Project's potential to result in direct, indirect and cumulative impacts were addressed and feasible mitigation measures were provided where necessary to address significant impacts. Chapter 5 of the DEIR *Other Mandatory CEQA Considerations* includes a discussion of those environmental issues (e.g., Mineral Resources, Population and Housing, etc.) where the characteristics of the Project made it clear that impacts would not be significant and further evaluation of such issues in the DEIR was not necessary.

The DEIR was released and distributed on December 8, 2015, for a 65-day public review period. Approximately 25 copies of the DEIR were distributed to various government agencies, local community organizations, and repositories. In addition, DTSC sent more than 8,000 notices in both English and Spanish to surrounding communities to publicize the availability of the DEIR and provide information on the public hearing date and location. The DEIR includes a full analysis and an Executive Summary that summarizes the proposed Project, alternatives, and findings. The Executive Summary was translated into Spanish. The DEIR is available online at

DTSC's website¹ and was available in hardcopy form for public review at the following repositories:

Resurrection Catholic Church Office
3324 East Opal Street
Los Angeles, CA 90023
(323) 268-1141

Huntington Park Library
6518 Miles Avenue
Huntington Park, CA 90255
(323) 583-1461

Maywood Cesar Chavez Library
4323 Slauson Avenue
Maywood, CA 90270
(323) 771-8600

DTSC Cypress Regional Office
5796 Corporate Avenue
Cypress, CA 90630
(714) 484-5300

Robert L. Stevenson Branch Library
803 Spence Street
Los Angeles, CA 90023
(323) 268-4710

DTSC Sacramento Regional Office
8800 Cal Center Drive
Sacramento, CA 95826
(916) 255-3758

Commerce Public Library
5655 Jillson Street
Commerce, CA 90040
(323) 722-6660

¹ DTSC, 2016. *Exide Technologies Facility Closure*. Available at:
<http://www.dtsc.ca.gov/HazardousWaste/Projects/ExideClosure.cfm>.

In early January 2016, the 65-day review period was extended to March 28, 2016, at the request of East Yards Communities for Environmental Justice, a local community-based organization. As a result, the public review period totaled 105 days. Notice of this extension was given by direct mailing (more than 8,000 new notices in English and Spanish), email, and a posting on DTSC's website.

DTSC held a public hearing on February 3, 2016, at the City of Commerce, City Council Chambers, located at 2535 Commerce Way, Commerce, California 90040. The meeting was conducted in English with simultaneous Spanish translation. DTSC staff began the hearing with an overview of the proposed Closure Plan and DEIR organization and then opened the hearing to accept public comments on the proposed Project and environmental document. Public comments received at this hearing were recorded by a court reporter and the transcripts are available on DTSC's website.²

4.3 FEIR

DTSC prepared a FEIR for the Project, which is hereby incorporated by reference in full. This FEIR was prepared to meet all of the substantive and procedural requirements of CEQA and the rules, regulations, and procedures for the implementation of CEQA as executed by DTSC.

Pursuant to Section 15088 of the CEQA Guidelines, DTSC reviewed all comments received during the review periods for the DEIR and responded to each comment in Chapter 2 of the FEIR. Responses were sent to all public agencies that made comments on the DEIR at least 10 days prior to certification of the FEIR pursuant to CEQA Guidelines Section 15088(b).

All individuals that commented on the DEIR were notified of preparation of the FEIR. The FEIR was also made available for review on DTSC's website for the Project. Copies of the FEIR were also made available at libraries and DTSC's office in Cypress.

4.4 Future CEQA Analysis for Phases 2 and 3

As discussed in the DEIR, construction planning has already occurred for Phase 1 and elements of Phase 2, and those elements were analyzed at a project level. Phases 2 and 3 include contingent work elements based on Phase 1's subsurface soil and soil gas sampling results. Therefore, the FEIR includes both Project-specific and programmatic analyses for Phases 2 and 3 to support the closure process. Consistent with the requirements of CEQA, DTSC will consider construction plans for Phases 2 and 3, when they are available, in light of the FEIR and determine whether additional environmental analysis is necessary. (See, e.g., CEQA Guidelines, §§ 15168(c), 15063(c)(3)(D).)

² DTSC, 2016. *Exide Technologies Facility Closure*. Available at: <http://www.dtsc.ca.gov/HazardousWaste/Projects/ExideClosure.cfm>.

CEQA Guidelines Section 15168 explains the process for determining whether additional environmental analysis is needed. It provides as follows:

[S]ubsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.

(1) If a later activity would have effects that were not examined in the program EIR, a new Initial Study would need to be prepared leading to either an EIR or a Negative Declaration.

(2) If the agency finds that pursuant to Section 15162, no new effects could occur or no new mitigation measures would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required.

(3) An agency shall incorporate feasible mitigation measures and alternatives developed in the program EIR into subsequent actions in the program.

(4) Where the subsequent activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR.

(5) A program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible. With a good and detailed analysis of the program, many subsequent activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required.

4.5 Administrative Record of Proceedings

For purposes of CEQA and these Findings, the Administrative Record of Proceedings for the Project consists of the following documents, at a minimum:

- All Project application materials.
- All staff reports and related documents prepared by DTSC with respect to its compliance with the substantive and procedural requirements of CEQA and with respect to the action on the Project.
- All staff reports and related documents prepared by DTSC and written testimony or documents submitted by any person relevant to any findings or statement of overriding considerations adopted by DTSC pursuant to CEQA.

- Any transcript or minutes of the proceedings that DTSC heard testimony on, or considered any environmental document on, the Project.
- All notices issued by the respondent public agency to comply with this division or with any other law governing the processing and approval of the Project.
- All written comments received in response to, or in connection with, environmental documents prepared for the project, including responses to the NOP.
- All written evidence or correspondence submitted to, or transferred from, DTSC with respect to compliance with this division or with respect to the Project.
- The documentation of DTSC’s decision, including the FEIR, and all documents cited or relied on in the findings or in the statement of overriding considerations.
- Any other written materials relevant to DTSC’s compliance with CEQA or to its decision on the merits of the Project, including any drafts of any environmental document, or portions thereof, that have been released for public review, and copies of studies or other documents relied upon in any environmental document prepared for the project and either made available to the public during the public review period or included in the respondent public agency’s files on the Project, and all internal agency communications, including staff notes and memoranda related to the Project or to compliance with CEQA.
- Any other materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

The custodian of the documents comprising the record of proceedings is DTSC’s Sacramento Regional Office at 8800 Cal Center Drive, Sacramento, California, from 8:00 a.m. to 5:00 p.m. on Mondays through Fridays, excluding state holidays. All data submitted by Exide is available as part of the Administrative Record.

DTSC has relied on all of the documents listed above in reaching its decision on the Project. These documents directly or indirectly influenced DTSC. For that reason, such documents form part of the underlying factual basis for DTSC’s decisions relating to the approval of the Project. (See Pub. Resources Code, § 21167.6, subd. (e)(10); *Browning-Ferris Industries v. County Board of Supervisors of County of San Jose* (1986) 181 Cal.App.3d 852, 866; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 153, 155.)

5.0 FINDINGS REQUIRED UNDER CEQA

Public Resources Code Section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” The procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of projects and the feasible alternatives or feasible

mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 goes on to state that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles announced in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. (See Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a).) For each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The first such finding is that “[c]hanges or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.” (CEQA Guidelines, § 15091, subd. (a)(1)). The second permissible finding is that “[s]uch changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.” (CEQA Guidelines, § 15091, subd. (a)(2).) The third potential conclusion is that “[s]pecific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the FEIR.” (CEQA Guidelines, § 15091, subd. (a)(3).) Public Resources Code Section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.” CEQA Guidelines section 15364 adds another factor: “legal” considerations. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565).

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417). The CEQA Guidelines do not define the difference between “avoiding” a significant environmental effect and merely “substantially lessening” such an effect.

Public Resources Code Section 21081, on which CEQA Guidelines Section 15091 is based, uses the term “mitigate” rather than “substantially lessen.” The CEQA Guidelines therefore appear to equate “mitigating” with “substantially lessening.” Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” (Pub. Resources Code, § 21002.) For purposes of these findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less-than-significant level. In contrast, the term “substantially lessen” refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less-than-significant level. These interpretations appear to be mandated by the holding in *Laurel Hills Homeowners Association v. City Council* (1978) 83

Cal.App.3d 515, 519-527, in which the Court of Appeal held that an agency had satisfied its obligation to substantially lessen or avoid significant effects by adopting numerous mitigation measures, not all of which rendered the significant impacts in question less than significant.

Although CEQA Guidelines Section 15091 requires only that approving agencies specify that a particular significant effect is “avoid[ed] or substantially lessen[ed],” these findings, for purposes of clarity, in each case will specify whether the effect in question has been reduced to a less-than-significant level, or has simply been substantially lessened but remains significant. Moreover, although section 15091, read literally, does not require findings to address environmental effects that an EIR identifies as merely “potentially significant,” these findings will nevertheless fully account for all such effects identified in the EIR. CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modification or alternatives are not required, however, where such changes are infeasible or where the responsibility for modifying the project lies with some other agency (CEQA Guidelines, § 15091, subd. (a), (b)). With respect to a project for which significant impacts are not avoided or substantially lessened either through the adoption of feasible mitigation measures or feasible environmentally superior alternative, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project’s “benefits” rendered “acceptable” its “unavoidable adverse environmental effects.” (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b)). The California Supreme Court has stated that, “[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced” (*Goleta, supra*, 52 Cal.3d 553, 576). These findings reflect the independent judgment of DTSC and constitute its best efforts to set forth the rationales and support for its decision under the requirements of CEQA.

6.0 IMPACTS FOUND NOT TO BE SIGNIFICANT PRIOR TO MITIGATION IN THE ENVIRONMENTAL IMPACT REPORT

DTSC found that the Project would have no impact or a less than significant impact, either directly or cumulatively, with respect to a number of environmental topics discussed in the DEIR, without the need for mitigation. A no impact or less than significant environmental impact determination was made for each topic area listed below.

A. Aesthetics

Impact A-1: Would the proposed Project have a substantial adverse effect on a scenic vista?

Finding: There would be no Project-related impact on scenic vistas because the Exide Facility is not visible as part of a recognized scenic vista. (DEIR, p. 77.)

Impact A-2: Would the proposed Project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic resources within a state scenic highway?

Finding: Because the Exide Facility is not visible from a recognized state scenic highway, Project activities would not adversely damage scenic resources within a state scenic highway. Therefore, there would be no impact related to the proposed Project. (DEIR, p. 77.)

Impact A-3: Would the proposed Project substantially degrade the existing visual character or quality of the site and its surroundings?

Finding: Project-related construction activities would remain industrial in nature and would be consistent with the City's industrial setting. Additionally, views of construction activities and the Exide Facility following closure would be largely limited by the existing fence that surrounds the site. The nearest sensitive receptors to the Exide Facility include residences 0.6 miles south and at East Vernon Avenue between Alcoa Avenue and South Downey Road in Vernon, approximately 0.6 miles to the west; due to distance from the site and overall topography of the area, views of the facility would be obstructed. Therefore, the proposed Project would have a less than significant impact on the visual character and quality of the area. (DEIR, pp. 77-78.)

Impact A-4: Would the proposed Project have a substantial adverse effect on a scenic vista or create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?

Finding An increase in light or glare needed to support proposed Project activities at night may result in a potentially significant impact. However, the closest sensitive receptor is located 0.6 miles away and new lighting would not be discernable, due to the high level of surrounding industrial activity. Thus, the impact would be less than significant. In addition, the proposed Project includes a requirement for floodlight position and shielding under Los Angeles County's guidelines for outdoor lighting practices related to the placement and shielding of floodlights (County 2011):

Floodlights shall be aimed down to at least 45° to prevent light from being directed off-site or into the night sky. Shields shall be adhered to floodlights to block light from off-site views.

This requirement would further reduce any residual less-than-significant impacts. (DEIR, p. 80-81.)

B. Air Quality

Impact AQ-3: Would the proposed Project emissions expose the public to significant levels of toxic air contaminants (TACs) if impacts exceed any of the SCAQMD thresholds of significance?

