

Bay Area Concrete Recycling

24701 Clawiter Road Chronology

(Updated 10/28/18)

Formerly operated at 2207 Wake Avenue, Oakland, Ca.

<http://www.bayareaconcreterecycling.com/>

Text in Black (Bold text) pertain to 24701 Clawiter Road

Text in Red pertain to 3890/3898 Depot Road

BACR - Bay Area Concrete Recycling (BACR)

WPSC – Water Pollution Source Control

AUP – Administrative Use Permit

CUP – Conditional Use Permit

BAAQMD – Bay Area Air Quality Management District

PCB - Polychlorinated Biphenyl

April 18, 1962	Use Permit No. 11259 is approved for a warehouse and office for distribution of engine parts.
Sept. 4, 1963	Use Permit No. 13117 is approved for expansion of an existing use permit by constructing a 9600 square foot warehouse for the storage & distribution of diesel parts.
March 15, 2006	Preet Johal, General Manager of Economy Trucking Services, Inc. applies for a business license for Truck Company Office Only at 24701 Clawiter Road. License application notes that trucks are parked in Union City.
2011/2012	Mr. Kevin Singh, of S & A Investment Holding/BACR inquires if an Outdoor Concrete Recycling Facility at 24701 Clawiter Road would be an allowed use. Mr. Singh was informed that it would require approval of a Conditional Use Permit and that staff was not supportive of that use at that location.
Feb. 2012	S & A Investment Holding, LLC purchases 24701 Clawiter Road. Preet Johal is listed as a member of S & A Investment Holding, LLC.
April 2, 2012	Business License approved for Economy Trucking Services, Inc. for hauling services. On the application it is noted: Concrete recycling requires approval of a Conditional Use Permit for outdoor storage. Kevin Singh is listed as manager and Preet Johal as owner.

- Nov. 16, 2012** BACR applies for an CUP (PL-2012-0378) to operate a Concrete Recycling Facility at 24701 Clawiter Road. Applicant Kevin Singh.
- Jan. 18, 2013** Business License approved for Economy Truck Repair.
- Aug. 27, 2013** Application PL-2012-0378 cancelled due to inactivity. No response to Incomplete Letter. Staff encouraged Mr. Singh to look for a location on Depot Road where other outdoor uses such as the auto wrecking yards are located.
- Nov. 4, 2013** Hayward Access Complaint (Request No. 51488) filed by staff for someone who wanted to remain anonymous - A concrete recycling facility is operating without approval of a CUP/or AUP at 24701 Clawiter Road. Dust from the operation is not being controlled and getting on adjacent property cars.
- Feb. 22, 2014** Google Earth Aerial of 24701 Clawiter Road taken on February 22, 2014. Concrete Recycling Processing Area is contained in the Northwest corner of the property.



- April 22, 2014** BACR applies for AUP (PL-2014-0225) to operate an Outdoor Concrete Recycling Facility at 3890/3898 Depot Road. Applicant Kevin Singh.
- June 1, 2014** Photograph taken on June 1, 2014. Note the height of the stockpile in relationship to the trucks. See photographs taken on September 18, 2018.



Jan. 7, 2015

Hayward Access Complaint (Request No. 167406): A large pile of rock and dirt is raising a large cloud of dust and dirt is blowing everywhere.

March 2015

Google Earth Pro Aerial of 24701 Clawiter Road



May 1, 2015

BACR's Administrative Use Permit PL-2014-0225 to operate an Outdoor Concrete Recycling Facility at 3890/3898 Depot Road is approved administratively.

May 28, 2015

Business License approved for Slurry Waste Solutions at 24701 Clawiter Road. Jeet Kaur is listed as owner. Notes on license include: Processing water/dirt, water not released to sewer/storm drain and dirt in covered containers.

Oct. 2015

Google Earth Pro Aerial showing Slurry Waste Solution in the lower left corner of the property. A cylinder tank was installed in the Slurry Waste Solution area without the approval of a Building Permit.





