PLANNING COMMISSION MEETING THURSDAY, NOVEMBER 8, 2018

PRESENTATIONS

STAFF PRESENTATION

PUBLIC HEARING Ph#18-085

APPEAL OF DENIAL OF PROPOSED TEMPORARY CONCRETE RECYCLING FACILITY

BAY AREA CONCRETE RECYCLING 24701 CLAWITER ROAD





DEVELOPMENT SERVICES

Bay Area Concrete Recycling Outdoor Concrete Recycling Facility 24701 Clawiter Road

Project Request:



Administrative Use Permit for a "Temporary Use"

To allow the continued operation of their unpermitted outdoor concrete recycling facility on Clawiter Road until such time that their Depot Road indoor facility is approved, built and in operation.



"Temporary Use"



A use established for a specific period of time with the intent to discontinue the use at the end of the designated time period. Examples include retail sidewalk or tent sales.

A "Temporary Use" may be permitted in specified zoning districts, subject to a 12-month maximum time limit, and subject to issuance of an Administrative Use Permit. Two one-year extensions may be considered, subject to the Planning Director's approval and applicable notification procedures.

Other "Temporary Use" that have been approved are: Science in the Park, Zucchini Festival, Off-the Grid and Construction Staging Area. With these uses a CEQA categorical exemption "Minor Alteration to Land" can be used. In the case of an Outdoor Concrete Recycling Facility, even though it may be a "Temporary Use" an Initial Study needs to be conducted and environmental impacts must be mitigated when there is "Potentially Significant Impact" (Aesthetics, Land Use, Hazards & Hazardous Materials, Air Quality and Noise).

Project Sites





Surrounding Uses





Application:

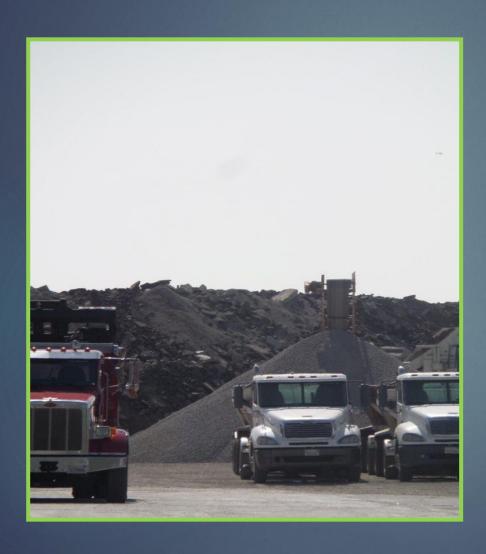
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PL-2012-0378 CUP - November 2012 24701 Clawiter Road Closed August 2013 due to inactivity



Code Enforcement Complaint





November 2013 Code Enforcement receives Complaint that BACR operating a concrete facility at 24701 Clawiter Road