Finding: The Project includes effective mechanisms to capture fugitive dust. All decontamination will be conducted within total or temporary enclosures, under negative pressure. Furthermore, DTSC is requiring tarping of buildings to control fugitive dust as buildings are decontaminated and deconstructed. Emissions of all dust, including lead dust, would be controlled by the application of fine water mist directly to work surfaces and the use of existing, permitted control equipment. The application of fine water mist and the use of existing control equipment, permitted by the SCAQMD to reduce lead emissions, are summarized below, discussed in DEIR Section 3.2.3.2, and described in detail in Appendix G of the Closure Plan. SCAQMD Rule 1420.1 requires that any emission control device that uses filter media other than a filter bags, including, but not limited to, high-efficiency particulate arrestance (HEPA) and cartridge-type filters, be rated by the manufacturer to achieve a minimum of 99.97 percent capture efficiency for 0.3-micron particles. Decontamination and deconstruction activities would take place under negative pressure, inside total or temporary enclosures, with operation of existing control equipment, and in compliance with SCAQMD's adopted and proposed revisions to Rule 1420.1, which would mean that all dust, lead, and other metal emissions would be captured within enclosed spaces. The proposed Project will be conducted in accordance with the requirements of SCAQMD Rule 1420.1. Compliance with SCAQMD Rule 1420.1 will be assessed via ambient air monitoring. Consistent with proposed revisions to Rule 1420.1, Exide will prepare a Compliance Plan for Closure Activities and use toxic air monitors. In complying with Rule 1420.1, the proposed Project will ensure that no degradation to air quality from lead or arsenic would occur. The Compliance Plan for Closure Activities will also specify the logistics of meteorological and ambient monitoring, air emission controls, housekeeping and maintenance measures, and contingency measures to be taken to prevent lead and arsenic ambient exceedances.

With the use of air control measures identified in Appendix G of the Closure Plan and in compliance with the adopted and proposed revisions to SCAQMD Rule 1420.1, TAC impacts are expected to be less than significant during Phase 1. Phase 2 will also include construction and soil excavation of up to five (5) feet. Phase 3 may include limited construction. Use of construction equipment and trucks will result in on-site and off-site TAC emissions. Emissions in Phase 2 are likely to be similar or slightly more than in Phase 1 due to a greater number of truck movements. Phase 3 emissions would likely be lower than Phase 1. However, because construction phasing and equipment information is not yet available for Phases 2 and 3, an impact determination would be made prior to the implementation of these phases. (DEIR, p. 119.)

Impact AQ-4: Would the proposed Project emissions create an objectionable odor at the nearest sensitive receptor pursuant to SCAQMD Rule 402, per thresholds of significance?

Finding: Phase 1 of the proposed Project is not expected to result in objectionable odors that would cause a nuisance; therefore, impacts would be less than significant. Phase 2 will also include construction and soil excavation of up to five (5) feet. Phase 3 may include limited construction. Use of construction equipment and trucks will result in on-site and off-site odors. Such odors in Phase 2 are likely to be similar to Phase 1. Odors associated with Phase 3 would likely be lower than Phase 1. However, because construction phasing and equipment information is not yet available, an impact determination for Phases 2 and 3 would be made prior to the implementation of these phases. (DEIR, p. 120.)

Impact AQ-5: Would the proposed Project conflict with or obstruct implementation of an applicable Air Quality Management Plan (AQMP) or not conform to the most recent adopted State Implementation Plan (SIP)?

Finding: The proposed Project would not obstruct or conflict with implementation of the AQMP; therefore, there would be no impact. (DEIR, p. 121.)

C. Greenhouse Gases (GHG)

Impact GHG-2: Would the proposed Project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions and climate change impacts?

Finding: The proposed Project would utilize equipment compliant with state and federal emissions requirements and adhere to Assembly Bill (AB) 32 Scoping Plan control measures adopted by the State of California. The proposed Project would therefore not conflict with the goals of AB 32 or regulations or Executive Order S-3-05. Regional and local plans described in Section 3.3.2 of the DEIR aim to reduce GHG emissions by establishing regional and local cooperation between agencies and setting goals and milestones. Phases 1, 2, and 3 of the proposed Project would adhere to goals and policies identified in regional and local plans and would therefore not conflict with the goals of regional and local plans. Impacts are expected to be less than significant throughout Phases 1 through 3 of the Project. (DEIR, p. 133.)

D. Biological Resources

Impact BIO-1: Would the proposed Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife (CDFW) and United States Fish and Wildlife Service (USFWS)?

Finding: The proposed Project would not involve construction outside the existing boundaries of the Exide Facility and closure activities would not affect candidate sensitive or special status species. Because there are no candidate, sensitive, or special

status species present within or adjacent to the facility, the proposed Project would result in no impact to these resources. (DEIR, pp. 146.)

Impact BIO-2: Would the proposed Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations, or by the CDFW and USFWS?

Finding: There are no riparian habitats or other sensitive natural communities present within or adjacent to the Exide Facility, and any discharges to the Los Angeles River would be required to meet applicable water quality standards through use of existing on-site facilities and compliance with applicable law. Therefore, the proposed Project would result in no impact to these resources. (DEIR, pp. 146-148.)

Impact BIO-3: Would the proposed Project have a substantial adverse effect on federally protected wetlands, as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Finding: Because there are no wetlands present within or adjacent to the facility, the proposed Project would result in no impact to these resources. (DEIR, p. 148.)

Impact BIO-4: Would the proposed Project interfere substantially with the movement of any native resident, migratory fish, or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites?

Finding: Because there are no native resident, migratory fish, wildlife species, or established native resident or migratory wildlife corridors present within or adjacent to the Exide Facility and the facility is located within an industrial area within a larger heavily urbanized area, the proposed Project would result in no impact to these resources. (DEIR, pp. 149-150.)

Impact BIO-5: Would the proposed Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Finding: Because the proposed Project would not conflict with any local policies or ordinances related to biological resources, the proposed Project would result in no impact to these resources. (DEIR, p. 150.)

Impact BIO-6: Would the proposed Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Finding: Because the proposed Project would not conflict with any local policies or ordinances related to biological resources, the proposed Project would result in no impact to these resources. (DEIR, p. 151.)

E. Cultural and Historic Resources

Impact CHR-1: Would the proposed Project directly or indirectly destroy a unique paleontological resource, site, or unique geologic feature?

Finding: Because it is unlikely that unique or significant paleontological resources are present at the Exide Facility, and there are no geological features on or near the facility, there is little to no potential for the proposed Project to directly or indirectly impact paleontological or geologic features. (DEIR, p. 163.)

Impact CHR-2: Would the proposed Project cause a substantial adverse change in the significance of a historical resource?

Finding: Because on-site structures are not listed on federal, state, or local registers and do not meet the criteria for listing under the California or National Registers of Historic Places, impacts are expected to be less than significant. (DEIR, pp. 163-164.)

F. Geology and Soils

Impact GS-2: Would the proposed Project result in substantial soil erosion or the loss of topsoil?

Finding: The Exide Facility almost entirely comprises impervious surfaces and does not contain any exposed soils that are susceptible to erosion. The proposed Project would require the excavation and removal of soils that were formerly overlain by concrete and impervious materials, but would not result in substantial soil erosion or removal of topsoil. Therefore, impacts related to substantial soil erosion or removal of topsoil are less than significant. (DEIR, pp. 195-196.)

Impact GS-3: Would the proposed Project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the proposed Project?

Finding: The Exide Facility is underlain by competent materials consisting of sands, gravels, silts, and various fill materials that have consolidated over many decades. The facility property is relatively flat and is not at risk from landslides or collapse. The facility contains an area where slag material was placed as pit fill some decades ago, but results of standard penetration tests (SPTs) from the Phase 2 RCRA Facility Investigation (RFI) drilling activities indicate that the slag-fill mixture is dense and stable. The proposed Project will not involve any construction over the slag-filled areas of the facility or destabilize the subsurface soil conditions relative to baseline conditions. The soil excavation activities related to Phase 1 and Phase 2 activities in the Closure Plan will be performed in accordance with California Building Code (CBC) Chapter 18, Section 1804 to ensure that they do not destabilize facility soils. Backfilled soils will be placed and compacted in a series of lifts up to grade elevation to ensure their stability. Therefore, impacts related to the location of the proposed Project on a geological unit that is

unstable or soil that is unstable or would become unstable as a result of the proposed Project are less than significant. (DEIR, pp. 196-198.)

Impact GS-4: Would the proposed Project be located on expansive soil, creating substantial risks to life or property?

Finding: Although the Exide Facility contains a zone of fill with abundant slag material and some isolated silt and clay layers exist at depths greater than 30 feet below ground surface, the soil constituents present in the subgrade at the facility and the observed depth to groundwater indicate that these materials are not at risk of becoming expansive. Therefore, impacts related to the proposed Project creating substantial risks to life or property due to location on expansive soil are less than significant. (DEIR, pp. 198-199.)

Impact GS-5: Would the proposed Project be sited on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

Finding: The Exide Facility is serviced by the municipal sewer system. Septic tanks or alternative wastewater disposal systems are not required by the proposed Project. Thus, the proposed Project would result in no impacts related to use of septic tanks or alternative wastewater disposal systems. (DEIR, p. 199.)

G. Hazards and Hazardous Materials

Impact HAZ-1: Would the proposed Project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Finding: While design considerations of the proposed Project and adherence to closure rules and regulations will minimize potential risks, there is a risk of upset from exposure to contaminated materials and spill or accident during deconstruction. Because hazardous material is present at the facility, workers and the public may be at risk of exposure if precautions are not taken during the proposed Project. (DEIR, § 3.7.1.) However, as described in the Closure Plan and outlined here, there are several required safety, materials management, and mitigation plans to prevent such releases. The following plans that relate to reduction and mitigation of potential hazards would be developed as part of the Closure Plan:

- Health and Safety Plan: A Health and Safety Plan would be prepared by the contractor conducting closure activities.
- Engineering Controls Plan: In order to prevent or minimize the release of potentially hazardous liquids and fugitive emissions containing lead and other toxic metals during closure, an Engineering Controls Plan would be implemented (Appendix G of the Closure Plan).

- Stormwater Pollution Prevention Plan (SWPPP): The Exide Facility stormwater runoff is collected for treatment and discharged to the Los Angeles County Publicly Owned Treatment Works. However, the Los Angeles Regional Water Quality Control Board has required the Exide Facility to obtain a General National Pollutant Discharge Elimination System (NPDES) permit for Stormwater Discharges Associated with Industrial Activity (NPDES No. CAS0000010). A SWPPP for the proposed Project has also been developed (Appendix Q of the Closure Plan).
- Crisis Management Plan/Contingency Plan and Spill Prevention Control and Countermeasures (SPCC) Plan: A SPCC Plan was developed to outline procedures, methods, and equipment used at the Exide Facility (including during construction) in order to comply with USEPA Tier 4 Engines. One hundred percent of diesel-powered construction equipment greater than 50 horsepower must meet U.S. Environmental Protection Agency (USEPA) oil spill prevention control and countermeasure standards, inspection, training, and record keeping requirements.
- Waste Characterization Plan: Solid and liquid waste generated by the proposed Project will be managed as hazardous waste until proper characterization determines them to be non-hazardous, as described in the Appendix V of the Closure Plan. A Waste Characterization Plan will be developed to ensure that sufficient information is gathered regarding the waste, in order to properly and safely manage and transport it, and includes details on waste sampling, analysis, and reporting.
- Excavation Management Plan: Phase 1 excavations are anticipated to be conducted under negative pressure in enclosed spaces and will therefore not require an Excavation Management Plan. However, prior to the start of Phase 2 and if more significant excavations are required as part of Phase 1, an Excavation Management Plan will be developed in accordance with SCAQMD Rule 1150.
- Fugitive Dust Control Plan: In compliance with SCAQMD Rule 403, a Fugitive Dust Control Plan will be developed.

These plans would control potential risks by containing hazardous materials in the event of an on-site accident and providing response procedures to minimize potential impacts. Therefore, impacts are less than significant. (DEIR, pp. 232-235.)

In addition, Project Condition 2 was developed during the public comment period to further assure this impact would be less than significant and this condition will apply to the Project:

- (a) Before the Closure Plan is implemented, the contractor must prepare a draft Health and Safety Plan and provide it to DTSC for review and approval. To assist in preparing the Health and Safety Plan, Exide must provide the contractor with all the comments on the DEIR that pertain to the Health and Safety Plan and the

responses to those comments. When preparing the Health and Safety Plan, the contractor must consider those comments, in addition to the standards and regulations contained in 29 Code of Federal Regulations, parts 1910 and 1926, and any other applicable law.

(b) The Health and Safety Plan must comply with the most up-to-date standards for occupational lead exposure adopted by Cal/OSHA, even if the regulations implementing those standards have not yet gone into effect.

(c) The Health and Safety Plan must provide appropriate protections for workers operating in a confined space, if confined space work is specified in the Closure Implementation Plan; these protections must comply with 29 Code of Federal Regulations, part 1910, and California Code of Regulations, title 8, sections 5156 through 5158.