Aug. 2016	BACR applies for Statewide Portable Equipment Registration (Application No. 38818) with the Air Resources Board for Portable Crushing and Screening Equipment.
Sept. 21, 2016	<u>Hayward Access Complaint (Request No. 101355/CE-16-3604)</u> – Office is being built upstairs without Building Permits at 24701 Clawiter Road.
Nov. 14, 2016	<u>Code Enforcement issues “Egregious Violation”</u>
Dec. 30, 2016	<u>Code Enforcement issues “Egregious Violation”</u> for failed 1 st Inspection. BACR fined \$1500
Jan. 10, 2017	Air Resources Board approves with operating conditions, BACR Statewide Portable Equipment Registration. (Registration No. 173997).
Jan 27, 2017	<u>Code Enforcement</u> issues “Egregious Violation” for failed 2 nd Inspection. No permit obtained to-date. No application for correction of un-permitted construction and land-use submitted as of date. Fined \$3000
Feb. 23, 2017	<u>Water Pollution Source Control</u> (WPSC) receives a complaint from public about dust and excessive sediment on Clawiter Road. WPSC found signs of sediment and tire marks on the street but no dust evident inside or outside the facility. BACR was advised to sweep and spray the site more frequently.
March 2, 2017	<u>Code Enforcement issues “Egregious Violation”</u> for failed 3 rd Inspection. No permits or plans submitted to-date. BACR fined \$5000.
March 20, 2017	BACR request to continue operating their Clawiter Road facility until their Depot Road facility is up and running.
March 22, 2017	Meeting held with BACR to discuss request to continue operating at Clawiter Road site. Staff mentions applying for an Administrative Use Permit for a “Temporary Use” but staff would not be supportive of the application.
April 11, 2017	<u>Code Enforcement issues “Egregious Notice”</u> for failed 4 th Inspection. BACR fined \$5000

- April 20, 2017** Building Permit Application 201702120 submitted to legalize conversion of second floor storage to office space along with ADA bathroom upgrade at 24701 Clawiter Road.
- June 16, 2017** Building issues a punchlist for Building Permit Application 201702120.
- Sept. 1, 2017** Google Earth Pro Aerial – Truck dirt tracks can be seen from 24701 Clawiter Road site along Clawiter Road and Industrial Boulevard.
- August/Sept 2017** Tim Bauter of BARC informs staff that they will be enclosing the concrete recycling facility in an industrial building with solar panels on roof at the Depot site (3890/3898 Depot). Staff responds that it would require a modification of the original AUP and is supportive of the proposed change.



Google Earth Pro 9/1/2017 – Truck Dirt Tracks

- Oct. 24, 2017** Code Enforcement issues “Egregious Violation” for 5th failed Inspection. BACR failed to respond to punchlist items for Building Permit Application. Punchlist was issued on June 16, 2017. BACR fined \$5000.
- Oct. 26, 2017** John J. Verber of Burnham Brown, counsel for D.W. Nicholson Corporation request that the City investigate the potential public health impacts of BACR operations at 24701 Clawiter Road.

Dec. 2017

Google Earth Pro – Dirt and debris leading from 24701 Clawiter Road



Google Earth Pro 12/2017

- Jan. 1, 2018** **Code Enforcement receives complaint from local resident regarding possible water run-off contamination due to continued soil spills in street.**
- Jan. 3, 2018** **Code Enforcement issues “Egregious Violation” for 6th failed Inspection. BACR fined \$5000**
- Jan. 25, 2018** **Hayward Access Complaint (Request No. 129999): Trucks working on property are spilling dirt and rocks onto the sidewalk and street.**
- Feb. 20, 2018** **BACR receives “Stormwater Management and Urban Runoff Control Notice of Violation” from the City of Hayward Water Pollutions Source Control for “drag-out of sediment into the roadway which may contribute to stormwater pollution or contamination.”**
- Feb. 20, 2018** **Code Enforcement issues “Egregious Violation” for 7th failed Inspection. BACR fined \$5000**
- March 7, 2018** **Code Enforcement files complaint with BAAQMD for on going complaints code enforcement receives about air quality.**
- March 7, 2018** **Code Enforcement issues “Egregious Violation” for 8th failed Inspection. BACR fined \$5000**
- March 14, 2018** **Site Visit and meeting with BARC and Staff. Discussed the Code Enforcement Violations and fines for the Clawiter site. BACR requested that they be allowed to continue operating the Clawiter site until the Depot site is approved and up**