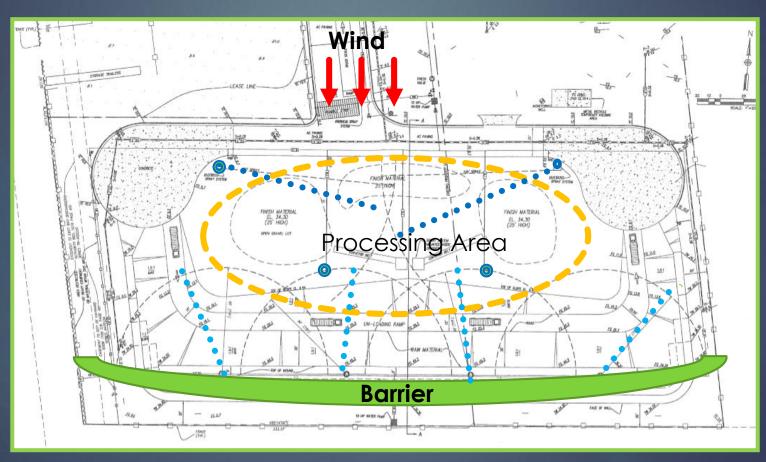
Depot Road Site





Depot Road Facility

PL-2014-0225 AUP Applied April 2014 Approved May 2015 Expired May 2018

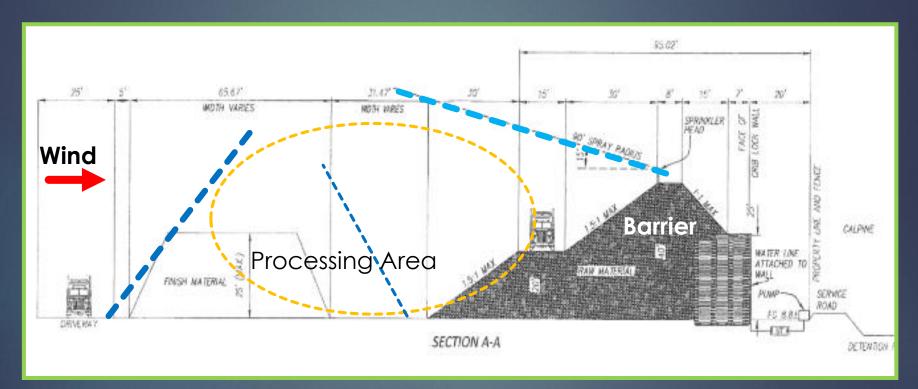


Depot Road Facility

PL-2014-0225 AUP

Approved Plans – May 2015





Fugitive Dust Contained in Processing Area



Issues after Approval

- Concern about PCB
- Source of Recycled Water
- Changes to Approved Plan

Concern about PCB entering into the Bay



- A change in Water Pollution Source Control
 Administrator brought to our attention PCB surface
 runoff entering into the storm drain and into the
 Bay.
- Staff required that the crushed aggregate surface be replaced with paving in the processing area.
- The Conditions of Approval allows the City to impose additional conditions for the public peace, safety and general welfare. In addition, a modification of the original use permit would allow staff to add conditions.

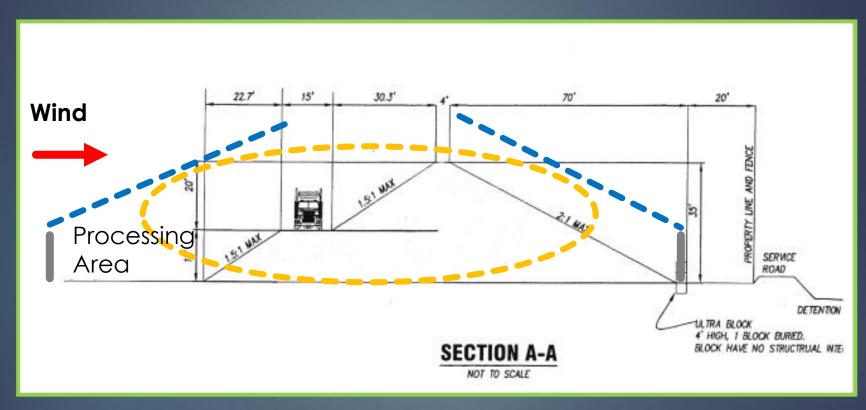


Source of Recycled Water

- BACR identified RCEC as the source of the recycled water as part of their application.
 After the application was approved, RCEC informed BACR that their recycled water was limited to there use only
- BACR identified Eastbay Dischargers as a possible source of the recycled water however it need to be treated and stored in tanks.
- BACR identified trucking water from their Slurry Waste Operation as a source of water.



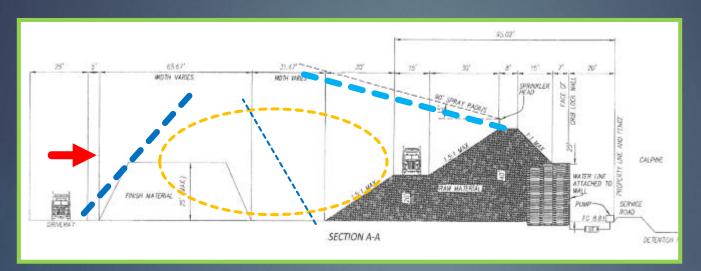
Modification to Use Permit



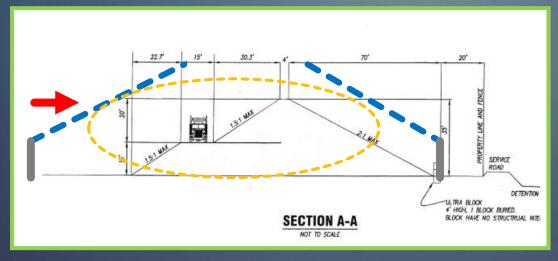
Proposed Modified Plan submitted for a Grading Permit

Modification to Use Permit.





