

Response to Comments

This Response to Comments document provides responses to written comments that were received by the City of Hayward (City) following circulation of the Initial Study-Mitigated Negative Declaration (IS-MND) for the proposed 3636 Enterprise Avenue Industrial Project, hereafter referred to as the proposed project. The IS-MND identifies the likely environmental consequences associated with implementation of the proposed project and recommends mitigation measures to reduce potentially significant impacts.

The California Environmental Quality Act (CEQA) does not require formal responses to comments on an IS-MND, but instead requires that the lead agency consider the comments received [CEQA Guidelines Section 15074(b)]. Nevertheless, responses to the comments are included in this document to provide a complete environmental record.

Pursuant to CEQA, lead agencies are required to circulate a Notice of Intent to Adopt a Mitigated Negative Declaration and provide the general public and public agencies with an opportunity to comment on the Draft IS-MND. The IS-MND for the project was circulated for public review for a 30-day review period, from July 29, 2022, to August 29, 2022. During the circulation period, the City received written comment letters from three public agencies:

- Letter 1: Bay Area Air Quality Management District
- Letter 2: California Department of Toxic Substances Control
- Letter 3: San Francisco Bay Conservation and Development Commission

The following table summarizes each comment in the letters and provides the City's written responses. Copies of the comment letters are attached after the table.

Comment (Paraphrased)	Response to Comment
<p>Letter 1: Bay Area Air Quality Management District</p> <p>The commenter acknowledges that mitigation measures in the IS-MND reduce air quality emissions to below significance thresholds established by the BAAQMD for determining the significance of impacts for purposes of CEQA. The commenter provides a list of practices or measures that would further reduce fugitive dust and construction exhaust emissions and recommends that these practices or measures be implemented.</p>	<p>The commenter is correct that the IS-MND provides mitigation measures that would reduce all impacts of the project, including air quality impacts, to levels that are less than significant. Specifically, as discussed on pages 36 and 37 of the IS-MND, with implementation of mitigation measures AQ-1a and AQ-1b, construction emissions of the project would be below BAAQMD thresholds, and impacts would be less than significant. According to Section 15126.4(a)(3) of the State CEQA Guidelines, mitigation measures are not required for effects which are found to be less than significant. The air quality impacts would be less than significant with mitigation measures already provided in the IS-MND; therefore, additional mitigation, such as the list of practices or measures recommended by the commenter, are not required in the IS-MND. No revisions to the IS-MND are necessary in response to this comment.</p> <p>Although the list of practices or measures provided by the commenter are not required to become mitigation measures for the project or IS-MND, the City understands that the practices or measures would reduce dust and exhaust. Accordingly, the City has provided the list to the project applicant to implement at their discretion. Additionally, although not thoroughly described in the IS-MND, the City has standard Conditions of Approval that it requires during construction, generally. For example, the City requires project applicants to moisten exposed soils during construction to prevent wind erosion and reduce dust. The City's standard Conditions of Approval would achieve many of the same goals as the list of practices or measures recommended by the commenter.</p>
<p>The commenter acknowledges that the project includes emissions reduction measures throughout operations. The commenter provides a list of practices that would further reduce operational emissions.</p>	<p>The commenter is correct that the project includes emissions reduction measures such as the availability of bike facilities and installation of 7 electric vehicle (EV) charging stations. These would reduce operational emissions of the project.</p> <p>Although the list of practices provided by the commenter are not required to become mitigation measures for the project or IS-MND, the City understands that the practices or measures would reduce operational emissions. Accordingly, the City has provided the list to the project applicant to implement at their discretion. No revisions to the IS-MND are necessary in response to this comment.</p>
<p>The commenter acknowledges that some aspects of the project may require permitting from the Air District and offers a contact to discuss permit requirements.</p>	<p>This comment has been noted and no revisions to the IS-MND are necessary in response to this comment.</p>