and running and that we stop fining them. They were informed they could apply for an Administrative Use Permit for a “Temporary Use” but staff would not be supportive of the request. Tim Bauters of BACR, will not allow staff to take pictures at inspection due to pending patents on slurry seal operation present at site.

March 14, 2018	<u>Code Enforcement issues “Egregious Violation” for 9th failed Inspection.</u> BACR fined \$5000
March 28, 2018	<u>Code Enforcement issues “Egregious Violation” for 10th failed Inspection.</u> BACR fined \$5000
April 11, 2018	<u>Access Hayward Complaint (133239)-</u> There is a large volume of dust and concrete particles that are becoming airborne from Bay Area Concrete Recycling at 24701 Clawiter Rd. There is also a lot of debris being tracked onto the roadways of Clawiter and, also Industrial, by way of the truck’s tires.
April 12, 2018	BACR makes a payment of \$30,385.90 for accrued fines prior to submitting AUP for a “Temporary Use”.
April 17, 2018	BACR applies for an AUP 201801996 (Temporary Use) to continue operating at the 24701 Clawiter Road until a new AUP for the Depot site is approved and site is up and running. Applicant: Kimberly Douglas
April 24, 2018	For Building Permit 201702170, in the second round of review, Planning requested that BACR apply for Site Plan Review because of the intensification of the use, addition of new uses on the property and expansion onto undeveloped portion of the site. There are several businesses operating from 24701 Clawiter Road and as an aggregate, additional improvements are required to be made to the site. The businesses operating from the site must be determined and business licenses must be obtained if they have not already done so.
May 1, 2018	The Administrative Use Permit PL-2014-0225 for an Outdoor Concrete Recycling Facility at <u>3890/3898 Depot Road</u> expired.
May 3, 2018	<u>A response to the Public Notice</u> was received expressing frustration with BACR’s Street Sweeper and BACR not being responsive to persons request.

May 9, 2018

Google Earth Pro Aerial of 24701 Clawiter Road taken on May 9, 2018.



The water truck is limited and not able to spray the tops of the mound. No means of wetting down the mounds have been observed. Stockpile encroaches on City and County of San Francisco Water Pipeline Easement and PG&E Gasline Easement (40 feet) which is located on the property along the rear property line.

May 8, 2018

A response to the Public Notice was received opposing the Temporary Use Permit. Concern expressed that it does not require BACR to operate their business at any less stringent requirement. They have been subject to this continued nuisance for several years now, with the expectation that they would be moving.

May 10, 2018

A response to the Public Notice was received expressing concern about the lack of dust control and the high risk of silica exposure.

May 21, 2018

Troy Hash, Inspector with the Bay Area Air Quality Management District (BAAQMD) drafts a "Notice of Violation". Notice is undergoing review prior to being issued to BACR for the Outdoor Concrete Recycling Facility at 24701 Clawiter Road. Violations under review are, height of stockpile, volume of concrete being recycled and operating a generator without air permits.

June 1, 2018

Application 201801996 AUP (Temporary Use) at Clawiter site is determined to be complete.

June 7, 2018

BACR applies for an AUP 201803003 to operate a 94,500 sf Indoor Concrete Recycling Facility at 3890/3898 Depot Road. Applicant: Kimberly Douglas of BACR.