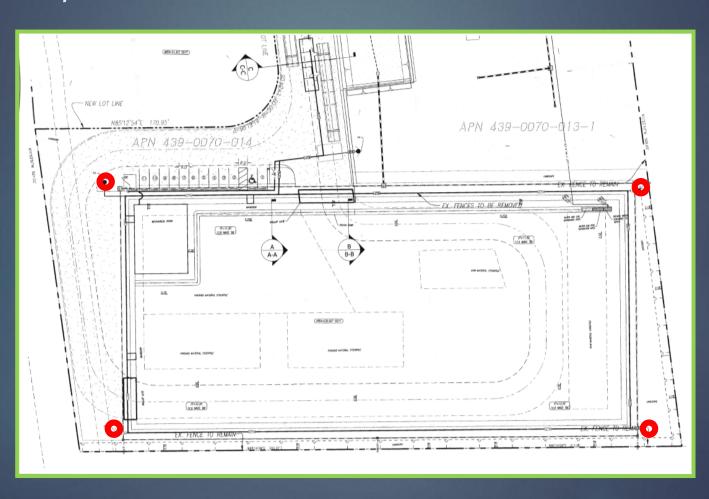
Approved Plan



Proposed Modified Plan

Proposed Depot Road Indoor Concrete Recycling Facility June 7, 2018





Air Permits



Air Resource Board

Statewide Portable Equipment Registration (PERP)

Applied: August 2016

Approved: January 10, 2017

Condition 9 – The portable equipment unit shall not be operated under both statewide registration and a district permit at any specific location.

Bay Area Air Quality Management District

Authority to Construct Applied: July 3, 2018

Decreed Incompletes July

Deemed Incomplete: July 7, 2018

Status as of 11/2/18 application incomplete, no resubmittal received.

BAAQMD "Authority to Construct" permit Exemption:

Processing under 5000 tons per year of concrete is exempt from applying for an "Authority to Construct" permit.

Administrative Use Permit for a "Temporary Use" April 17, 2018







Site Analysis







PERP permit require that all roads subject to vehicular traffic shall be paved or adequately watered to minimize fugitive particulate Matter emissions.













Stockpile sits on 40-foot C & C of San Francisco Water Pipeline Easement and a 15' wide PG & E Easement





Excavator on top of stockpile. Noise Study prepared for the Depot Site recommends that use of the excavator should be at least 40 feet from the property line to be under 70 dba.



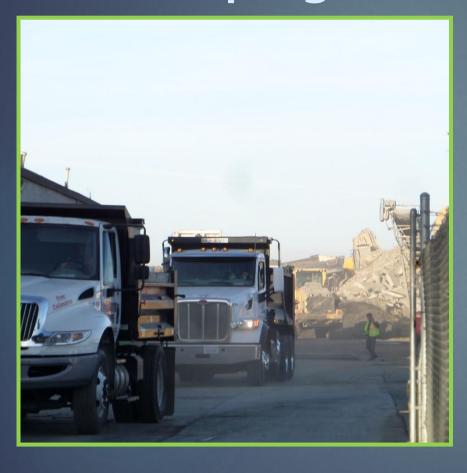


Noise Study prepared for the Depot Site recommends that the crusher should be at least 100 feet from the property line to be under 70 dba.





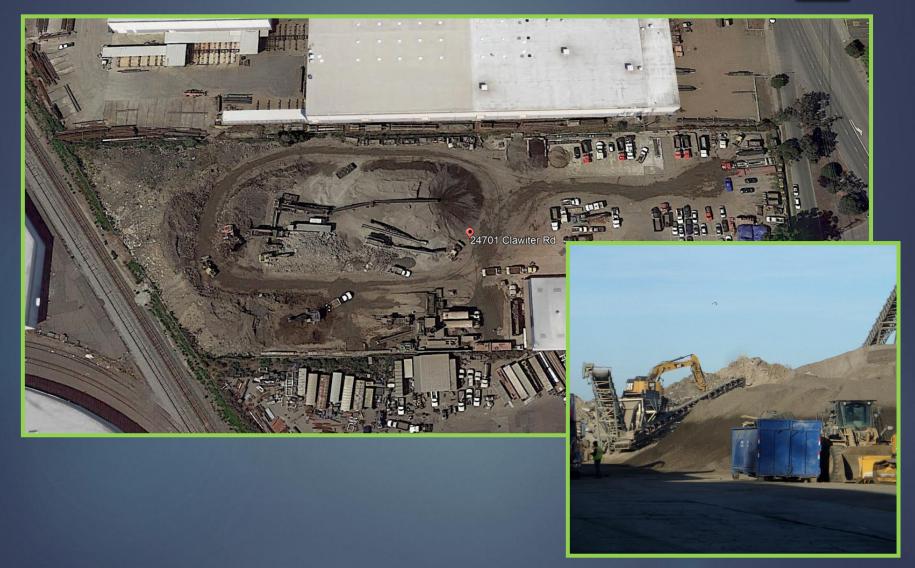
Fugitive Dust created with the dumping of Concrete Rubble