Comment (Paraphrased)	Response to Comment
Letter 2: Department of Toxic Substances Control	
<p>The commenter requests that the IS-MND identify a qualified regulatory agency that provided oversight and concurrence that the Phase I and II ESAs were conducted in accordance with industry standards and that the proposed project is protective of human health and the environment.</p>	<p>The IS-MND includes both the Phase I and II environmental site assessments (ESAs) as Appendices ESA and RPS, respectively. Both ESAs were conducted by RPS Group and state that they were conducted in overall accordance with industry standards, including the requirements of ASTM-13 and the federal All Appropriate Inquiries (AAI) standard. Furthermore, CEQA does not specifically require regulatory agency oversight of a Phase I or II ESA investigation. Therefore, both documents provide sufficient and reliable data on which to base the CEQA analysis. No revisions to the IS-MND are necessary in response to this comment.</p>
<p>The commenter suggests that the Soil and Groundwater Vapor Management Plan (SSVMP) and Groundwater Vapor Mitigation System (GVMS) should have oversight from a regulatory agency. The commenter further requests that the groundwater vapor mitigation system should have long-term operations and maintenance, and sampling to ensure that building occupants remain protected.</p>	<p>The IS-MND includes mitigation measures HAZ-2 and HAZ-3 (page, 89-91), which state that the San Francisco Bay RWQCB and the City shall review and approve the SSVMP and GVMS prior to demolition and construction activities. As a regulatory agency, the San Francisco Bay RWQCB would provide oversight for both the SSVMP and GVMS and could recommend long-term operations and sampling to be conducted as part of the approved plan and system. Therefore, no revisions to the IS-MND are necessary in response to this comment.</p>
<p>The commenter suggests that if any buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk.</p>	<p>This comment has been noted and will be taken into account by the project applicant and City staff if demolition should occur that would require a survey for lead-based paints, mercury, or polychlorinated biphenyl caulk. The IS-MND includes Mitigation Measure HAZ-1 (Page 89), which states that a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of the on-site radio transmitter building to determine the presence of asbestos-containing materials (ACMs). No revisions to the IS-MND are necessary in response to this comment.</p>
<p>The commenter suggests that if any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination.</p>	<p>This comment has been noted and will be taken into account by the project applicant and City staff if imported soil would be used during site preparation. No revisions to the IS-MND are necessary in response to this comment.</p>
<p>The commenter suggests that if any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the IS-MND.</p>	<p>As discussed within the Phase I ESA attached to the IS-MND, the site consisted of undeveloped land from at least 1928 through 1960, and in 1969 the current radio towers and radio transmitter building were constructed. The site has served as a radio transmission station for KFAX 1100 AM since 1969 and KTRB 860 AM since 2016. No current or historical site operations with a potential to impact the site were identified. Therefore, no revisions to the IS-MND are necessary in response to this comment.</p>
<p>The commenter states appreciation for the opportunity to comment on the IS-MND and provides a link to apply for lead agency oversight.</p>	<p>This comment has been noted and no revisions to the IS-MND are necessary in response to this comment.</p>

Comment (Paraphrased)	Response to Comment
Letter 3: San Francisco Bay Conservation and Development Commission	
<p>The commenter requests that the project proponent review whether any portion of their project is within the Bay Conservation and Development Commission’s Bay or shoreline band jurisdiction, and if so, should apply for a BCDC permit. The commenter provides a link to the BCDC website.</p>	<p>As discussed on Page 40 of the IS-MND, the project site is located approximately 400 feet from marshlands associated with the San Francisco Bay and ranges from 8 to 12 feet above sea level. Based on this, and previous research conducted through the environmental review process, the project is not located within the BCDC bay or shoreline band jurisdiction. No revisions to the IS-MND are necessary in response to this comment.</p>

Appendix A

Comment Letters

RE: [EXT] Re: 3636 Enterprise Avenue Industrial Project MND - Bay Area Air Quality Management District comments

