

CITY OF HAYWARD
PLANNING COMMISSION
ADMINISTRATIVE USE PERMIT

ADMINISTRATIVE USE PERMIT NO. 201500804-Jon Bennett for Environmental Logistics, Inc (Applicant/Owner)-Request to operate a non-hazardous wastewater treatment and recycling center.

The project is located at 3200 Depot Road, in the Industrial (I) Zoning District. APN: 439-0075-06-03

FINDINGS FOR DENIAL

- A. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15270(a), CEQA does not apply to projects that are disapproved by a public agency.
- B. The proposed wastewater treatment plant and recycling center is not desirable for the public convenience or welfare in that pollution can be released into the environment during transport of wastewater to the proposed water treatment plant and wastewater by-products to disposal facilities outside the City of Hayward. In Phase 1, Environmental Logistics proposes to accept waste water from only Hayward businesses. In Phase 2, businesses located outside of the City of Hayward would be served and would require wastewater to be transported from outside the City. The transportation of wastewater and potentially hazardous solid wastes, sludge, and oil by products of processed wastewater could potentially introduce pollution to the environment not only adjacent to the facility in the Industrial Zoning District, but in residential neighborhoods adjacent to the path of travel via public roadways including Interstate 880, Highway 92, and City of Hayward streets. In addition, there is a risk of pollutants falling onto roadways adjacent to baylands. Furthermore, pollutants could enter the Bay and baylands via storm drains.

The monitoring of the proposed facility by City of Hayward Water Pollution Source Control staff would result in an undue burden on staff by demanding a disproportional amount of staff time and resources thereby challenging staff to maintain the citywide programs to current and acceptable standards. The additional staff and resources which would be required to monitor and accept additional waste water of the kind proposed would exceed the current Water Pollution Facility staff and resource allotment. The City's Water Pollution Facility utilizes a unique biological process for the treatment of waste water. The proposed facility would likely generate wastewater containing pollutants which are known to negatively impact the City's biological process. If the City's biological process is negatively impacted, the waste water typically treated at the City's facility before release into the Bay will be discharged into the Bay without proper treatment. This would result in diminished water quality in the Bay impacting the welfare of the public who utilize the Bay for recreational activities such as boating, swimming, and fishing. Additionally, a release

of untreated wastewater would likely result in a substantial fine based on the City's discharge permit. If the City is forced to pay a substantial fine, the result would likely be an increase in sewage disposal fees to the entire customer base which is not in the public convenience.

Furthermore, accepting wastewater that originates from businesses located outside the City could impact the WPCF's capacity available to serve businesses within the City of Hayward. To meet an increased capacity of wastewater, capital improvements would likely be necessary. To finance the improvements, an increase in sewage disposal fees to the entire customer base would likely be necessary which is not in the public convenience.

- C. The proposed wastewater treatment plant and recycling center would impair the character and integrity of the zoning district and surrounding area in the event of an accidental release of wastewater that is not treated to EPA standards posing a serious risk to adjacent users as well as citizens along the transportation routes. In this scenario, unacceptable levels of hazardous materials released along the transportation routes could cause business closures, traffic obstructions, and significant remediation expenses to the surrounding businesses. The character and integrity of the Industrial District would be impaired by such events because the impacted businesses would be subject to financial losses due to temporary closures required during remediation of the released pollutants, impaired property values due to any resultant contamination, and increased inefficiencies in production, delivery, and employee commutes due to any traffic obstructions required to remediate released pollutants.

- D. The proposed wastewater treatment facility and recycling center would be detrimental to the public health, safety, or general welfare as it increases the likelihood of the public's exposure to untreated and undertreated waste water both due to accidental releases while in transport to and from the applicant's facility as well as by causing a release into the Bay by negatively impacting the proper operation of the City's Waste Water Pollution Control Facility. Exposure to untreated waste water could result in illness caused by toxins and/or biological agents. As previously described, the Clean Water Act's national pollution discharge elimination system (NPDES) program permit for the City of Hayward Water Pollution Control Facility (WPCF) may be violated due to the introduction of new or increased contributions of pollutants if the proposed waste water facility accidentally released toxins to the WPCF. In turn, the wastewater treatment and recycling facility, even with the level of control proposed, poses a relatively high degree of risk and liability for the City due to the potential to violate the NPDES permit. With the applicant's failure to comply with its current AUP, it is unlikely that the applicant will comply with the stringent standards required by the City's NPDES permit thereby generating a high degree of risk of a potentially harmful release.

- E. The proposed wastewater treatment plant and recycling center is not in harmony with applicable City policies and the intent and purpose of the zoning district involved. In addition, approval of the proposed wastewater treatment plant and recycling center is not in conformance with the following General Plan Policies:

NR-6.7 Toxic Metal Waste Remediation

The City shall protect baylands by ensuring that proper measures are in place to safely remove toxic metals in sewage prior to disposal.

NR-6.8: NPDES Permit Compliance

The City shall continue to comply with the San Francisco Bay Region National Pollutant Discharge Elimination System (NPDES) Municipal Regional Stormwater Permit.

ED-1.15 Industrial Technology and Innovation Corridor

The City shall protect the viability of the Industrial Technology and Innovation Corridor as its main employment base by discouraging the intrusion of uses that would erode the integrity of the corridor and maintaining zoning for manufacturing; professional, scientific, and technical services; research and development; and supporting uses.

ED-1.16 Industrial Technology and Innovation Corridor Strategies

The City shall develop, maintain, and implement strategies to facilitate economic investment by improving and promoting the Industrial Technology and Innovation Corridor.

ED-6.10 Sustainable Business Practices

The City shall promote sustainable business practices that reduce the use of energy and water resources and reduce overhead expenses for businesses.

PFS-4.4 Water Pollution Control Facility Operation and Maintenance

The City shall operate and maintain the WPCF to ensure that wastewater discharge meets all applicable NPDES permit provisions.

PFS-4.11 Industrial Pretreatment

The City shall enforce appropriate industrial pretreatment standards and source control to prevent materials prohibited by Federal and State regulations from entering the wastewater system and to ensure compliance with the City's local discharge limits. The City shall work with the business community to maintain and implement programs to ensure compliance with all Federal, State and local discharge requirements.