(d) The Health and Safety Plan must be reviewed at least annually by the contractor and updated if changes in the environmental conditions or project operations warrant modifications. The Health and Safety Plan must also be updated to reflect changes in law, including 29 Code of Federal Regulations, parts 1910 and 1926, or applicable provisions of the California Code of Regulations. The updated plan must be submitted to DTSC for review and approval. All contracts and subcontracts associated with the project must specify that contractors and subcontractors will comply with the most updated Health and Safety Plan.

(FEIR, p. 2-11.)

Impact HAZ-2: Would the proposed Project create a significant hazard to the public or the environment through the transport, use, or disposal of hazardous materials?

Finding: Transport and disposal of hazardous waste during closure will occur in compliance with Caltrans and United States Department of Transportation (DOT) regulations related to the handling and transport of hazardous materials. Containers used to store hazardous materials would be properly labeled and kept in good condition. Written procedures used for the transport of hazardous materials would be established in accordance with DOT and Caltrans regulations. A qualified transporter would be selected to comply with DOT and Caltrans regulations. In addition, the Closure Plan includes measures to prevent hazardous material from migrating off-site during closure activities including an SPCC Plan and a Crisis Management/ Contingency Plan. Construction will include design measures such as dust mitigation to ensure that trucks leaving the facility are clean and covered to control any potential releases of contaminated material. These features of the Project will reduce any potential risks to the public or the environment during transport and disposal of hazardous waste and therefore impacts are less than significant. (DEIR, pp. 241-246.)

In addition, Project Condition 1 was revised during the public comment period to further assure this impact would be less than significant and will apply to the Project:

All routes will proceed from the facility directly toward Bandini Boulevard, turn left onto Bandini Boulevard, and merge onto I-710. Directions to 2801 N. Madera Road will be revised to proceed to I-710 using this route. Note that transportation routes may change due to planned and unplanned road closures. The Contractor will ensure that drivers understand the approved truck routes and will provide a written statement confirming that the transportation routes have been provided and reviewed by the truck driver(s), and the route will be followed, except to the extent that road closures require an alternate route. A copy of the map clearly depicting these routes, as well as hours of operation, will be provided to all workers hauling material to and from the facility. Any change from the Bandini Boulevard to I-710 portion of routes will require DTSC approval. Trucks using alternate routes will be documented on a transportation log that includes the date, time, truck identification, manifest number, route taken, and contents of load. The transportation log will be submitted to DTSC daily when there are entries.

All trucks leaving the facility will be marked with a yellow flag having a visible area of at least one (1) square foot, attached to the high rear end of the trailer in a location visible to pedestrians. As feasible, project-related truck and construction vehicle traffic shall be directed away from school campuses (even in the event of planned or unplanned road closures). If trucks are routed within 0.25 miles (surface streets) of a campus, DTSC or the project contractor shall coordinate with the school administrator or designee to avoid pedestrian and vehicular routes to schools. In addition, Exide must notify the Los Angeles Unified School District's (LAUSD's) Office of Environmental Health and Safety (OEHS) by calling (213) 241-3199. LAUSD's Pedestrian Route to School map is available at LAUSD's website. In the event that project-related traffic must transect pedestrian or vehicular routes to schools, Exide must notify the LAUSD's Transportation Branch at (213) 580-2950 and LAUSD's OEHS at (213) 241-3199. Exide's project manager or designee must notify LAUSD of the expected start and end dates for various portions of the project that may affect traffic through the areas. Trucks and construction vehicles may encounter school buses using red flashing lights and must stop, per provisions in the California Vehicle Code.

(FEIR, pp. 2-26 to 2-27.)

Impact HAZ-3: Would the proposed Project result in hazardous emissions or handling of hazardous or acutely hazardous materials, substances, or waste within 0.25 miles of an existing or proposed school?

Finding: The transportation routes identified in HAZ-2 are all dedicated truck routes. As discussed in HAZ-2, transport and disposal of hazardous waste during closure will occur in compliance with Caltrans and DOT regulations related to the handling and transport of hazardous materials. Based on this, the proposed Project would result in less than significant impacts to existing or proposed schools from the disposal and transport of potentially hazardous materials. (DEIR, pp. 246-247.)

Impact HAZ-4: Would the proposed Project be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Finding: The Exide Facility is currently located on a site that is listed pursuant to Government Code Section 65962.5. The closure process and existing corrective action process are being designed to address existing hazards and therefore are consistent with the intent of listings. Therefore, the proposed Project would have less than significant impacts. (DEIR, pp. 247-248.)

Impact HAZ-5: For a project located within an airport land use plan or, where such a plan has not been adopted, within two (2) miles of a public airport or public use airport, would the proposed Project result in a safety hazard for people residing or working in the study area?

Finding: The Exide Facility is not located within an airport land use plan area, and the nearest airport is located approximately 9.5 miles southwest of the facility. The proposed Project would result in no impacts related to aviation, airports, or public use of airports. (DEIR, p. 248.)

Impact HAZ-6: For a project within the vicinity of a private airstrip, would the proposed Project result in a safety hazard for people residing or working in the study area?

Finding: There are no private airstrips within the vicinity of the Exide Facility, and the nearest airport is located approximately 9.5 miles southwest of the facility. The proposed Project would result in no impacts related to private airstrips. (DEIR, pp. 248-249.)

Impact HAZ-7: Would the proposed Project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Finding: Because the proposed Project would not interfere with implementation of any response programs, the proposed Project would result in no impact to implementation of any adopted emergency response or evacuation plans. (DEIR, p. 249.)

Impact HAZ-8: Would the proposed Project expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

Finding: The Exide Facility is not within any state or local fire hazard severity zones. Because the proposed Project is located in an urban area, with no surrounding wildlands, the proposed Project would result in no impact related to wildland fires. (DEIR, pp. 249-250.)

H. Land Use

Impact LU-1: Would the proposed Project physically divide an established community?

Finding: The proposed Project does not include any modification to industrial use of the property. Closure activities would remain industrial in nature and occur entirely on-site. Following completion of Phases 1, 2, and 3, the property is expected to remain zoned for industry and available for future industrial use (pending results from Phase 2 site investigations). Exide will work with the City to place deed restrictions, if needed, which may limit the types of development that could occur on the property; however, the property would remain available for industrial use. Therefore, the proposed Project would remain consistent with the surrounding industrial community, and would not physically divide any established communities; there would be no impacts as a result of the proposed Project. (DEIR, pp. 258-259.)

Impact LU-2: Would the proposed Project conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the proposed Project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

Finding: The Exide Facility is located in an area designated for heavy industrial land use and not in an area designated for environmental preservation pursuant to any city, community, or other applicable plans. The proposed Project would comply, and not interfere, with applicable land use plans and zoning ordinances, and would not conflict with governing land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. Exide will work with the City of Vernon to place deed restrictions, if needed, which may limit the types of development that could occur at the property once closure is complete; however, the property would remain available for industrial use. Therefore, impacts are expected to be less than significant. (DEIR, pp. 259-262.)

I. Noise and Vibration

Impact NV-2: Would the proposed Project expose people to, or generate, ground-borne vibration levels in excess of the Caltrans vibration damage potential threshold criteria?

Finding: The estimated peak particle velocity (PPV) at the building nearest the Exide Facility is less than the Caltrans vibration damage potential threshold criteria for all building types, and as a result, Phase 1 will not result in exposure of persons to or generation of excessive ground-borne vibration levels. The impact is considered less than

significant. Construction plans for Phases 2 and 3 are not available, but Phase 2 would include construction and excavation of up to five (5) feet of soil and Phase 3 would include long-term maintenance and monitoring. Vibration associated with Phase 2 would be assessed when construction plans are available. Phase 3 is likely to be limited in scope, with limited sources of vibration. As discussed previously, vibration associated with Phases 2 and 3 would be assessed when construction plans are available for those phases. (DEIR, pp. 288-289.)

Impact NV-3: Would the proposed Project create a substantial permanent increase in ambient noise levels in the study area above levels existing without the proposed Project?

Finding: All noise associated with the proposed Project (i.e., implementation of the Closure Plan) will cease at the conclusion of closure activities. Because the proposed Project activities are temporary, occurring only during closure activities, there will be no permanent impact to noise levels in the Exide Facility vicinity. (DEIR, p. 289.)

Impact NV-5: Would the proposed Project expose people residing or working on the proposed Project site to excessive noise levels as a result of activities at a public airport or private airstrip?

Finding: The proposed Project does not include any activities related to public airports or private airstrips. There would be no impacts resulting from activities at public airports or private airstrips as a result of the proposed Project. (DEIR, p. 291.)

J. Public Services and Utilities

Impact PSU-1: Would the proposed Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection?

Finding: The proposed Project would not result in impacts to fire or police protection as a result of new or physically altered government facilities. The projected increase in construction activities at the Exide Facility and general nature of the construction may increase the potential for an incident to occur in which fire, police, and/or emergency personnel would need to respond. However, this increase would be less than significant because current local fire, police, and emergency medical services would continue to adequately serve the facility, and no new or additional resources would be required. (DEIR, pp. 307-309.)

Impact PSU-2: Would the proposed Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered government facilities, the construction

of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for police protection?

Finding: The proposed Project would not result in impacts to fire or police protection as a result of new or physically altered government facilities. The projected increase in construction activities at the Exide Facility and general nature of the construction may increase the potential for an incident to occur in which fire, police, and/or emergency personnel would need to respond. However, this increase would be less than significant because current local fire, police, and emergency medical services would continue to adequately serve the facility, and no new or additional resources would be required. (DEIR, pp. 307-309.)

Impact PSU-3: Would the proposed Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for schools?

Finding: The proposed Project would not result in any construction-related impacts to schools as a result of new or physically altered government facilities. (DEIR, p. 310.)

Impact PSU-4: Would the proposed Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for other public facilities?

Finding: The proposed Project would not result in impacts to other public facilities as a result of new or physically altered government facilities. (DEIR, pp. 310-311.)

Impact PSU-5: Would the proposed Project exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board (RWQCB) or exceed available capacity to treat wastewater by the wastewater treatment provider?

Finding: The existing wastewater treatment plant (WWTP) would continue to operate during initial Phase 1 activities, and a temporary WWTP would be mobilized prior to decommissioning the existing WWTP. Following completion of Phase 2 activities, Exide would continue to collect and treat stormwater and would maintain or modify the Industrial Stormwater NPDES permit until sufficient information can be generated to demonstrate that stormwater runoff from the restored site can consistently meet standards for direct discharge. The proposed Project is not expected to exceed the wastewater requirements of Exide's Industrial Wastewater Discharge Permit No. 15725, nor is it expected to exceed the capacity of the wastewater treatment facilities; therefore, there are no impacts related to exceeding wastewater requirements. (DEIR, pp. 311-312.)

Impact PSU-6: Would the proposed Project generate solid non-hazardous waste in excess of permitted landfill capacity?

Finding: Solids will be managed as hazardous wastes until characterization sampling indicates they are non-hazardous. Plastic tanks, in particular, will be visually inspected at the time of closure and a decision will be made based on condition of the tank regarding cleaning and nonhazardous disposal versus removal of fross solids and hazardous disposal. It is anticipated that the plastic tanks will result in 44 tons of non-hazardous waste. The Chiquita Canyon Landfill has sufficient remaining capacity (approximately 1.8 million cubic yards as of August 2015) to handle the non-hazardous waste generated from the proposed Project. As shown in DEIR Table 3.10-2, other landfills in Los Angeles County (i.e., School Canyon Landfill and Whittier [Savage Canyon] Landfill) also have permitted capacities that could accommodate non-hazardous solid waste generated by the proposed Project. (DEIR, p. 312.) As such, no significant impacts associated with non-hazardous solid waste are expected because sufficient landfill capacity exists.

Impact PSU-7: Would the proposed Project exceed the capacity of existing distribution systems or require or result in the construction of new facilities for the generation or transmission of electrical power that would have significant environmental effects?

Finding: The proposed Project would not exceed the capacity of existing distribution systems or require or result in the construction of new facilities for the generation or transmission of electrical power that would have significant environmental effects. (DEIR, p. 313.)

Impact PSU-8: Would the proposed Project require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

Finding: The proposed Project would require the construction of a new wastewater treatment facility. However, the new WWTP would treat liquids generated during the decontamination of the original WWTP and stormwater through Phase 2 closure and corrective action activities, and until Exide is permitted to direct discharge surface water runoff. The existing WWTP would continue to operate during the initial Phase 1 activities, and the permit for discharge of treated effluent to the LACSD system would be maintained. (DEIR, pp. 314-315.)

K. Traffic and Transportation

Impact TT-1: Would the proposed Project construction result in a short-term, temporary increase in truck and auto traffic?