From: Mark Tang <mtang@baaqmd.gov>

Sent: Thursday, August 25, 2022 5:31 PM

To: Ranu Aggarwal <Ranu.Aggarwal@hayward-ca.gov>

Cc: Alison Kirk <AKirk@baaqmd.gov>; Wendy Goodfriend <wgoodfriend@baaqmd.gov>

Subject: 3636 Enterprise Avenue Industrial Project MND - Bay Area Air Quality Management District comments

CAUTION: This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Ranu Aggarwal,

We received notice of the **3636 Enterprise Avenue Industrial Project MND** and wanted to send you relevant recommendations and resources for the development of this project. While the project's mitigated impacts do not exceed the Air District Thresholds, these resources and recommendations are helpful to further reduce air pollutants and minimize greenhouse gas emissions with the most up to date best practices for warehouse projects especially for projects located in disadvantaged communities (SB 1000) and within Air District Overburdened Communities (as defined by Air District [Regulation 2, Rule 1: General Requirements, Section 2-1-243](#)).

While the project includes some dust mitigation measures to meet Hayward Municipal Code Section 10-8.32, the Air District also recommends implementing all feasible and practical best management practices as prescribed under the Air District's California Environmental Quality Act (CEQA) Thresholds and Guidelines, "Basic Construction Mitigation Measures" and "Additional Construction Mitigation Measures" to reduce construction-related fugitive dust to the greatest extent possible ([Table 8-3, page 85](#)). Some examples would include, but not be limited to the following:

- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
- Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
- Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
- The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
- Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.

We also commend you for taking measures to reduce construction-related exhaust emissions. Measures such as using Tier 4 construction equipment will eliminate most construction-related exhaust emissions. For further emissions reduction, additional measures can be taken at the construction site, including:

- Prohibiting portable diesel generators from construction site where grid power is available, or use of alternatively-fueled generators such as propane or solar electrical power where grid power is not available.

- Requiring newer model engines, no more than eight years old for on-road haul trucks.
- Using EPA SmartWay certified trucks for deliveries and equipment transport.
- Requiring off-road construction equipment to be zero-emission, where available. This requirement should be included in applicable bid documents, purchase orders, and contracts, with successful contractors demonstrating the ability to supply the compliant construction equipment for use prior to any ground-disturbing and construction activities.

In addition, we commend the project for incorporating emissions reduction measures throughout operations such as the availability of bike facilities and installation of 7 electric vehicle (EV) charging stations. The Air District encourages the Project Sponsor to adopt further project benefits beyond existing requirements and reach codes to further reduce operational emissions. Consider implementing the following best practices and those included in the resources section below to further reduce the project's footprint.

1. Implement a program that incentivizes construction workers and building tenants to carpool, use EVs, or use public transit to commute to and from the site. The program may include the following features:
 - Provide a shuttle service to and from BART
 - Provide preferential parking to carpool vehicles, vanpool vehicles, and EV's
 - Schedule work shifts to be compatible with the schedules of local transit service
2. Install additional charging infrastructure, and at minimum EV-ready infrastructure that will help to:
 - Prohibit or minimize the use of diesel fuel, consistent with the Air District's Diesel Free By '33 initiative (<http://dieselfree33.baaqmd.gov/>)
 - Transition to a zero-emission fleet domiciled at the project site for Class 2 through 6 trucks by December 31, 2027, for class 7 and 8 trucks by December 31, 2025, or when commercially available, and for delivery vehicles (such as vans) by December 31, 2027
 - Support vehicle electrification, including 100% electric drayage trucks, from the Project's start
 - Support electrification of Transport Refrigeration Units (TRU), from the Project's start
3. Procure 100% renewable energy from the load serving utility:
 - Community Choice Aggregator (East Bay Community Energy); or
 - Investor-Owned Utility (Pacific Gas & Electric)

The Air District strongly recommends that all Mitigation Measures that either directly or indirectly reduce health risks and have air quality benefits, including AQ-1a and AQ-1b be required as conditions of approval. Additionally, the lead agency should ensure that the Mitigation and Monitoring and Reporting Program (MMRP) uphold rigorous enforcement of these measures and maximizes the community benefits from all Mitigation Measures included in the MND.