June 12, 2018

Code Enforcement issues "Egregious Violation" for 11th failed Inspection. BACR fined \$5000

July 3, 2018	Bay Area Air Quality Management District (BAAQMD) receives an application for an “Authority to Construct” from BACR for 24701 Clawiter Road for an Outdoor Concrete Recycling Facility.
July 6, 2018	Application 201801996 AUP (Temporary Use) at 24701 Clawiter Road is denied. Appeal period ends July 23, 2018. If not appealed, the decision is final and it is effective July 24, 2018.
July 7, 2018	Bay Area Air Quality Management District deems the “Authority to Construct” application for 24701 Clawiter Road incomplete.
July 11, 2018	Application AUP 201803003 for Indoor Concrete Recycling Facility proposed at <u>3890/3898 Depot Road</u> determined to be Incomplete. Staff required additional information. Fire required an access road around the side and rear of the building.
July 23, 2018	Application 201801996 AUP (Temporary Use) at 24701 Clawiter Road, BACR appeals denial to Planning Commission.
Sept. 11, 2018	BAAQMD Inspector Troy Hash and BAAQMD Engineer Snigdha Mehta, inspects BACR facility.
Sept. 18, 2018	Photos taken from the sidewalk fronting 24701 Clawiter Road with exception of the aerial view, which is from Google Earth Pro, which shows the conditions of the paving.





Note: The haze is from a smudge on camera lens and not dust.





The asphalt paving has failed in several places.

Sept. 24, 2018

Code Enforcement received a complaint about drivers are being very unsafe. Complainant indicated that they are dumping concrete into the road and causing a lot of dust in the air.

Sept. 24, 2018

Code Enforcement issues "Egregious Violation" for 12th failed Inspection. BACR fined \$5000

Sept. 25, 2018

Hayward Access Complaint (Request No. 146465): A cylinder tank was installed in the Slurry Waste Solution area without the approval of a building permit. A review of Google Earth Pro Aerials indicates it was installed in 2015.



Note: The haze is from a smudge on camera lens and not dust.

- Oct. 3, 2018** **Staff receives resubmittal for Application AUP 201803003 for Indoor Concrete Recycling Facility proposed at 3890/3898 Depot Road in response to Incomplete Letter dated July 11, 2018.**
- Oct. 4, 2018** **BACR request a continuance of appeal from Oct. 11, 2018 to Nov. 8, 2018. BACR retains Attorney, Allan Moore of Wendel, Rosen, Black & Dean LLP**
- Oct. 7, 2018** **Staff observes visible dust at 24701 Clawiter Road on a windy day. No dust abatement provided on weekends.**



- Oct. 9, 2018** **Rosanna Russell, head of the of the San Francisco Public Utilities Commission (SFPUC) Real Estate Services states that the pipeline is not active at this time and**

they can not restrict the concrete stockpiling within the easement, however the SFPUC does not favor this use within the easement located at the rear of the property.

Oct. 10, 2018

A response to Notice of Appeal – Stockpile is encroaching on to their property and notes that the crushed concrete stockpile is quite high. Concrete rubble rolls down stockpile. During the rainy season, runoff comes onto their property and there a tremendous amount of dust.

Oct. 11, 2018

A follow up response to Notice of Appeal – ConXtech follows up with email and photographs regarding the 24701 Clawiter site operation expressing concerns about health and safety, damage to property, dust and storm water runoff.





Photographs of BACR Stockpile encroaching on ConXtech property.

- Oct. 11, 2018** **Code Enforcement issues “Egregious Violation” for 13th failed Inspection. BACR fined \$5000. See Attachment VII.**
- Oct. 22, 2018** **BACR submits “Documentation of Businesses at 24701 Clawiter Road” which includes proposed short, medium, and long-term improvements for each business. An incomplete topographical survey was provided. However, the height of the stockpiles at the time the property was surveyed are 36 feet for the crushed aggregate and 42 feet for the raw material stockpile. See Attachment VIII.**
- Oct. 26, 2018** **Staff observed that both the site and street had been recently been cleaned up. However as two truck left the processing area a puff of dust appeared behind them. It appears that a third truck (red cab with white hauling body) had unload material causing dust to scatter.**





Staff also observed the water truck limitation on wetting down the stockpile. They are not able to reach top or the back sides of the stockpile where there are no roads.