Finding: Under the proposed Project, Exide would close the facility and implement a DTSC-approved Closure Plan that would include dismantling operations and a cleanup of

the facility. This process is projected to start in 2016 and end in 2018. As shown in DEIR Tables 3.11-12 to 3.11-14, the study area intersections would not be significantly impacted by Phase 1 of the facility closure. Trucks hauling construction waste have the potential to travel through residential areas. Trucks shall be restricted to the truck routes shown in DEIR Figure 3.11-14. Project Condition 1 was revised during the public comment period to further assure this impact would be less than significant and will apply to the Project:

All routes will proceed from the facility directly toward Bandini Boulevard, turn left onto Bandini Boulevard, and merge onto I-710. Directions to 2801 N. Madera Road will be revised to proceed to I-710 using this route. Note that transportation routes may change due to planned and unplanned road closures. The Contractor will ensure that drivers understand the approved truck routes and will provide a written statement confirming that the transportation routes have been provided and reviewed by the truck driver(s), and the route will be followed, except to the extent that road closures require an alternate route. A copy of the map clearly depicting these routes, as well as hours of operation, will be provided to all workers hauling material to and from the facility. Any change from the Bandini Boulevard to I-710 portion of routes will require DTSC approval. Trucks using alternate routes will be documented on a transportation log that includes the date, time, truck identification, manifest number, route taken, and contents of load. The transportation log will be submitted to DTSC daily when there are entries.

All trucks leaving the facility will be marked with a yellow flag having a visible area of at least one (1) square foot, attached to the high rear end of the trailer in a location visible to pedestrians. As feasible, project-related truck and construction vehicle traffic shall be directed away from school campuses (even in the event of planned or unplanned road closures). If trucks are routed within 0.25 miles (surface streets) of a campus, DTSC or the project contractor shall coordinate with the school administrator or designee to avoid pedestrian and vehicular routes to schools. In addition, Exide must notify the LAUSD's OEHS by calling (213) 241-3199. LAUSD's Pedestrian Route to School map is available at LAUSD's website. In the event that project-related traffic must transect pedestrian or vehicular routes to schools, Exide must notify the LAUSD's Transportation Branch at (213) 580-2950 and LAUSD's OEHS at (213) 241-3199. Exide's project manager or designee must notify LAUSD of the expected start and end dates for various portions of the project that may affect traffic through the areas. Trucks and construction vehicles may encounter school buses using red flashing lights and must stop, per provisions in the California Vehicle Code.

(FEIR, pp. 2-26 to 2-27.) Because the study area intersections do not exceed thresholds, impacts would be considered less than significant. Construction plans for Phases 2 and 3 are not available, but Phase 2 would include construction and excavation of up to five (5) feet of soil and Phase 3 would include long-term maintenance and monitoring. Vehicles

trips associated with Phase 2 would be assessed when construction plans are available, and analysis at this time would be speculative. Phase 3 is likely to be limited in scope, with few additional vehicle movements. Vehicles trips associated with Phases 2 and 3 would be assessed when respective construction plans are available. (DEIR, pp. 351-359.)

Impact TT-2: Would long-term vehicular traffic associated with the proposed Project significantly impact the volume to capacity (V/C) ratio or level of service (LOS)?

Finding: Because the facility would be non-operational and would not generate long-term vehicular trips, there would be no impacts associated with the proposed Project. (DEIR, p. 360.)

Impact TT-3: Would an increase in on-site employees due to proposed Project operations increase public transit use?

Finding: Because the number of construction workers is relatively low and public transportation access is limited at the Exide Facility, the proposed Project is not expected to increase public transit use. Impacts would be less than significant. (DEIR, pp. 360-361.)

Impact TT-4: Would the proposed Project conflict with adopted policies, plans, or programs supporting alternative transportation?

Finding: Because the proposed Project does not include new or expanded construction or operations that would affect alternative transportation plans, policies, or programs, there would be no impact on these resources. (DEIR, pp. 361-362.)

L. Water Quality and Hydrology

Impact WQH-1: Would the proposed Project violate any water quality standards or waste discharge requirements?

Finding: Exide would continue to collect, treat, and discharge stormwater through the Exide's Industrial Wastewater Discharge Permit No. 15725 until Phase 2 activities are complete and the untreated stormwater meets discharge requirements. Construction of the proposed Project would proceed in compliance with all applicable NPDES permitting requirements.

Phase 2 and 3 are contingent on the results of investigations that will occur during Phase 1 implementation and analyzed programmatically in the EIR. If soil at or above the closure performance standards remains after Phase 2, Exide will submit a post-closure permit application, which would include the water quality monitoring and response program for post-closure units, to DTSC for review and approval. The water quality monitoring and response program would be prepared according to the post-closure care

requirements for tanks and/or surface impoundment and Article 6 of California Code of Regulations Chapter 14. Therefore, the proposed Project would result in less than significant impacts related to water quality standards or waste discharge requirements. (DEIR, pp. 381-389.)

Impact WQH-2: Would the proposed Project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level?

Finding: Because the proposed Project would not use groundwater or affect recharge to groundwater supplies, the proposed Project would result in no impact to aquifer volume or the local groundwater table level. (DEIR, pp. 389-390.)

Impact WQH-3: Would the proposed Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?

Finding: The proposed Project would not result in the alteration of existing drainage patterns or alter the course of existing streams or rivers. Because the proposed Project would adhere to discharge requirements and existing industrial and stormwater permits, there would be no long-term impacts related to erosion and siltation resulting from the proposed drainage system modifications. Compliance with the General Construction NPDES permit requirements and implementation of a site-specific SWPPP and Erosion and Sediment Control Plan would ensure that construction impacts are less than significant. (DEIR, p. 390.)

Impact WQH-4: Would the proposed Project create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

Finding: Stormwater control infrastructure would be maintained at the Exide Facility to manage stormwater and runoff during closure activities. The proposed Project is not expected to result in increases in stormwater runoff beyond the capacity of the existing and planned stormwater systems. The proposed Project entails closure of the existing facility using methods that would prevent polluted runoff from leaving the facility. Because the proposed Project would adhere to discharge requirements and industrial and stormwater permit requirements, there would be no long-term impacts related to runoff from the site resulting from the proposed drainage system modifications. Compliance with the General Construction NPDES permit requirements and implementation of a site-specific SWPPP and Erosion and Sediment Control Plan would ensure that construction impacts are less than significant. (DEIR, p. 391.)

Impact WQH-5: Would the proposed Project otherwise substantially degrade water quality?

Finding: Potential water quality impacts resulting from the proposed Project are discussed in WQH-1; no additional water quality impacts are anticipated. There would be no impact that would otherwise substantially degrade water quality. (DEIR, p. 392.)

Impact WQH-6: Would the proposed Project place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

Finding: Because the Exide Facility is not within a 100-year flood hazard map, and the proposed Project does not entail construction of any housing or other structures, the proposed Project would result in no impact from placing housing within a 100-year flood hazard area. (DEIR, p. 392.)

Impact WQH-7: Would the proposed Project place structures within a 100-year flood hazard area that would impede or redirect flood flows?

Finding: Because the Exide Facility is not within a 100-year flood hazard map, and the proposed Project does not entail construction of any structures that would redirect flows, the proposed Project would result in no impact from placing structures within a 100-year flood hazard area. (DEIR, pp. 392-393.)

Impact WQH-8: Would the proposed Project expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?

Finding: The proposed Project would not conflict with implementation of the City's SEMS Multi-Hazard Functional Plan or the U.S. Army Corps of Engineers emergency action plans for dam failure, and would not expose people or structures to increased flood hazards from dam failure. Therefore, the proposed Project would result in less than significant impacts from exposing people or structures to a significant risk or loss, injury, or death involving flooding as a result of dam failure. (DEIR, pp. 393-394.)

Impact WQH-9: Would the proposed Project contribute to hazards from inundation by seiche, tsunami, or mudflow?

Finding: The Exide Facility is not within a Tsunami Emergency Response Planning Zone Recommended Evacuation Area. Mudflows, landslides, or slope failure are not likely to occur at the Exide Facility because the topography at the facility and surrounding area is flat. The facility is not within a delineated earthquake-induced landslide zone (Department of Conservation Division of Mines and Geology 1999). The proposed Project would result in no impact related to inundation by seiche, tsunami, or mudflow. (DEIR, p. 394.)

7.0 ENVIRONMENTAL IMPACTS FOUND TO BE LESS THAN SIGNIFICANT AFTER MITIGATION

DTSC found that the Project would have no impact or a less than significant impact, either directly or cumulatively, with respect to a number of environmental topics discussed in the DEIR, without the need for mitigation. Those impacts are discussed in Section 6 of the DEIR. For some issues, Project conditions would effectively ensure impacts would be less than significant. The Project conditions and mitigation measures are included in the Mitigation Monitoring and Reporting Program (MMRP) to ensure their implementation as a part of the Project. A no impact or less than significant environmental impact determination was made for each topic area listed below. Applicable Project conditions and mitigation measures are also listed below, where applicable.

DTSC hereby finds that the following environmental impacts of the Closure Plan are less than significant after the implementation of mitigation measures.

A. Cultural Resources

Impact CHR-3: Would the proposed Project cause a substantial adverse change in the significance of an archaeological resource?

Finding: A significant impact would occur if archaeological resources were disturbed to the extent that it diminished their eligibility for listing in a historic register. A search of the California Historic Records Inventory System in December 2014 confirmed that no known cultural resources are recorded within the Exide Facility or its vicinity. Historical mapping demonstrates that the Exide Facility is constructed on artificial fill in what was once part of the Los Angeles River's channel. The ground has been highly disturbed within an industrial area and no intact prehistoric or historical archaeological resources would be expected to be found within the study area.

Archaeological resources could be disturbed where ground disturbance occurs in native sediments. The proposed Project includes subsurface soil and soil gas sampling to characterize the contamination under the equipment and structures in Phase 1; additional subsurface sampling to characterize the contamination under the equipment and structures; removal of contaminated concrete floor and pavement, soil beneath the former equipment, buildings, structures, and pavement; and restoration activities during Phase 2—all of which have the potential to disturb native sediments if activities occur outside the boundaries of previous disturbance. Long-term site monitoring after construction is expected to include groundwater and porewater monitoring, as well as maintenance of previously installed caps. If monitoring includes drilling of wells or excavation of test pits beyond the limits of previous disturbance, it also has the potential to disturb native sediments. Thus, if archaeological materials are present in previously undisturbed native sediments, they could potentially be disturbed during construction and

closure activities. Therefore, though unlikely, the proposed Project has the potential to result in a significant impact. (DEIR, pp. 164-166,194.)

The following mitigation measure would be implemented to address identified impacts:

MM-CHR-1: Stop work in area if prehistoric or historical archaeological resources are encountered. In the unlikely event that any artifact or an unusual amount of bone, shell, or non-native stone is encountered during construction, work shall be immediately stopped and relocated to another area. The contractor shall stop construction within 10 meters (30 feet) of the exposure of these finds until a qualified archaeologist can be retained to evaluate the find (see 36 C.F.R. § 800.11.1 and Cal. Code Regs., title 14, § 15064.5(f)). Examples of such cultural materials might include concentrations of ground stone tools such as mortars, bowls, pestles, and manos; chipped stone tools such as projectile points or choppers; flakes of stone not consistent with the immediate geology such as obsidian or fused shale; a historic trash pit containing bottles and/or ceramics; or structural remains. If the resources are found to be significant, they shall be avoided or shall be mitigated consistent with State Historic Preservation Office Guidelines.

After implementation of mitigation measure **MM-CHR-1** the residual impact would be less than significant.

Impact CHR-4: Would the proposed Project disturb any human remains, including those interred outside formal cemeteries?

Finding: The proposed Project includes disturbance of soil through direct removal and soil sampling. If human remains are present in previously undisturbed native sediments, they could potentially be disturbed during construction and closure activities. Therefore, though unlikely, the proposed Project has the potential to result in a significant impact. (DEIR, p. 166.)

The following mitigation measure is provided in the event of a discovery of human remains, in compliance with CEQA Guidelines Section 15064.5 (e)(1).

MM-CHR-2: Stop work in area if human remains are encountered. In the event of the accidental discovery of human remains, the following steps should be taken:

- There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
 - A) The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and

B) If the coroner determines the remains to be Native American:

(1) The coroner shall contact the Native American Heritage Commission within 24 hours.

(2) The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.

(3) The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98, or

(4) Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

(a) The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission;

(b) The descendant identified fails to make a recommendation; or

(c) The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

After implementation of mitigation measure **MM-CHR-2** the residual impact would be less than significant.

B. Noise and Vibrations

Impact NV-1: Expose people to, or generate, noise levels in excess of standards established in the City of Vernon's General Plan or in Section 12.08.440 of Los Angeles County Municipal Code (LACMC).