In conclusion, certain aspects of the Project may require a permit from the Air District (for example, backup diesel generators and asbestos demolition). Please contact Barry Young, Senior Advanced Projects Advisor, at (415) 749-4721 or byoung@baaqmd.gov to discuss permit requirements.

Resources:

The first two documents are similar logistics center/warehouse comment letters that describe Air District recommendations. We are also including additional resource links from other agencies and the Attorney General's office that could be useful in the development of this project.

- [BAAQMD CEQA Comment Letter: CenterPoint North Richmond Warehouse Project EIR](#)

- [BAAQMD CEQA Comment Letter: Scannell Properties, LLC North Richmond Warehouse Project NOP](#)
- [CARB's Concept Paper for the Freight Handbook](#): Provides practices to minimize community health impacts from warehouses and freight facilities.
- [CA Attorney General's Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act](#): References good neighbor policies, best practices for community engagement, and other requirements such as fully analyzing impacts from truck trips.

Let us know if you have any questions or would like to discuss. Thank you again for your time.

Best,

Mark Tang (he/him/his)

Principal Environmental Planner

Bay Area Air Quality Management District

 mtang@baaqmd.gov

→ 📞 (415) 749-4778



Jared Blumenfeld
Secretary for
Environmental Protection



Department of Toxic Substances Control

Meredith Williams, Ph.D., Director
8800 Cal Center Drive
Sacramento, California 95826-3200



Gavin Newsom
Governor

SENT VIA ELECTRONIC MAIL

August 29, 2022

Ms. Ranu Aggarwal
City of Hayward
777 B Street
Hayward, CA 94541
Ranu.Aggarwal@hayward-ca.gov

INITIAL STUDY-MITIGATED NEGATIVE DECLARATION FOR 3636 ENTERPRISE AVENUE INDUSTRIAL PROJECT – DATED JULY 2022 (STATE CLEARINGHOUSE NUMBER: 2022070542)

Dear Ms. Aggarwal:

The Department of Toxic Substances Control (DTSC) received an Initial Study-Mitigated Negative Declaration (IS-MND) for the 3636 Enterprise Avenue Industrial Project (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, presence of site buildings that may require demolition or modifications, importation of backfill soil, and/or work on or in close proximity to an agricultural or former agricultural site.

DTSC recommends that the following issues be evaluated in the Hazards and Hazardous Materials section of the IS-MND:

1. The IS-MND states that a Phase I Environmental Site Assessment (ESA) performed at the proposed project site identified two historical recognized environmental conditions (RECs) that included abandoned waste oil drums and asbestos-containing materials (ACM). The Phase I ESA also identified a single non-historical REC known as the Runnels property. A metal finishing and coating business was run on this property from 1966 through 2006. Groundwater at the Runnels property was determined to have been affected with metals, trichloroethylene, tetrachloroethylene, and 1,1-dichloroethylene. Soil contamination associated with the Runnels property included arsenic, chromium,

copper, zinc, petroleum hydrocarbon as diesel, petroleum hydrocarbon as oil, and polyaromatic hydrocarbons.

Based on results of the Phase I ESA, a Phase II ESA for the proposed Project site was prepared in March 2021. Analytical results of samples collected for the Phase II ESA showed elevated levels of arsenic in soil. Based on laboratory analytical results of groundwater samples collected for the Phase II ESA, groundwater at the project site was determined to contain 1,1-dichloroethene, 1,1-dichloroethane, cis-1,2-dichloroethene, trichloroethene, and tetrachloroethene. Trichloroethene concentrations were determined to exceed environmental screening levels. The IS-MND proposes three mitigation measures that include project activities to address hazards related to building demolition, a Soil and Groundwater Vapor Management Plan, and a groundwater vapor mitigation system.