Oct. 30, 2018

Pictures taken by Water Pollution Source Control of dirt being tracked onto Clawiter Road and Industrial Boulevard.



3890/3898 Depot Road Chronology

(Updated 10/28/18)

Text in Red pertain to 3890/3898 Depot Road

April 22, 2014

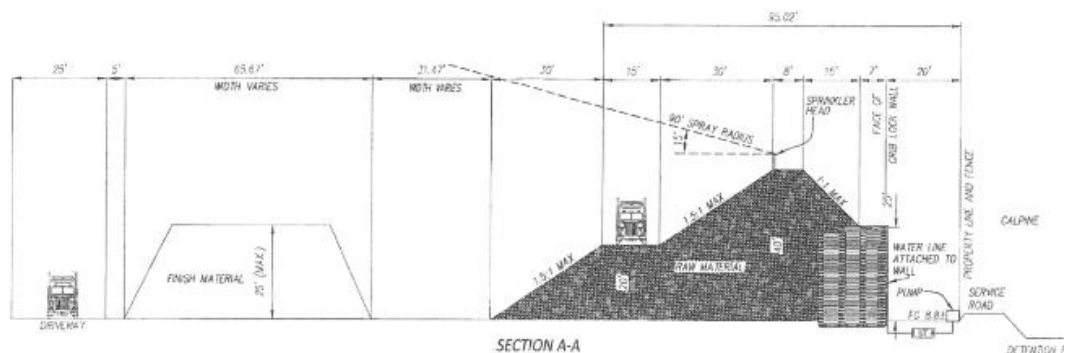
BACR applies for AUP (PL-2014-0225) to operate an Outdoor Concrete Recycling Facility at 3890/3898 Depot Road. Applicant Kevin Singh.



Google Earth Pro 9/2018 – 3898/3890 Depot Road

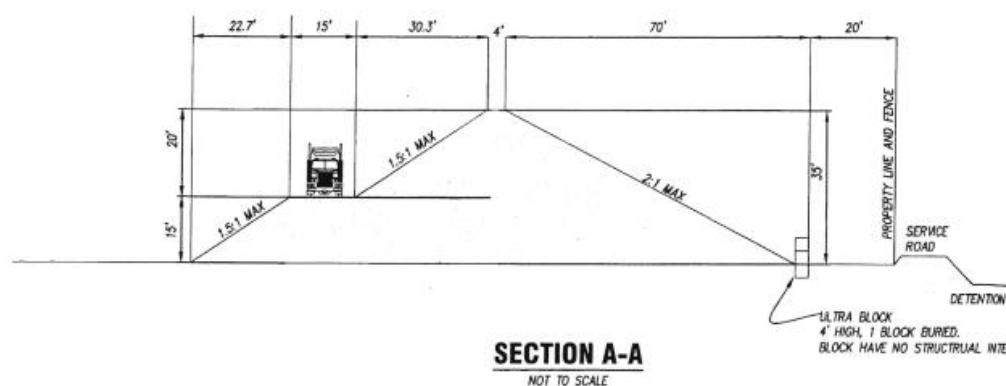
May 1, 2015

Application AUP PL-2014-0225 to operate an Outdoor Concrete Recycling Facility at 3890/3898 Depot Road is approved. Applicant Kevin Singh.



Section of approved AUP PL-2014-0225 – Layout attempt to capture the fugitive dust in the processing area before it reaches the 40-foot high permanent mound. Dustboss (Atomized Spray Misters)¹ are located down in the processing area and sprinkler are located on top of the permanent mound. The maximum height of the Finish Material mound is 25 feet. The prevailing wind blows toward the Russell City Energy Center which is behind the permanent mound. The concept was to catch the Fugitive Dust in the processing area and keeping it from going beyond the Raw Material Mound. The irrigation sprinklers (90+ foot radius spray) on the top of the mound was to keep the Raw Material Mound and a portion of the processing area wet down and would go on periodically during the day, 7 days a week and be on an automatic irrigation controller. The Dustboss would capture the dust in the processing area.