Finding: As noted in DEIR Tables 3.9-6 through 3.9-9, additional traffic generated by the proposed Project is not expected to increase the community noise equivalent level (CNEL) at any location in the study area to a level that exceeds the City's "normally compatible" guideline for that land use. Therefore, proposed Project traffic will not

expose persons to noise levels, or generate traffic noise levels, in excess of standards established in the City's General Plan. Thus, the impact is less than significant.

The maximum noise level generated by the proposed Project's closure deconstruction activities may exceed the threshold of 85 dBA at the nearest industrial buildings to the northwest and southeast; therefore, at these locations the proposed Project may expose persons to noise levels, or generate noise levels, in excess of standards established in Section 12.08.440 of the LACMC; the impact is potentially significant. At the remaining non-residential buildings in the vicinity, the impact will be less than significant. At the nearest existing residential property (on E. Vernon Ave.), the estimated proposed Project noise levels of 33 to 56 dBA comply with the daytime (7:00 a.m. to 10:00 p.m.) threshold of 60 dBA, but may exceed the nighttime threshold of 50 dBA for activities between 10:00 p.m. and 7:00 a.m. At this location, or at other residential locations at a similar distance from the facility, the proposed Project may expose persons to noise levels, or generate noise levels, in excess of standards established in Section 12.08.440 of the LACMC. Therefore, impacts to commercial and residential receptors as a result of noise levels in excess of local standards during closure activities would be considered significant without mitigation.

The following mitigation measures would be implemented to address identified noise impacts:

- **MM-NV-1.** All mobile or stationary internal-combustion-engine powered equipment or machinery shall be equipped with suitable exhaust and air-intake silencers in proper working order.
- **MM-NV-2.** Throughout the duration of the proposed Project, the contractor shall conduct noise monitoring at 3800-3840 E. 26th Street (the nearest business structure to the northwest) and 4010 E. 26th Street (the nearest business structure to the southeast). If the measurements indicate that the maximum noise level generated by the equipment and deconstruction activities at the site exceeds 85 dBA at the business structure, the contractor shall take steps as necessary to reduce the maximum noise level to less than 85 dBA. Such steps may include one or more of the following: 1) reduce the number and/or types of equipment operating simultaneously; 2) erect partial enclosures or barriers around the noisy equipment items; 3) erect a temporary noise barrier along the property line between the Exide Facility and the adjacent industrial building; and/or 4) use quieter equipment or processes.
- **MM-NV-3.** Throughout the duration of the proposed Project, if construction or deconstruction activities occur between 10:00 p.m. and 7:00 a.m., the contractor shall conduct noise monitoring at the nearest residence to the Exide Facility, located on E. Vernon Avenue west of S. Downey Road in Vernon (approximately 0.6 miles from the facility). If the measurements indicate that the maximum noise

level generated by the equipment and deconstruction activities at the site exceeds 50 dBA at the residence, the contractor shall take steps as necessary to reduce the maximum noise level to less than 50 dBA. Such steps may include one or more of the following: 1) reduce the number and/or type of equipment operating simultaneously; 2) erect partial enclosures or barriers around the noisy equipment items; 3) erect temporary noise barriers along the property lines of the Exide Facility; and/or 4) use quieter equipment or processes.

The implementation of mitigation measures **MM-NV-1, MM-NV-2 and MM-NV-3** reduce identified noise impacts below significance. Noise associated with Phases 2 and 3 would be assessed when construction plans are available for those phases; such analysis would be speculative at this time. (DEIR, pp. 277-288.)

Impact NV-4: Create a substantial temporary or periodic increase in ambient noise levels in the study area above levels existing without the proposed Project

Finding: The maximum noise level generated by the proposed Project's deconstruction activities during Phase 1 may exceed this threshold at the nearest industrial building to the northwest; therefore, at this location, the proposed Project may result in a substantial temporary or periodic increase in ambient noise levels in the vicinity that are above levels existing without the proposed Project. At the remaining locations in the vicinity of the Exide Facility, the impact will be less than significant. Because the proposed Project activities may result in substantial temporary increases in ambient noise levels in the vicinity of the proposed Project, the impact is considered significant. (DEIR, pp. 289-291.) The implementation of mitigation measures, **MM-NV-1, MM-NV-2 and MM-NV-3** reduce identified noise impacts below significance. Noise associated with Phases 2 and 3 would be assessed when construction plans are available for those phases; such analysis would be speculative at this time. (DEIR, pp. 289-291.)

8.0 ENVIRONMENTAL IMPACTS FOUND SIGNIFICANT AFTER MITIGATION

DTSC hereby finds that the following environmental impacts of the Exide Closure Plan are significant and unavoidable and cannot be reduced below significance by available mitigation measures.

A. Air Quality

Impact AQ-1: Would the proposed Project emissions exceed any of the SCAQMD daily thresholds of significance?

Findings: DEIR Table 3.2-6 shows that the Project would not exceed significance thresholds for any of the criteria pollutants, with the exception of NOx. NOx impacts would exceed significance thresholds in each of Phase 1's closure years. NOx impacts would be driven primarily by the combustion of diesel fuel in on-site construction equipment in all years and by the re-melting of lead in kettles contributing additional

NOx emissions in 2016. Although DEIR Tables 3.2-7 and 3.2-8 show natural gas emissions from re-firing the kettles contributes about 12 percent of total unmitigated NOx and 20 percent of the mitigated emissions in 2016, DTSC has adopted Mechanical Removal in lieu of by the re-melting of lead in kettles. (See section 9.E. herein).

Phase 2 will also include construction and soil excavation of up to five (5) feet. Phase 3 may include limited construction. Use of construction equipment and trucks will result in on-site and off-site criteria pollutant emissions. Emissions in Phase 2 are likely to be similar to Phase 1 with emissions in Phase 3 lower than Phase 1. However, because construction phasing and equipment information is not yet available, an impact determination would be made prior to implementation of Phases 2 and 3. (DEIR, pp. 109-112.)

The following mitigation measure would be implemented to address identified NOx impacts:

MM-AQ-1: Increase engine tier: 100 percent of all off-road equipment with USEPA Tier 4 Engines. One hundred percent of diesel-powered construction equipment greater than 50 horsepower must meet USEPA Tier 4 off-road emission standards. This measure shall be met, unless one of the following circumstances exists and the contractor is able to provide proof that any of these circumstances exists:

- Tier 4 equipment is unavailable through a leasing agreement within 200 miles of the Project.
- The contractor applied (within 30 days after DTSC approves the Closure Implementation Plan) for incentive funds to cover the cost of putting controls on a piece of uncontrolled equipment planned for use on the Project, but the application is not yet approved or the application has been approved but funds are not yet available.
- The contractor ordered (within 30 days after DTSC approves the Closure Implementation Plan), but has not yet received, a control device for a piece of equipment planned for use on the Project.
- The contractor has ordered (within 30 days after DTSC approves the Closure Implementation Plan), but has not yet received, controlled equipment to replace uncontrolled equipment.

MM-AQ-2: Construction equipment best management practices. The following best management practices and measures are required for construction equipment, including on road trucks used during construction:

- Use clean diesel (less than 15 parts per million [ppm] sulfur) in all diesel-powered equipment.
- Maintain all equipment in good working order and according to manufacturers' specifications.
- Restrict idling of construction equipment to a maximum of five (5) minutes when not in use.
- Use diesel oxidation catalysts (DOCs) and catalyzed diesel particulate traps, where available.
 - DTSC, in consultation with SCAQMD, will determine the technical feasibility of this emissions control equipment once the contractor identifies and secures a final equipment list.
- Use electric-powered cranes, where technically feasible
 - DTSC, in consultation with SCAQMD, will determine technical feasibility of electric powered cranes once the contractor identifies and secures a final equipment list.

(FEIR, pp. 3-20.)

With the application of mitigation measure **MM AQ-1**, NO_x impacts during Phase 1 would be reduced by approximately 40 percent in each closure year; however, they would remain above the level of significance. DEIR Table 3.2-8 shows air quality impacts following the application of mitigation measure MM-AQ-1. Because the effectiveness of mitigation measure **MM-AQ-2** is dependent on the final construction equipment list that has not yet been established, the effectiveness of MM-AQ-2 was not quantified but is anticipated to further reduce NO_x impacts. Nevertheless, NO_x impacts would be significant and unavoidable in each closure year.

Impact AQ-2: Would the proposed Project construction result in off-site ambient air pollutant concentrations that exceed any of the SCAQMD thresholds of significance?

Findings: DEIR Table 3.2-9 shows that NO₂ impacts would exceed significance thresholds for sensitive receptors and off-site workers in each year of Phase 1, and PM₁₀ and PM_{2.5} impacts would exceed significance thresholds for off-site workers in each year of Phase 1. Therefore, impacts would be significant.

NO₂, PM₁₀, and PM_{2.5} impacts would primarily be driven by the combustion of diesel fuel in off-road equipment used on-site (construction equipment) in all Phase 1 years, with the re-melting of lead in kettles adding additional emissions in 2016. Although the analysis in the DEIR shows that re-firing the kettles contributes about 20 percent of total

PM₁₀, PM_{2.5}, and NO₂ in 2016, DTSC has adopted Mechanical Removal in lieu of by the re-melting of lead in kettles. (See section 9.E. herein). Fugitive dust would not be a notable component of the proposed Phase 1 closure activities, as no excavation or soil movement is projected in Phase 1. As described in DEIR Section 3.2.3.2, Phase 1 closure activities, except for construction equipment staging and truck trips that occur outside enclosures, would be conducted either inside existing buildings or in temporary structures. These buildings and structures would be totally enclosed and maintained under negative pressure, with the use of a fine water mist applied directly to the point of deconstruction (e.g., demolition point during demolition activities) and with the operation of existing control equipment, rated to 99.97 percent capture efficiency when used continuously.

As noted in DEIR Section 3.2.3.2, emissions control equipment captures dust (components of PM₁₀ and PM_{2.5}), lead, and other toxic metals. Therefore, PM₁₀ and PM_{2.5} emissions reported in the DEIR are conservative and are likely to be reduced through the use of such control equipment. However, because PM₁₀ and PM_{2.5} emissions are primarily the result of exhaust emission and proposed decontamination and deconstruction activities would differ from normal facility operations, this analysis conservatively abstains from taking credit for the 99.97 percent capture efficiency of particulates stipulated under SCAQMD's Rule 1420.

In addition, projects that increase on-road traffic may also have the potential to contribute to CO "hot spots." A CO hot spot is an ambient CO concentration associated with traffic emissions that exceeds an Ambient Air Quality Standard (AAQS) in proximity to an off-site intersection. The SCAQMD recommends that a local CO hotspot analysis be conducted if the intersection meets one of the following criteria: 1) the intersection would operate at Level of Service (LOS) D or worse and the project would increase the volume to capacity (V/C) ratio by two percent at that intersection, or 2) the project would decrease LOS at an intersection from C to D. Based on the traffic impact analysis (Kunzman Associates 2015), the proposed Project would not increase the V/C ratio by more than two percent at any level D intersection, nor would the proposed Project decrease the LOS at any intersection from C to D. Therefore, the proposed Project would not generate CO hotspots.

Phase 2 will also include construction and soil excavation of up to five (5) feet. Phase 3 may include limited construction. Use of construction equipment and trucks will result in on-site and off-site criteria pollutant emissions. Emissions in Phase 2 are likely to be similar or more than to Phase 1 due to fugitive dust levels from excavation and soil movement and a greater number of truck movements. Phase 3 emissions would likely be lower than Phase 1. However, because construction phasing and equipment information is not yet available, an impact determination cannot be made at this time.

With the application of mitigation measure **MM AQ-1**, NO₂ impacts would be reduced by approximately 40 percent to 45 percent; however, they would remain above the level

of significance in closure years 2016 and 2017 for sensitive receptors and in all Phase 1 closure years for off-site worker receptors. PM₁₀ and PM_{2.5} impacts would be reduced by approximately 40 percent to 47 percent; however, they also would remain above the level of significance in all Phase 1 closure years for off-site worker receptors. As noted above, PM₁₀ and PM_{2.5} emissions will likely be slightly less than reported. This analysis conservatively abstained from quantifying reductions due to the existing air quality control systems. The mandatory use of these systems would serve to reduce PM₁₀ and PM_{2.5} emissions occurring within enclosed structures by up to 99.97 percent. However, because PM₁₀ and PM_{2.5} emissions would primarily be driven by the combustion of diesel fuel in off-road equipment, impacts would likely remain significant even if the 99.97 percent capture efficiency was assumed. CO emissions would increase slightly with application of the mitigation measures but would still remain below the level of significance.