DTSC recognizes the rationale for identification of the three RECs given the historic and current uses of the Project site and adjacent properties. However, the IS-MND does not identify a qualified regulatory agency that has provided regulatory oversight and concurrence that the Phase I and II ESAs were conducted in accordance with industry standards and that the proposed project is protective of human health and the environment.

A regulatory agency such as DTSC or Regional Water Quality Control Board (RWQCB), or a qualified local agency that meets the requirements of [Assembly Bill 304 \(AB304\)](#) should provide regulatory concurrence that the Phase I and II ESAs were conducted in accordance with industry standards and the site is safe for construction and the proposed use with the proposed mitigation measures. The Soil and Groundwater Vapor Management Plan, and a groundwater vapor mitigation system should have oversight from one of the aforementioned regulatory agencies. The groundwater vapor mitigation system should have long-term operations and maintenance, and sampling to ensure that building occupants remain protected.

2. If buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition, and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with [DTSC's 2006](#)

[Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Based Paint, Termiticides, and Electrical Transformers.](#)

3. If any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to [DTSC's 2001 Information Advisory Clean Imported Fill Material.](#)
4. If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the IS-MND. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 [Interim Guidance for Sampling Agricultural Properties \(Third Revision\).](#)

DTSC appreciates the opportunity to comment on the IS-MND. Should you choose DTSC to provide oversight for any environmental investigations, please visit DTSC's [Site Mitigation and Restoration Program](#) page to apply for lead agency oversight. Additional information regarding voluntary agreements with DTSC can be found at [DTSC's Brownfield website.](#)

If you have any questions, please contact me at (916) 255-3710 or via email at Gavin.McCreary@dtsc.ca.gov.

Sincerely,



Gavin McCreary
Project Manager
Site Evaluation and Remediation Unit
Site Mitigation and Restoration Program
Department of Toxic Substances Control

cc: (via email)

Governor's Office of Planning
and Research
State Clearinghouse
State.Clearinghouse@opr.ca.gov

Mr. Dave Kereazis
Office of Planning & Environmental Analysis
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov

Reply all Delete Junk Block ...

3636 Enterprise Avenue

Retention: 60 Day Retention Policy-Inbox (60 days) Expires: Sat 10/29/2022 2:47 PM

PK Pan, Katharine@BCDC <katharine.pan@bcdc.ca.gov> To: Ranu Aggarwal Tue 8/30/2022 2:47 PM

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

Hi Ranu,

I was reviewing the project posted on CEQAnet and saw the posting for the IS-MND for the 363 Enterprise Avenue Industrial Project. I only had a chance to skim the document, but I gathered that the project might be adjacent to tidal marsh. If so, the project proponent should review whether any portion of their project is within the Bay Conservation and Development Commission’s Bay or shoreline band jurisdictions. In areas of tidal marsh, the shoreline is defined as the edge of marsh vegetation up to 5 feet above mean sea level. The shoreline band is defined as 100 feet landward from the shoreline. If they have any work or project components taking place within those areas, they should apply for a BCDC permit. They can review the information on our website (<https://www.bcdc.ca.gov/forms/forms.html>) or get in touch with me or info@bcdc.ca.gov with any questions. Feel free to let me know if you have any questions as well. Thanks!

Katharine Pan

Principal Shoreline Development Analyst
Direct: (415) 352-3650 | katharine.pan@bcdc.ca.gov

San Francisco Bay Conservation and Development Commission
Bay Area Metro Center
375 Beale Street, Ste. 510
San Francisco, CA 94105
Main: (415) 352-3600
www.bcdc.ca.gov | [@SFBCDC](https://twitter.com/SFBCDC)

Reply | Forward