- March 22, 2016 Meeting held to discuss Water Pollution Source Control's concern about PCB entering into the groundwater and into the bay.
- March 2016 BARC applies for Bay Area Air Quality Management District (BAAQMD) "Authority to Construct" Permit for 3898/3890 Depot Road.
- April 5, 2016 BARC receives approval from BAAQMD for "Authority to Construct" for Permit Application N. 27199, Plant 23061 for Depot facility. A "Permit to Operate" is required before the facility can operate.
- Oct. 14, 2016 BACR applies for Grading Permit (201605449) – Grading and Site Preparation for the Concrete Recycling Facility) for the Depot Road facility. The grading plan changes eliminated the crib wall and lowers the height of the barrier mound to 35 feet high. It does not conform to what was approved in AUP PL-2014-0225 and the changes requires a modification of the AUP PL-2014-0225.



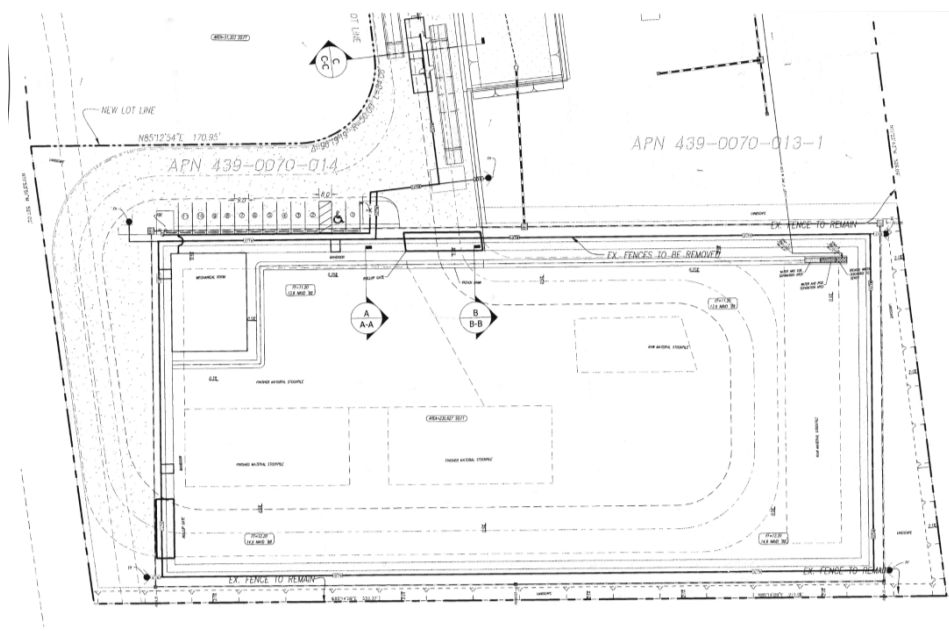
¹ Dustboss
<https://bosstek.com/products/dust-control-solutions/>

This new layout replaces the 20-foot high crib wall with a 5-foot high concrete ultra block wall and lowers the permanent mound to 35 feet high. Dustboss (Spray Misters) are mounted on 15-foot high poles and two are placed in the processing area and two at the back of the mound. The concrete processing area is to the left of the Raw Material Mound.

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|-------------------------|---|
| Oct. 26, 2016 | Meeting held with BACR and their consultants to discuss concerns brought up by Water Pollution Source Control about the potential of PCB in the concrete rubble that may get into the groundwater and end up in the bay. |
| Dec. 15, 2016 | Meeting with BACR to discuss water source for use in controlling the fugitive dust.