BARC Dust Control Limited





No Dust Control provided during off hours





Stockpile encroaches onto adjacent property







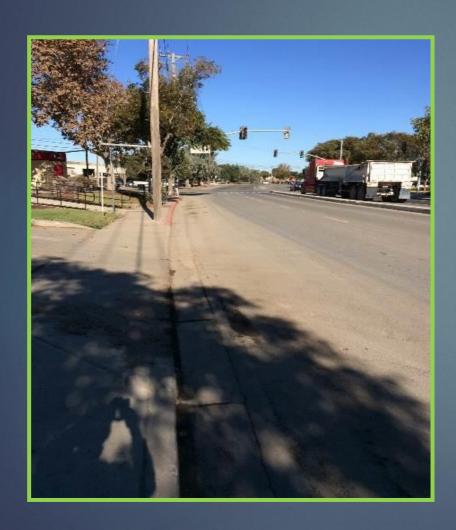
Sediment Drag Out





Sediment Drag Out







Findings for Denial



A. The use is not desirable for the public welfare. It has created objectionable conditions which are a nuisance to owners or users of adjoining property or to the general public.





Findings for Denial



B. The unpermitted concrete recycling facility has impaired the character and integrity of the surrounding area. The existing site does not have the necessary site improvements to minimize the tracking of dust. Previous attempts to street sweep the dust has not been successful.





Findings for Denial



C. The use is detrimental to the public health ,safety and general welfare in that it has been operating without the necessary Bay Area Quality Management District (BAAQMD) permit, which is intended to minimize public health and environmental impacts for the operation of a facility of this size.



Findings for Denial



D. The temporary and continued operation of the Outdoor Concrete Recycling Facility is not in harmony with applicable City policies in that it is not consistent with land use goals and policies of the Hayward 2040 General Plan in that it does not help Hayward transition from a manufacturing-based economy to an information and technology-based economy and is not in an area in the Industrial District suitable for heavy industrial outdoor uses.







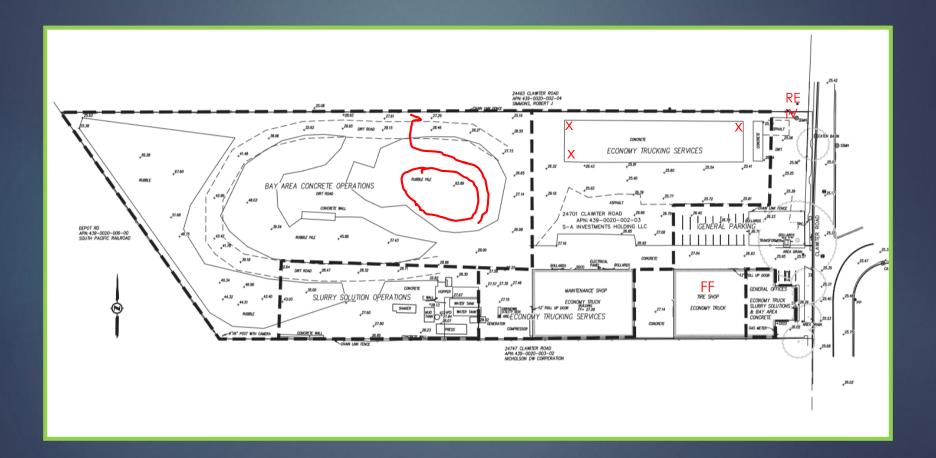
Staff Recommendation

That the Planning Commission

✓ **Deny** the appeal and uphold denial of a Temporary Use for a Concrete Recycling Facility to based on the Findings for Denial