Because the effectiveness of mitigation measure **MM-AQ-2** is dependent on the final construction equipment list that has not yet been established, the effectiveness of MM-AQ-2 was not quantified but is anticipated to further reduce NO₂ impacts. Accordingly, localized NO₂ impacts would be significant and unavoidable in closure years 2016 and 2017 for sensitive receptors and in all Phase 1 closure years for off-site worker receptors. Localized PM₁₀ and PM_{2.5} impacts would be significant and unavoidable in all Phase 1 closure years for off-site worker receptors.

Finally, it should also be noted that Localized Significance Threshold (LST) methodology utilized in the DEIR is a conservative screening assessment. Air dispersion modeling, a more refined method to quantify localized impacts, is likely to result in impacts lower than those predicted by the LST methodology (SCAQMD 2009). (DEIR, pp. 113-115.)

B. Greenhouse Gases

Impact GHG-1: Would the proposed Project GHG emissions, directly or indirectly, exceed the SCAQMD 10,000 metric tons per year CO₂e threshold?

Findings: As shown in DEIR Table 3.3-1, GHG impacts would exceed significance thresholds for Phase 1; therefore, impacts would be significant. Project emissions are anticipated to be primarily indirect, meaning they are the result of electricity use necessary to power emissions control equipment and the WWTP. In comparison to the baseline, electricity use has increased because the Exide Facility is non-operational. However, electricity use is aligned with levels used during operation of the Exide Facility. In addition, GHG emissions from power plants are capped within the state of California, and as discussed in Section 3.10 of the DEIR, the proposed Project would not exceed the capacity of existing distribution systems or require or result in the construction of new facilities for the generation or transmission of electrical power.

Phase 2 will also include construction and soil excavation of up to five (5) feet. Phase 3 may include limited construction. Use of construction equipment and trucks will result GHG emissions. Emissions in Phase 2 are likely to be similar to Phase 1 with emissions in Phase 3 lower than Phase 1. However, because construction phasing and equipment information is not yet available, an impact determination cannot be made at this time. (DEIR, pp. 130-132.)

While mitigation measure **MM-AQ-2**, set out above, would reduce overall GHG emissions by increasing engine efficiency, the proposed Project GHG emissions in Phase 1 would be driven by indirect emissions associated with on-site electricity use and by fuel use in off-road equipment and on-road vehicles. There are no feasible mitigation measures that would appreciably reduce the use of electricity required to operate the air quality control equipment and WWTP. GHG emissions would be significant and unavoidable.

C. Geology and Soils

Impact GS-1: Would the proposed Project expose people or structures to potential substantial adverse effects including the risk of loss, injury, or death?

Findings: The impacts from rupture of a known earthquake fault, landslides, and seismic-related ground failure, including liquefaction, would be less than significant. However, the impact from strong seismic-related ground shaking during closure activities would be significant.

During closure activities that are carried out as a part of the proposed Project, adherence to CBC Seismic Zone 4 design requirements and CBC Chapter 33, Sections 3302 and 3303, which describe construction and demolition safeguards, may reduce impact from strong seismic ground shaking in the event of an earthquake. Additionally, the planned work sequence detailed in the Closure Plan will limit the number of personnel on the site during closure activities that are exposed to risk from strong seismic ground shaking. These measures may reduce the impact due to strong seismic ground shaking but they will not reduce it to a less-than-significant level. (DEIR, pp. 184-194.)

There are no mitigation measures available that would reduce impacts below significance levels for strong seismic ground shaking. Inspection and maintenance of the stormwater impoundment liner to ensure that it remains completely impermeable will ensure that impacts associated with seismic-induced ground failure, including liquefaction-induced later spreading and slope failure, remain less than significant. The residual impact from strong seismic ground shaking would be significant and unavoidable. The residual impact from seismic-related ground failure, including liquefaction, would be less than significant.

D. Cumulative Impacts

Cumulative Air Quality Impacts: As described in DEIR Section 3.2, exceedances of peak daily NO_x, NO₂, PM₁₀, and PM_{2.5} would occur under the proposed Project. Adopted mitigation would reduce emissions; however, emissions would remain significant and unavoidable. As discussed, projects listed in DEIR Table 4.1-1 may contribute additional air quality impacts. Thus, cumulative air quality impacts would be cumulatively considerable.

Finding: Implementation of the proposed Project, cumulatively combined with other related past, present, or probable future projects, would result in substantial cumulative adverse effects related to air quality. Thus, cumulative air quality resources impacts would be significant. All feasible mitigation identified to address this impact have been adopted; therefore, the proposed Project would result in a cumulatively considerable, significant, and unavoidable impact relative to air quality emissions. (DEIR, p. 403.)

Cumulative GHG Impacts: As described in DEIR Section 3.3, the proposed Project's GHG emissions would exceed CEQA thresholds. Projects listed in DEIR Table 4.1-1 may contribute additional GHG impacts. Thus, cumulative GHG emission impacts could be cumulatively considerable.

Finding: Implementation of the proposed Project, cumulatively combined with other related past, present, or probable future projects, may result in substantial cumulative adverse GHG emissions. Thus, cumulative GHG impacts would be significant. All feasible mitigation identified to address this impact have been adopted; therefore, the proposed Project would result in a cumulatively considerable, significant, and unavoidable impact relative to GHG emissions. (DEIR, pp. 403-404.)

Cumulative Geology and Soils Impacts: As described in DEIR Section 3.6, the facility is located in a seismically active region; the proposed Project would therefore result in significant and unavoidable impacts from exposing people or structures to potentially significant adverse effects resulting from seismic events. Adherence to applicable regulations and procedures from the work sequence detailed in the Closure Plan will limit the number of personnel on the site during closure activities. Projects listed in DEIR Table 4.1-1 would be located in the same geographic region, and therefore may be similarly susceptible to seismic hazards and associated impacts. These projects would also proceed in adherence with applicable regulations related to seismic hazards. All projects located in the area are subject to severe seismically induced ground shaking due to an earthquake on a local or regional fault. Structural damage and risk of injury as a result of such an earthquake are possible for most projects listed in Table 4.1-1. Past development has increased the amount of infrastructure and structures, and the number of people working, in the cumulative geographic scope for seismic ground shaking, which may result in damage to people and property. The proposed Project and many of the related sites share interconnected infrastructure (e.g., highways, roads, utilities, pipelines, rail lines) that could be impacted by seismically induced ground failure. The amount of overlapping infrastructure that is susceptible to failure is increased by the addition of

each cumulative project. Infrastructure failure at multiple facilities is cumulatively greater than failure at individual facilities, as regional infrastructure becomes increasingly unusable with combined failure. Therefore, the effects of past, present, and reasonably foreseeable future projects would be cumulatively significant under CEQA.

Finding: Implementation of the proposed Project, cumulatively combined with other related past, present, or probable future projects, would result in substantial cumulative adverse effects related to geology and soils. Any temporary structures would be designed to comply with the CBC Zone 4 seismic design requirements, and the work sequence detailed in the Closure Plan will limit the number of personnel on-site during closure activities. However, even with incorporation of modern construction engineering and safety standards, no mitigation is available that would reduce impacts to less than cumulatively considerable in the event of a major earthquake. Therefore, the proposed Project would result in a cumulatively considerable, significant, and unavoidable impact relative to geology and soils resources. (DEIR, pp. 406-407.)

9.0 FINDINGS ON THE ALTERNATIVES TO THE PROJECT

CEQA Guidelines Section 15126.6 requires that an EIR consider a range of reasonable alternatives to the proposed Project, or to the location of the proposed Project, that would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project. Seven alternatives to the proposed Project were developed based on comments received during public scoping, agency feedback on the proposed Closure Plan, and DTSC staff consideration. Through the alternatives analysis process presented in the DEIR, three alternatives were determined to meet most of the proposed Project objectives, to avoid or minimize the effects of the proposed Project, and to be potentially feasible, and these alternatives were analyzed in Chapter 6 of the DEIR. Because the proposed Project is legally mandated and site-specific, off-site alternatives were not analyzed. Rather, the DEIR considers only alternative construction designs that would achieve the goals and objectives of closing the Exide Facility. In addition, while not legally feasible, the No Project Alternative was also analyzed in Chapter 6, consistent with the requirements of CEQA (CEQA Guidelines, §15126.6(e)). The remaining three alternatives were considered and dismissed. The potential environmental impacts of the following four alternatives were analyzed in the DEIR:

- Alternative 1: No Project
- Alternative 2: Use of Rail to Transport Hazardous Construction Waste
- Alternative 3: Mechanical Removal of Lead from Kettles
- Alternative 4: Water Jet Cutting to Remove Lead from Kettles

The following alternatives were considered but eliminated from the analysis:

- Remediation but No Demolition of Buildings

- Isolated Transport of Hazardous Materials by Truck
- Use of Zero-emission Trucks

(DEIR, § 6.3.) During the public comment period, a number of commenters requested that DTSC analyze additional methods of lead removal. Commenters suggested: 1) using larger cranes to remove intact kettles from the building, without first removing the lead from the kettles; and 2) using robots to mechanically remove the lead from kettles. As explained in Section 2.3.1.5 of the FEIR, the use of larger cranes to remove intact kettles from the building is infeasible, as it would result in a breach of containment. The Smelter Building maintains negative air pressure to prevent air emissions from decontamination and deconstruction of other equipment and structures within the building, in compliance with SCAQMD regulations. Using a larger crane to access the kettles from outside the building would require removing sections of the building, which would compromise the negative air pressure and would result in lead dust emissions. Reinforcing or removing the floor to accommodate a larger capacity crane within the Smelter Building would be an extensive and lengthy construction project, delaying facility closure activities. Alternatively, the kettles could be lifted from the building following roof removal when the building is demolished; however, this activity would require that the kettles remain in place until the building is demolished, and, thus, removal would not be performed under negative pressure.

The use of robots to mechanically remove the lead from the kettles was deemed to be at least potentially feasible. Accordingly, Alternative 3 was modified in Chapter 3 of the FEIR to clarify that the use of robotic technology is consistent with this alternative. After the close of the Public Comment period, in response to public comments, Exide provided suggestions for mechanical removal; in particular, it proposed a method it called the Gantry System Method. Under this method, the kettle would be hoisted from the kettle bays with a specially-designed hydraulic crane while the lead remains in the kettles. Once situated outside the current kettle bay and in a safe work-space, the kettle and lead could be cut into large chunks and removed with existing cranes. This method could avoid, or at least substantially minimize, the need for confined-space entry by workers. This Gantry System Method is consistent with Alternative 3, and Alternative 3 has been modified accordingly. Exide has expressed its intent to incorporate the use of the Gantry System in its closure implementation plan if Alternative 3 is approved. (See generally FEIR, §§ 2.3.1.3, 2.3.1.4, 2.3.1.5, and 3.1.1.8.)

After considering the proposed Closure Plan and comments received on the DEIR, the FEIR, and further relevant materials, DTSC hereby adopts Alternative 3. Consistent with that adoption, the final Closure Plan prohibits the use of re-firing the lead kettles and water jet cutting. DTSC's findings with regard to alternatives are set out below.

A. Significant and Unavoidable Impacts of the Project

Section 15091(a)(3) of the CEQA Guidelines requires findings about the feasibility of project alternatives whenever a project within the responsibility and jurisdiction of the lead agency will

have a significant environmental effect that has not been mitigated to a less-than-significant level. The significant impacts that require such findings are set out above in Section 8 and are briefly summarized as follows:

- Direct and cumulative air quality impacts: The Project would exceed significance thresholds for NO_x.
- Direct and cumulative air quality impacts: The Project would exceed significance thresholds for NO₂ for sensitive receptors and off-site workers in each year of Phase 1, and PM₁₀ and PM_{2.5} impacts would exceed significance thresholds for off-site workers in each year of Phase 1.
- Direct and cumulative GHG impacts: GHG impacts would exceed significance thresholds for Phase 1.
- Direct and cumulative geology and soils impacts: The impact from strong seismic-related ground shaking during closure activities would be significant.

Table 1 below presents a comparison of the potential impacts of the Project and the Alternatives.