The meeting also included discussing issues regarding the Depot Road site (Modification of AUP, Recycled Water Source, Certificate of Merger, Cleaning/Removal of unpermitted structures on site, Measures for limiting permeability of the soils, Deferred Improvements, etc). |
| March 27, 2017 | Jan Lee, Water Resource Manager informs BACR the City is meeting to discuss options to provide recycled water in the near-term for the Depot site. |
| May 2, 2017 | Meeting with BARC and Staff regarding Depot Road. Staff indicates that a barrier needs to be provided to prevent PCB getting into the groundwater and entering into the bay. |
| June 22, 2017 | Meeting with BARC and Staff regarding Depot Road. Staff reiterates that a barrier must be provided so that PCB does not enter into the ground water and that BARC must apply for a modification to the original AUP for changes to the height of the barrier mound, source of water and other changes. |
| July 11, 2017 | Meeting with BARC and Staff regarding Depot Road modifications. Staff reiterates that lowering the Raw Material mound would require a modification of the original AUP. Condition 21 of the Conditions of Approval required that the Raw Material Mound be kept at 40 feet high as the mound was designed as a barrier to catch any fugitive dust from the processing of the concrete rubble and blowing it toward the Russell City Energy Center Steam Turbines. |
| August/Sept 2017 | Tim Bauter of BARC informs staff that they will be enclosing the concrete recycling facility in an industrial building with solar panels on roof at the Depot site. Staff responds that it would require a modification of the original AUP and is supportive of the proposed change. |
| Feb. 28, 2018 | Pre-application Meeting scheduled today, BACR asked meeting to be rescheduled to discuss Proposed Indoor Concrete Facility for the Depot Road site. Drawings where not submitted. |

- March 7, 2018 Pre-application Meeting schedule today. BARC asked meeting to be rescheduled to discuss Proposed Indoor Concrete Facility for the Depot Road site. Drawings where not submitted.
- March 21, 2018 Pre-application Meeting held to discuss BACR Proposed Indoor Concrete Facility for the Depot Road site. BACR informed that they would have to apply for a new AUP since the original application would expire before it could be processed. Only a Site Plan was provided for staff's review.
- May 1, 2018 Application AUP PL-2014-0225 to operate an Outdoor Concrete Recycling Facility at 3890/3898 Depot Road expires. The facility was not constructed. The AUP expires after 3 years if the facility is not constructed and operating. Applicant: Kimberly Douglas for BACR
- June 7, 2018 **BACR applies for an AUP 201803003 to operate a 94,500 sf Indoor Concrete Recycling Facility at 3890/3898 Depot Road. Applicant: Kimberly Douglas of BACR. Below is the interior layout of the proposed indoor concrete recycling facility.**



- July 11, 2018 **Application AUP 201803003 for Indoor Concrete Recycling Facility proposed at 3890/3898 Depot Road determined to be Incomplete. Staff required additional information. Fire required an access road around the side and rear of the building.**
- Sept. 22, 2018 **Hayward Access Complaint (Request No. 140893):** The property at 3898 Depot Road is being used for truck storage. Oil from trucks have spilled on the crushed aggregate paving. Dust is being tracked onto the street. Approval of an Administrative Use Permit is required.



- Sept. 22, 2018 **Hayward Access Complaint (Request No. 146297):** The property at 3890 Depot Road is being used for truck storage and other equipment. Approval of an Administrative Use Permit is required.
- Oct. 3, 2018 **Staff receives resubmittal for Application AUP 201803003 for Indoor Concrete Recycling Facility proposed at 3890/3898 Depot Road in response to Incomplete Letter dated July 11, 2018.**
- Oct. 24, 2018 PW Utilities Division informs staff that the recycled water main has been installed and extends on the opposite side of the street from 3898 Depot Road but recycled water will not be available until the first quarter of 2020.
- Oct. 26, 2018 **Hayward Access Complaint (Request No. 148415):** Pacific Truck Driving School has relocated to 3890 Depot Road. An Adult Vocational Training School requires approval of an Administrative Use Permit. Pacific Truck Driving School has not applied for an AUP.



Oct. 30, 2018

BACR receives 2nd incomplete letter for Application AUP 201803003 for proposed Indoor Concrete Recycling Facility at the Depot Road site. Many items in the first incomplete letter were not addressed including providing fire access around the perimeter of the building.