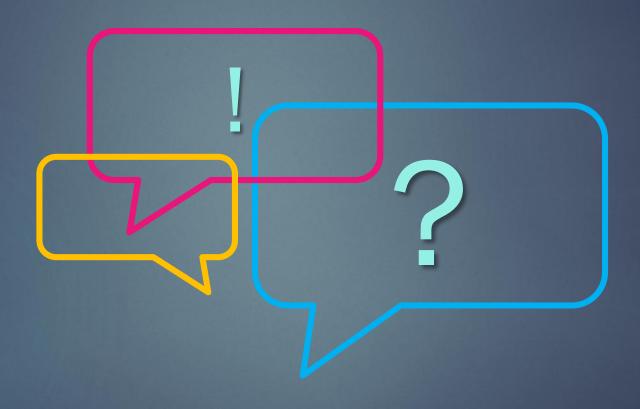
Incomplete Topographical Survey





Questions & Discussion









June 2014



September 2018

Existing Paving





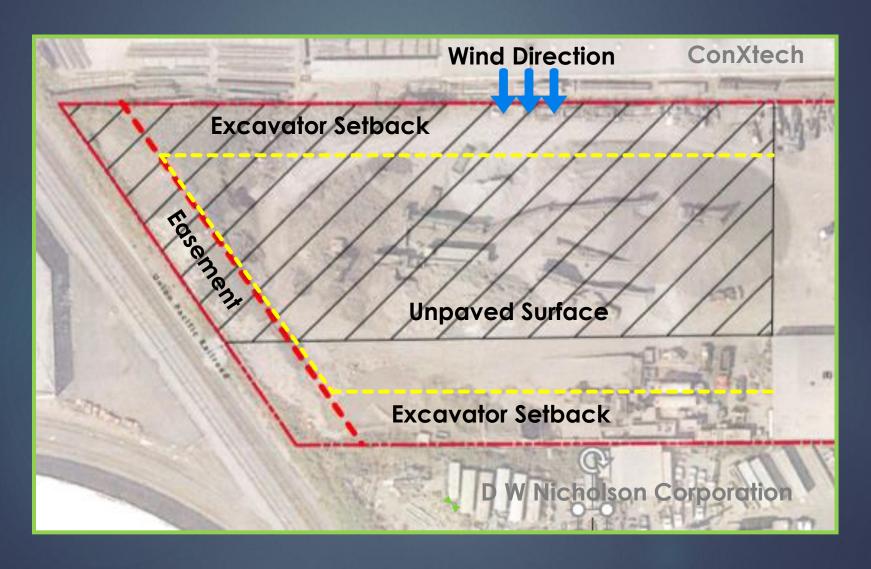




Reference Slides



Site Analysis



Project Location









BACR-Stormwater Chronology

Elisa Wilfong, Water Pollution Control Administrator
Water Pollution Source Control
Utilities & Environmental Services



Chronology of 24701 Clawiter Rd

- ▶ **8/4/2015** First Stormwater Inspection —Verbal notice for unpaved site depositing material on streets, no stormwater pollution prevention plan (SWPPP) on site. Site not filed until the State of CA Industrial General Permit
- ▶ **12/6/2016** Respond to Complaint Stormwater Inspection still no permit/not filed with the State of CA Industrial General Permit. Site clean at the time of inspection, no enforcement taken, however, limited stormwater controls in place and no review of site plan by Planning Department or WPSC to review stormwater drains or environmental impact. WPSC staff assisting Planning site to move illegal operation to Depot Road.
- ▶ **2/22/2017** Routine Inspection, no SWPPP, operations remain the same.
- ▶ 2/23/2017 Respond to Complaint, no SWPPP, Outdoor controls not effective, no BMPs on parking/road area, outdoor storage and processing area with no effective BMPs, dust and sediment on road and drag-out from tires. Facility instructed to sweep and conduct dust control. Inspections were conducted to follow up with BACR and witnessed increased sweeping and dust control.
- ▶ 2/13/2018 Illicit Discharge inspection, dust in street, mud and sediment on sidewalk and storm drain, verbal warning issued.
- ▶ **2/16/2018** Routine Inspection, drag out of sediment, Notice of Violation Issued



Chronology of 24701 Clawiter Rd

- ▶ **2/21/2018** Follow-up Inspection, grates not effective, fine dust dragged out to street, more BMPs required, Admin Citation Issued.
- ▶ **3/6/2018** BMPs still not effective, a meeting is called with WPSC for environmental compliance. No resolution, no change to the continue discharge of pollution in the streets and storm drain.
- ▶ 4/17/2018 BACR applies for a use permit at Clawiter site
- ▶ **7/6/2018** Permit denied
- ▶ 10/31/2018 WPSC inspects facility for the 3rd time in October, BMPs not implemented (no washing of tires, removal of sediment and dust on streets and sidewalk), Admin Citation issued. Still not filed under the State of CA.