**Table 1
Comparison of Potential Impacts from Proposed Project and Alternatives**

	Proposed Project	Alternative 1: No Project	Alternative 2: Use of Rail to Transport Hazardous Construction Waste	Alternative 3: Mechanical Removal of Lead from Kettles	Alternative 4: Water Jet Cutting to Remove Lead from Kettles
Aesthetics	LTS	NI (-)	LTS (o)	LTS (o)	LTS (o)
Air Quality	SU	NI (-)	SU (-)	SU (-)	SU (-)
Greenhouse Gas Emissions	SU	NI (-)	SU (-)	SU (-)	SU (-)
Biological Resources	NI	NI (o)	NI (o)	NI (o)	NI (o)
Cultural and Historic Resources	LTS	NI (-)	LTS (o)	LTS (o)	LTS (o)
Geology and Soils	SU	NI (-)	SU (o)	SU (o)	SU (o)
Hazards and Hazardous Materials	LTS	SU (+)	LTS (+)	LTS (+)	LTS (+)
Land Use	LTS	SU (+)	LTS (o)	LTS (o)	LTS (o)
Noise and Vibration	LTS	NI (-)	LTS (o)	LTS (o)	LTS (o)
Public Services and Utilities	LTS	NI (-)	LTS (-)	LTS (o)	LTS (+)
Traffic and Transportation	LTS	NI (-)	LTS (-)	LTS (o)	LTS (o)
Water Quality and Hydrology	LTS	SU (+)	LTS (o)	LTS (o)	LTS (o)

Notes:

NI: no impact

+ increased impact as compared to the proposed Project

LTS: less than significant impact
SU: significant and unavoidable impact

- reduced impact as compared to the proposed Project
o no difference in impact as compared to the proposed Project

B. Project Objectives

The objectives that DTSC seeks to achieve for the Project are.

- Decontaminate and remove all contaminated equipment, structures, and soils and comply with requirements identified in federal, state, and local hazardous waste and air quality regulations;
- Control, minimize, or eliminate, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated rainfall or run-off, or waste decomposition products to the ground or surface waters or to the atmosphere;
- Minimize or eliminate the need for further site maintenance; and
- Implement construction, management, and long-term monitoring programs to protect public health and ensure all closure standards are met

Table 2 presents a summary of the Alternatives in regards to their ability to meet the Project objectives.

**Table 2
Alternatives' Ability to Meet Project Objectives**

Project Objective	Ability to Meet Project Objective				
	Project	Alternative 1	Alternative 2	Alternative 3	Alternative 4
Decontaminate and remove all contaminated equipment, structures, and soils and comply with requirements identified in federal, state, and local hazardous waste and air quality regulations	Meets Objective	Does Not Meet Objective	Meets Objective (Similar to Project)	Meets Objective (Meets Objective to greater extent than Project)	Meets Objective (Meets Objective to lesser extent than Project)
Control, minimize, or eliminate, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated rainfall or run-off, or waste decomposition products to the ground or surface waters or to the atmosphere	Meets Objective	Does Not Meet Objective	Meets Objective (Meets Objective to lesser extent than Project)	Meets Objective (Meets Objective to greater extent than Project)	Meets Objective (Meets Objective to lesser extent than Project)
Minimize or eliminate the need for further site maintenance	Meets Objective	Does Not Meet Objective	Meets Objective (Similar to Project)	Meets Objective (Similar to Project)	Meets Objective (Similar to Project)
Implement construction, management, and long-term monitoring programs to protect public health and ensure all closure standards are met	Meets Objective	Does Not Meet Objective	Meets Objective (Similar to Project)	Meets Objective (Similar to Project)	Meets Objective (Similar to Project)

C. Alternative 1: No Project/No Development Alternative

Although the No Project alternative is not legally feasible in this instance due to various regulatory and other legal mandates, CEQA requires that an EIR include an analysis of a No Project Alternative. The No Project Alternative analyzes what would be expected to occur if the proposed Project were not approved. Pursuant to Section 15126.6(e)(2) of the CEQA Guidelines, the No Project Alternative shall:

... discuss the existing conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time the environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.

The No Project Alternative assumes that Exide ceases operation at the facility but that the closure process is not implemented. The Exide Facility would remain non-operational with access limited to site maintenance and security only. All buildings and equipment would remain, on-site and no construction would occur. The No Project Alternative assumes that the corrective action process would continue, as discussed in Section 1; however, as the corrective action process has been previously assessed, potential impacts of the corrective action process are not analyzed as part of the No Project Alternative. Impacts of the No Project Alternative are assessed in Sections 6.4.1.1 through 6.4.1.12 of the DEIR.

Finding

- *The No Project Alternative is not legally feasible due to various regulatory and other legal requirements.*
- *The No Project Alternative does not meet any of the Project objectives.*

Facts in Support of Finding

Alternative 1 would avoid the significant and unavoidable impacts of the Project, but would achieve none of the Project objectives, is impermissible as a matter of law, and is thus infeasible. (See Tables 1 and 2 above.) Under RCRA, a facility in existence before 1980 was granted “interim status,” provided that it met certain requirements, such as filing a Part A permit application and receiving a USEPA identification number. Interim Status allowed a facility to continue to operate pending review and a decision on the facility’s permit application. The previous Exide Facility operator, Gould Inc., filed a RCRA Part A notification on November 19, 1980, as a treatment and storage facility. Gould was issued an Interim Status Document (ISD) by the California Department of Health Services (DHS), DTSC’s predecessor, on December 18, 1981. SCAQMD issues permits to construct and operate air emission sources, such as new units and modifications to existing units. SCAQMD issued a Title V permit to Gould (subsequently transferred to Exide) allowing the operation of equipment at the Exide Facility.

Compared to the Part A, the permit application typically contains more detailed, site-specific information regarding the facility’s description, design, and structure; geologic and hydrologic information about the facility’s vicinity; hazardous waste treatment and storage activities; management practices; employee training; safety precautions; and emergency response plans. The RCRA permit application for a Hazardous Waste Facility Permit was initially prepared and submitted on November 8, 1988. The application was then revised several times to incorporate Exide Facility modifications, requests for additional information, and regulatory developments, including the State-ordered corrective actions.

Health and Safety Code Section 25187(b) gives DTSC authority to issue an order requiring corrective action whenever DTSC determines that there is or has been a release of hazardous waste or constituents to the environment from a hazardous waste facility. A RCRA Facility Assessment (RFA) is the first step in a process to determine if future cleanup, or corrective action, is necessary. The RFA is designed to identify whether activities at the Exide Facility have caused or have the potential to cause a release of hazardous substances into the air, soil, or

groundwater. An RFA was conducted at the Exide Facility in 1990, which identified contamination from past operations at the site. Based on the RFA, DTSC directed Gould (now Exide) to conduct the next stage in the corrective action process—a RCRA Facility Investigation (RFI), which is used to ascertain the nature and extent of contamination from releases at the facility. DTSC and the facility signed a Corrective Action Consent Order (CACO), on February 25, 2002, which details the steps required to determine the extent of impacts and the most appropriate remedies.

In February 2015, DTSC communicated its intent to Exide to deny their permit application. In March 2015, Exide reached an agreement with the U.S. Department of Justice (DOJ) and DTSC to withdraw the facility's permit application and permanently close the facility by implementing a DTSC-approved Closure Plan. DTSC issued a Stipulation and Order Amendment (2015 Amendment) on March 12, 2015, which provided detail for the closure of the facility. Because of the DOJ and DTSC Orders, Exide is legally obligated to move forward with Closure.

D. Alternative 2:

Under Alternative 2, Exide would use rail transport for movement of contaminated construction waste and soil, rather than trucks. All closure activities would otherwise be identical to the proposed Project.

Finding

- *Alternative 2 not feasible due economic, legal, social, technological, or other considerations, noted below.*
- *Alternative 2 does not meet any of the Project objectives, as well as the Project.*
- *Alternative 2 would not reduce the significant and unavoidable impacts of the Project.*

Facts in Support of Finding

As noted below, this alternative would not avoid the significant and unavoidable impacts of the Project and would be infeasible for the reasons noted here. (See also Tables 1 and 2 above.) As with the proposed Project, this alternative would transport excavated hazardous material for disposal to a permitted RCRA hazardous waste landfill, which is operated by U.S. Ecology and located in Beatty, Nevada.

Procedures for safe loading of rail cars, with appropriate air emission controls, would not be possible under Alternative 2. Trucks can be backed into a covered building, lined, filled, and sealed under negative pressure so there is little chance of contamination during the material handling process. Rail cars, however, could not be filled in this manner, as the tracks do not extend to the covered building. Moreover, even if the track did reach the building, there would be no way to fit an entire train into the building or uncouple rail cars under negative pressure. Thus, the chance of accidental release of hazardous materials on-site would be increased. Dust

would also be a concern, as loading would not happen under negative pressure, but would occur outside the limits of the dust monitors described in DEIR Section 3.2.

As described in the DEIR, Alternative 2 would result in similar or identical impacts compared to the proposed Project. Potential impacts associated with traffic would be reduced, as fewer trucks would be needed to transport material, although the significance determinations for these impacts would remain identical to the proposed Project. For hazards and hazardous materials, Alternative 2 would reduce the potential for impacts from transport over long distances, but potential impacts within southern California are likely to be similar to trucks, as rail corridors in the area are also within proximity to residential areas. Also relative to hazards and hazardous materials, this alternative would increase the potential for impacts during material loading; however, these changes would not alter the significance determinations compared to the proposed Project.

E. Alternative 3:

As discussed in Chapter 2 of the DEIR, when the Exide Facility ceased operations in 2014, solidified lead remained within the refining and receiving kettles. As part of closure, Exide must remove the lead in the kettles before it can decommission the kettles. Loose pieces of solidified lead within the refining and receiving kettles will be removed by hand. Kettles containing lead and weighing less than 12 tons will be removed with a crane. Under the proposed Project, the lead in kettles would be re-melted to remove it from the kettles. Under Alternative 3, for kettles with more than 12 tons of lead, lead would be removed from the kettles using mechanical means.

Finding

- *In adopting Alternative 3, changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.*

Facts in Support of Finding

Alternative 3 would reduce the significant and unavoidable air quality and GHG impacts of the Project, meets the Project objectives, and is feasible. (See Tables 1 and 2 above.) DTSC hereby adopts this alternative.

Alternative 3 would reduce the significant and unavoidable air quality and GHG impacts of the Project. As noted in Section 8 above, a significant portion of the air quality and GHG impacts would result from natural gas emissions from re-firing the kettles. For instance, re-firing the kettles contributes about 12 percent of total unmitigated NO_x and 20 percent of the mitigated emissions in 2016 as shown in DEIR Tables 3.2-7 and 3.2-8, summarized in **Table 3** below. It likewise contributes to NO₂ and GHG impacts. These impacts would be substantially reduced under Alternative 3, although the impacts will remain significant.

Table 3: Criteria Pollutant Emissions

Alternatives	PM₁₀ Total (lb/day)	PM_{2.5} Total (lb/day)	NO_x (lb/day)	SO_x (lb/day)	CO (lb/day)	VOC (lb/day)
Proposed Project to re-melt lead (with gas burners)	28	24	415	1	272	42
Alternative 3 (without gas burners)	25	21.1	363.6	0.8	258.1	39.2
Proposed Project to re-melt lead (with gas burners) and Mitigation	18	15	251	1	272	26
Alternative 3 (without gas burners) and Mitigation	13	12.1	199.6	0.8	258.1	23.2
<i>Significance threshold</i>	<i>150</i>	<i>55</i>	<i>100</i>	<i>150</i>	<i>550</i>	<i>75</i>

Notes: See DEIR Tables 3.2.6 and 3.2.8.

Alternative 3 is feasible. There are 13 kettles in the Smelter Building, containing varying amounts of solidified lead. These kettles must be removed from the facility before the Smelter Building can be decontaminated and deconstructed during closure. As discussed in Section 2.3.3.1 and Sections 6.4.3, and 6.4.4 of the DEIR, 6 of the 13 kettles contain less than 12 tons of solidified lead and 7 contain more than 12 tons. Exide has an overhead crane with a 15-ton capacity, and each kettle, without the lead, weighs close to 3 tons. The 6 kettles with less than 12 tons of lead can be lifted out of the Smelter Building using Exide's overhead crane without having to first remove the lead. The seven remaining kettles would exceed the maximum lifting capacity of the overhead crane if the solidified lead is left in them. Therefore, the lead must be extracted before these kettles can be removed from the Smelter Building.

Alternative 3 contemplates that the lead will be extracted from the kettles by mechanical means. Although this alternative originally contemplated at least some manual removal through confined space entry, this alternative was revised in response to comments as explained in FEIR Sections 2.3.1.3, 2.3.1.4, 2.3.1.5, and 3.1.1.8. As approved, Alternative 3 does not prescribe the methods that may be used to remove lead from the kettles. Overall, there are a number of options that would be considered mechanical removal. One method is to cut the lead-filled kettles using a wire saw, which would limit the generation of dust and particulates when compared with other mechanical means, such as jack hammering. Another option is the use of expansive demolition grout (non-explosive). With this approach, holes would be drilled into the lead and grout would be poured into the holes. The grout would slowly expand over one to two days, fracturing the lead and making it easier to remove. Robotic technology could also be employed. Finally, it may be possible to utilize gantry cranes to move the kettles from their current location to a working space within an existing structure, to cut the kettles away from the lead, and then divide the lead into chunks that can more manageably be transported. This latter option may offer the benefit of minimizing or avoiding confined-space entry by workers into the kettles. As noted in the FEIR Section 2.3.1.5, the applicant has expressed an intent to incorporate a gantry crane process in the Closure Implementation Plan. (See *Mechanical Kettle*

Removal – Gantry System Method, Exide Technologies, Vernon, California (Advanced GeoServices 2016).)