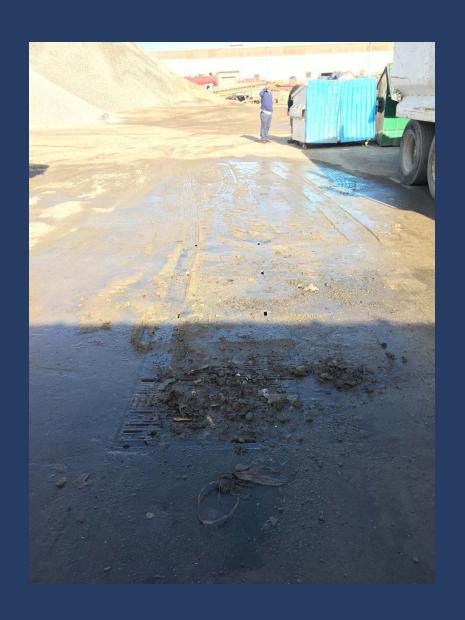


Pollution from Concrete Dust

- Concrete dust is fine particulate matter, easily wind blown and carried onto soils and streets from (track-out) from vehicles
- ▶ Fine particulates collect in wash water, stormwater, and infiltrate groundwater and soils
- ▶ Hazardous pollutants bind to fine particles and travel in wash water, stormwater, and infiltrate groundwater and soils (for example PCBs and heavy metals)
- ▶ Fine concrete dust changes the chemistry of water to a strong alkaline solution that can burn human skin and burn and kill fish and other aquatic life.
- ▶ High sediment loads can smother and kill fish and other aquatic life.
- High sediment loads prevent sunlight from entering the water and kill plant life, which aquatic and terrestrial life depend on in fresh and saltwater habitats.