As explained in FEIR Section 2.3.1.5, a gantry crane would be used to move the kettles from their existing location in the basement of the Smelter Building to the Blast Furnace Feed Room, where saws would be used to deconstruct the kettles and separate them from the solidified lead inside. The lead would then be cut into large pieces and ultimately transported to a secondary lead smelter for off-site recycling. All activities would be conducted within a filtered ventilation, negative pressure enclosure. The benefit of this method is that it would reduce (and perhaps eliminate) the need for workers to enter a confined space in order to remove the lead from the kettles. This variation of Alternative 3 would improve worker safety and conditions as well as reduce the time required for kettle removal, and, thus, is expected to reduce Project impacts.

Based on information obtained and developed during the environmental review process, DTSC has concluded that the proposal to re-melt the lead in the kettles would contribute to the significant and unavoidable air quality impacts of the Closure Plan. Accordingly, DTSC rejects and does not approve those aspects of the Project. Instead, DTSC hereby approves Alternative 3, mechanical removal because it contributes less to these significant impacts of the Project.

The contractor selected for implementation of the approved Closure Plan will be required to identify its mechanical cutting strategy in the Closure Implementation Plan that will meet performance-based specifications for removal of the lead and kettles. The contractor will also submit a Health and Safety Plan that is protective of the workers engaged in implementation.

F. Alternative 4:

As discussed in Section 2 of the FEIR, when the Exide Facility ceased operations in 2014, solidified lead remained within the refining and receiving kettles. As part of closure, Exide must remove the lead in the kettles before it can decommission the kettles. Loose pieces of solidified lead within the refining and receiving kettles will be removed by hand for transport to an off-site recycling facility during closure. Kettles that have less than 12 tons of lead will be removed with a crane. Under Alternative 4, in kettles with more than 12 tons of lead, a water jet would be used to cut small pieces of lead from the larger mass until the kettle was under the 12-ton limit and could be removed via crane. The smaller pieces would be manually removed from the kettles and loaded on trucks to be transported to hazardous waste disposal facilities.

Finding

- *Alternative 4 not feasible due economic, legal, social, technological, or other considerations, noted below.*
- *Alternative 4 does not meet any of the Project objectives, as well as the Project.*
- *Alternative 4 would not reduce the significant and unavoidable impacts of the Project.*

Facts in Support of Finding

As noted below, this alternative is infeasible for the reasons noted herein. (See also Tables 1 and 2 above.) “Water jet” is the generic term used to describe equipment that uses a high-pressure stream of water for cutting or cleaning purposes. A typical water jet cutting system uses approximately 150 gallons of water per minute with a pump capacity designed at 20,000 to 40,000 pounds per square inch. Water jets can cut virtually any material up to six (6) inches thick, depending on the hardness of the material and is most effectively used to cut flat sheets of material. Water jet cutting can use the force of water alone to cut material or an abrasive can be added to the water to create more friction to cut through harder materials (Frampton 2015).

Under this alternative, a specialized robotic device with high-pressure spray heads would be designed and built over a period of several months to access and cut the solid lead. An abrasive, likely garnet, would be added to cut through the lead. Garnet is an inert, naturally occurring, semiprecious mineral, which is either mined from mountains or beaches (Fabricator 2009). Water jet cutting is not as effective when cutting curved surfaces and will not differentiate between materials; therefore, it would be used to cut lead pieces out of the center of the kettle but would leave an edge of lead around the circumference of the kettle to ensure the kettle does not collapse.

Water jet cutting will result in a hazardous waste stream: the water containing lead grit particles resulting from the cutting process. This waste stream must be controlled and collected for treatment. The amount of water to be collected and treated is approximately 9,000 gallons per hour, which is equivalent to 72,000 gallons per day (gpd). The existing WWTP is designed to handle 310,000 gpd and therefore would be able to accommodate this volume; however, it is not designed to collect and convey water from such an operation.

In addition as discussed further in DEIR Sections 6.4.4.10 and 6.4.4.12, the WWTP may not be able to handle water jet wastewater if there are concurrent water treatment needs on site, or in the case of a maximum storm event. Therefore, under this alternative, a back-up water collection and treatment system would need to be designed and mobilized to the site to ensure no hazardous wastewater was released. Water jet cutting would require approximately 50, eight-hour shifts, or 10 weeks to implement, plus the time needed to mobilize and demobilize the water jet cutting equipment and the temporary wastewater collection and treatment system, estimated at an additional three months. In total, water jet cutting would take up to six months to complete.

For most resource topics analyzed under CEQA, Alternative 4 would result in similar or identical impacts compared to the proposed Project. Potential impacts associated with hazards and hazardous materials, and public services and utilities would be increased, although the significance determinations for these impacts would remain identical to the proposed Project.

In sum, this alternative would be inefficient, would potentially exceed the capacity of the WWTP, would extend the time period required for closure, and would not offer environmental benefits. Moreover, as many commenters noted, this alternative would consume a significant quantity of water during a severe drought. These factors render this alternative infeasible.

10.0 FINDINGS ON THE MITIGATION MONITORING AND REPORTING PROGRAM

Pursuant to Section 21081.6 of the Public Resources Code, DTSC, in adopting these Findings, also adopts the Mitigation Monitoring and Reporting Program (MMRP) for the Closure Plan. The MMRP is designed to ensure that, during Project implementation, DTSC and other responsible parties will comply with the mitigation measures adopted in these Findings. DTSC hereby finds that the MMRP, which is attached, meets the requirements of Public Resources Code Section 21081.6 by providing for the implementation and monitoring of Project conditions intended to mitigate potential environmental effects of the Project. DTSC hereby adopts the MMRP.

12.0 FINDINGS REGARDING FEIR

Pursuant to CEQA, on the basis of the review and consideration of the FEIR, DTSC finds that all information included in the FEIR in “response to comments” and “corrections and additions” to the DEIR merely clarifies, amplifies or makes insignificant modifications to an already adequate EIR pursuant to CEQA Guidelines Section 15088.5(b) and that no significant new information has been received that would require recirculation.

13.0 STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Section 15093 of the CEQA Guidelines, DTSC must balance the benefits of the proposed Project against unavoidable environmental risks in determining whether to approve the project. The significant impacts that require such findings are set out above in Section 8 of these findings and are in brief as follows:

- Direct and cumulative air quality impacts: The Project would exceed significance thresholds for NO_x.
- Direct and cumulative air quality impacts: The Project would exceed significance thresholds for NO₂ for sensitive receptors and off-site workers in each year of Phase 1, and PM₁₀ and PM_{2.5} impacts would exceed significance thresholds for off-site workers in each year of Phase 1.
- Direct and cumulative GHG impacts: GHG impacts would exceed significance thresholds for Phase 1.
- Direct and cumulative geology and soils impacts: The impact from strong seismic-related ground shaking during closure activities would be significant.

Table 1 above presents a comparison of the potential impacts of the Project and the Alternatives. As explained in Sections 6 through 9 above, DTSC has adopted all feasible mitigation and all feasible alternatives that have been identified to reduce or avoid these impacts. The impacts nevertheless remain significant and unavoidable.

In accordance with Section 21081(b) of the California Public Resources Code and Section 15093(b) of the CEQA Guidelines, and having balanced the benefits of the Project against the Project's significant and unavoidable impacts, DTSC hereby finds that the specific overriding economic, legal, social, technological or other benefits of the Project described below are individually, as well as collectively, sufficient to outweigh the Project's significant effects on the environment. Therefore, the adverse environmental effects of the Project are considered "acceptable."

Implementation of a DTSC-approved Closure Plan will:

- **Comply with a Stipulation and Order between DTSC and Exide (2015 Amendment), and Non-Prosecution Agreement (NPA) reached with the U.S. Department of Justice (DOJ).** As discussed in the DEIR, in March 2015, Exide was required to cease operations and permanently close its facility pursuant to the 2015 Amendment, and the NPA reached with the DOJ. As ordered by the 2015 Amendment, Exide withdrew its permit application and notified DTSC of its intent to close the facility permanently by implementing a DTSC-approved Closure Plan. Under the 2015 Amendment and California Code of Regulations, title 22, Section 66265.112, DTSC must approve a Closure Plan for the facility before Exide can begin closing it. Under Section 66265.112(d)(5), DTSC must provide the draft Closure Plan for public review and solicit public input before making a final decision. Certification of the EIR would allow Exide to implement the DTSC-approved Closure Plan.
- **Decontaminate and remove all contaminated equipment, structures, and soils and comply with requirements in federal, state, and local hazardous waste and air quality regulations.** The proposed Project would permanently close the Exide Facility, and decontaminate and deconstruct on-site equipment, thereby eliminating future sources of emissions and hazardous waste associated with battery recycling activities.
- **Control, minimize, or eliminate, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated rainfall or run-off, or waste decomposition products to the ground or surface waters or to the atmosphere.** As described fully in the EIR, there are numerous measures included in the Project to protect public health by reducing exposure to lead and arsenic. The proposed Project will be conducted in accordance with the requirements of SCAQMD Rule 1420.1, and ambient air monitoring will be used to assess compliance. Consistent with proposed revisions to Rule 1420.1, Exide will prepare a Compliance Plan for Closure Activities and use toxic air monitors. In complying with Rule 1420.1, the Proposed Project will ensure that no degradation to air quality from lead or arsenic would occur. The Compliance Plan for Closure Activities will also specify the logistics of meteorological and ambient monitoring, air emission controls, housekeeping and maintenance measures, and contingency measures to prevent exceedances of ambient air quality standards for lead and arsenic. DTSC will require Exide to perform a site-wide, multi-pathway Health Risk Assessment prior to Phase 2 to estimate the health impacts posed by the site. The Health Risk Assessment will take into

consideration the site-wide nature and extent of any hazardous waste constituents or chemicals of concern remaining in any media at the site and the engineering and institutional controls to be implemented. In assessing the remaining risk after Phase 1 is complete, this Health Risk Assessment is also being completed to set ultimate cleanup standards. If commenced before Phase 1 of closure is completed, the Health Risk Assessment's risk profiles would be skewed by the existing hazardous waste units, which are already targeted for complete removal, and DTSC would not be able to discern the potential risks from soils and groundwater. DTSC will include the Health Risk Assessment results and analyze them as part of the supplemental CEQA analysis required for Phase 2. Certification of the FEIR would allow Exide to implement the DTSC-approved Closure Plan and commence a full site-wide Health Risk Assessment.

- **Minimize or eliminate the need for further site maintenance.** As a RCRA regulated facility, the Exide Facility is required to be closed using known and effective methods and technology. The Final Closure Plan as analyzed in the EIR achieves this goal and will ensure the entire facility is closed appropriately.
- **Implement construction, management, and long-term monitoring programs to protect public health and ensure all closure standards are met.** A Health and Safety Plan will be prepared by the contractor conducting closure activities for review and approval by DTSC. The Health and Safety Plan will meet the requirements of Cal/OSHA standards and regulations contained in 29 Code of Federal Regulations (CFR) Parts 1910 and 1926 and will consider both workers and the surrounding community. DTSC will require that the Plan include information on hazard identification, hazard evaluation, personal protective equipment, personnel air monitoring, environmental monitoring, site work zones, worker documentation, and emergency procedures. DTSC is also requiring third-party oversight to ensure compliance with the DTSC-approved Closure Plan, the Implementation Plan, and the contractor's Health and Safety Plan.

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14.0 APPROVAL

DTSC has reviewed and considered the environmental information contained in the FEIR State Clearing House No. 2015051081 and hereby determines that it is adequate and in compliance with CEQA. In compliance with Public Resources Code Section 21081 and CEQA Guidelines Section 15093, DTSC has considered the Project benefits as balanced against its unavoidable adverse environmental effects and hereby determines that the benefits outweigh the unavoidable adverse environmental effects; therefore, DTSC determines that the unavoidable adverse environmental effects are acceptable. DTSC hereby certifies the FEIR and associated documents, and adopts the Project MMRP and the Statement of Overriding Considerations.



Division Chief Signature

12-8-16

Date

Rizgar Ghazi, P.E.

Division Chief Name

Chief, Permitting Division,
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