12/6/2016











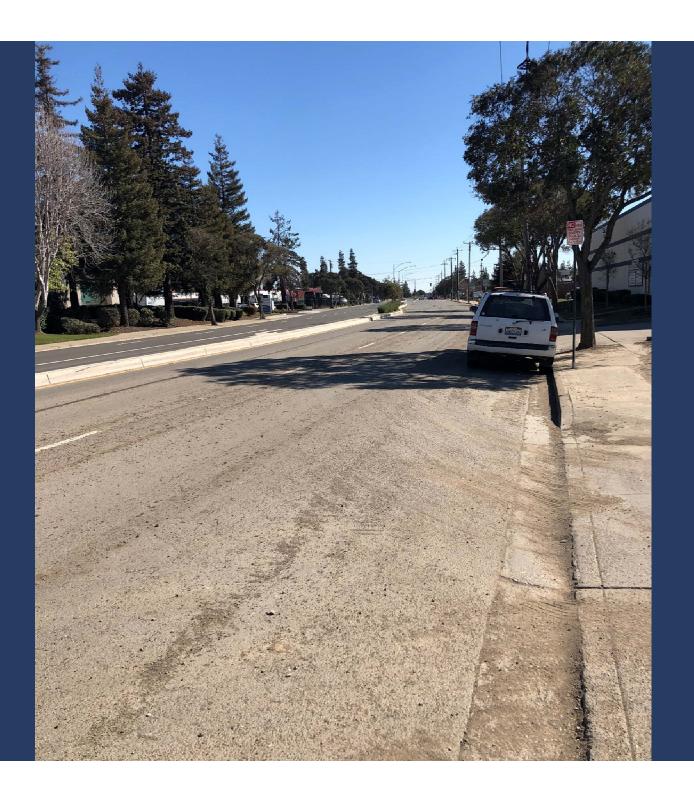
2/27/2017









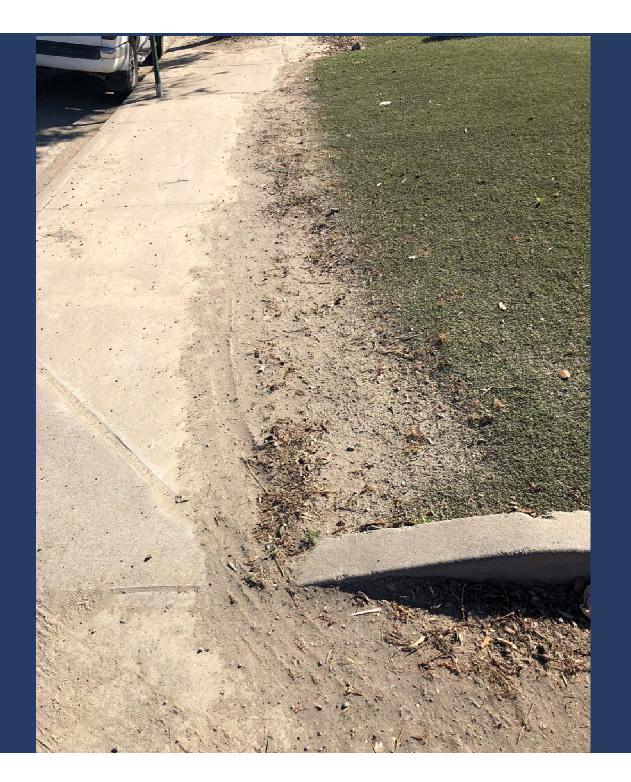


2/16/2018



2/16/2018

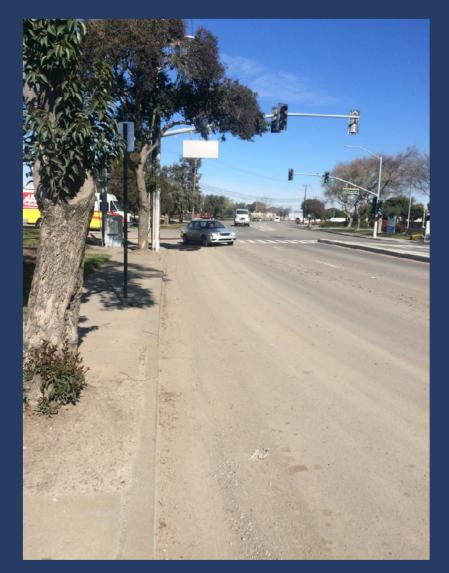


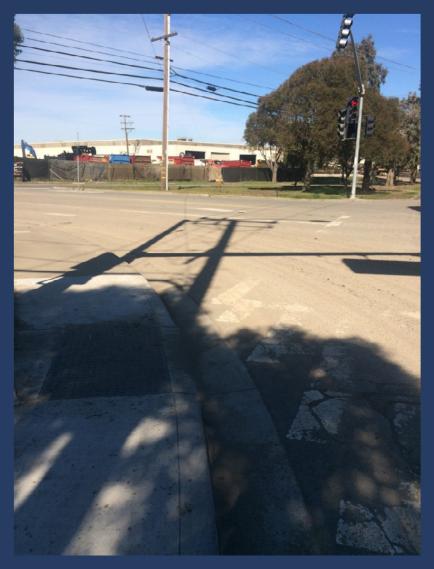


2/16/2018



10/2/2018







10/30/2018









11/08/2018









HAYWARD



Map to the Bay







Municipal Regional Permit (MRP) 2.0

- ► C.4 Industrial and Commercial Site Controls
- ► C.5 Illicit Discharge Detection and Elimination
- ► C.12 Polychlorinated Biphenyls (PCBs) Controls



Municipal Code

- SEC. 11-5.19 DISCHARGE OF POLLUTANTS.
 - The discharge of non-stormwater discharges to the City storm sewer system is prohibited.



Municipal Code

- SEC. 11-5.22 REDUCTION OF POLLUTANTS IN STORMWATER.
- (c) Outdoor Storage of Materials.
 - (1) Proper Outdoor Storage of Materials Required. All applicable materials stored outdoors at a commercial or industrial establishment shall be managed in a manner that minimizes the discharge of pollutants to stormwater. Establishments covered by the General Industrial NPDES Permit promulgated by the California Regional Water Quality Control Board, San Francisco Bay Region for stormwater discharges associated with industrial activities, excluding construction activities, shall address this requirement in applicable provisions of their Stormwater Pollution Prevention Plans (SWPPPs).



CA Industrial General Permit

 SIC code 5093: Scrap & Waste Materials required to be filed as a Notice of Intent (NOI) facility to comply with state regulations for stormwater protection.

